

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 415, Page 2, Section 557.036, Line 45, by
2 inserting after all of said line the following:

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4 "558.019. 1. This section shall not be construed to affect the powers of the governor under
5 Article IV, Section 7, of the Missouri Constitution. This statute shall not affect those provisions of
6 section 565.020, section ~~[566.125]~~ 566.123 or 566.124, or section 571.015, which set minimum
7 terms of sentences, or the provisions of section 559.115, relating to probation.

8 2. The provisions of subsections 2 to 5 of this section shall be applicable to all classes of
9 felonies except those set forth in chapter 579, or in chapter 195 prior to January 1, 2017, and those
10 otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison
11 commitment" means and is the receipt by the department of corrections of an offender after
12 sentencing. For purposes of this section, prior prison commitments to the department of corrections
13 shall not include an offender's first incarceration prior to release on probation under section 217.362
14 or 559.115. Other provisions of the law to the contrary notwithstanding, any offender who has been
15 found guilty of a felony other than a dangerous felony as defined in section 556.061 and is
16 committed to the department of corrections shall be required to serve the following minimum prison
17 terms:

18 (1) If the offender has one previous prison commitment to the department of corrections for
19 a felony offense, the minimum prison term which the offender must serve shall be forty percent of
20 his or her sentence or until the offender attains seventy years of age, and has served at least thirty
21 percent of the sentence imposed, whichever occurs first;

22 (2) If the offender has two previous prison commitments to the department of corrections
23 for felonies unrelated to the present offense, the minimum prison term which the offender must
24 serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age,
25 and has served at least forty percent of the sentence imposed, whichever occurs first;

26 (3) If the offender has three or more previous prison commitments to the department of
27 corrections for felonies unrelated to the present offense, the minimum prison term which the
28 offender must serve shall be eighty percent of his or her sentence or until the offender attains
29 seventy years of age, and has served at least forty percent of the sentence imposed, whichever
30 occurs first.

31 3. Other provisions of the law to the contrary notwithstanding, any offender who has been
32 found guilty of a dangerous felony as defined in section 556.061 and is committed to the department
33 of corrections shall be required to serve a minimum prison term of eighty-five percent of the
34 sentence imposed by the court or until the offender attains seventy years of age, and has served at
35 least forty percent of the sentence imposed, whichever occurs first.

36 4. For the purpose of determining the minimum prison term to be served, the following

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1 calculations shall apply:

2 (1) A sentence of life shall be calculated to be thirty years;

3 (2) Any sentence either alone or in the aggregate with other consecutive sentences for
4 offenses committed at or near the same time which is over seventy-five years shall be calculated to
5 be seventy-five years.

6 5. For purposes of this section, the term "minimum prison term" shall mean time required to
7 be served by the offender before he or she is eligible for parole, conditional release or other early
8 release by the department of corrections.

9 6. (1) A sentencing advisory commission is hereby created to consist of eleven members.
10 One member shall be appointed by the speaker of the house. One member shall be appointed by the
11 president pro tem of the senate. One member shall be the director of the department of corrections.
12 Six members shall be appointed by and serve at the pleasure of the governor from among the
13 following: the public defender commission; private citizens; a private member of the Missouri Bar;
14 the board of probation and parole; and a prosecutor. Two members shall be appointed by the
15 supreme court, one from a metropolitan area and one from a rural area. All members shall be
16 appointed to a four-year term. All members of the sentencing commission appointed prior to
17 August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of
18 the governor.

19 (2) The commission shall study sentencing practices in the circuit courts throughout the
20 state for the purpose of determining whether and to what extent disparities exist among the various
21 circuit courts with respect to the length of sentences imposed and the use of probation for offenders
22 convicted of the same or similar offenses and with similar criminal histories. The commission shall
23 also study and examine whether and to what extent sentencing disparity among economic and social
24 classes exists in relation to the sentence of death and if so, the reasons therefor, if sentences are
25 comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation
26 based on sentence. It shall compile statistics, examine cases, draw conclusions, and perform other
27 duties relevant to the research and investigation of disparities in death penalty sentencing among
28 economic and social classes.

29 (3) The commission shall study alternative sentences, prison work programs, work release,
30 home-based incarceration, probation and parole options, and any other programs and report the
31 feasibility of these options in Missouri.

32 (4) The governor shall select a chairperson who shall call meetings of the commission as
33 required or permitted pursuant to the purpose of the sentencing commission.

34 (5) The members of the commission shall not receive compensation for their duties on the
35 commission, but shall be reimbursed for actual and necessary expenses incurred in the performance
36 of these duties and for which they are not reimbursed by reason of their other paid positions.

37 (6) The circuit and associate circuit courts of this state, the office of the state courts
38 administrator, the department of public safety, and the department of corrections shall cooperate
39 with the commission by providing information or access to information needed by the commission.
40 The office of the state courts administrator will provide needed staffing resources.

41 7. Courts shall retain discretion to lower or exceed the sentence recommended by the
42 commission as otherwise allowable by law, and to order restorative justice methods, when
43 applicable.

44 8. If the imposition or execution of a sentence is suspended, the court may order any or all
45 of the following restorative justice methods, or any other method that the court finds just or
46 appropriate:

47 (1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the
48 offender's actions;

- (2) Offender treatment programs;
- (3) Mandatory community service;
- (4) Work release programs in local facilities; and
- (5) Community-based residential and nonresidential programs.

9. The provisions of this section shall apply only to offenses occurring on or after August 28, 2003.

10. Pursuant to subdivision (1) of subsection 8 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565. Such contribution shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565.

11. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a person to make payment.

12. A person who fails to make a payment to a county law enforcement restitution fund may not have his or her probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the person either willfully refused to make the payment or that the person willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

13. Nothing in this section shall be construed to allow the sentencing advisory commission to issue recommended sentences in specific cases pending in the courts of this state."; and

Further amend said bill, Page 3, Section 558.021, Line 27, by inserting after all of said line the following:

"558.041. 1. Any offender committed to the department of corrections, except those persons committed pursuant to subsection 7 of section 558.016, or subsection [3] 2 of section [566.125] 566.123, may receive additional credit in terms of days spent in confinement upon recommendation for such credit by the offender's institutional superintendent when the offender meets the requirements for such credit as provided in subsections 3 and 4 of this section. Good time credit may be rescinded by the director or his or her designee pursuant to the divisional policy issued pursuant to subsection 3 of this section.

2. Any credit extended to an offender shall only apply to the sentence which the offender is currently serving.

3. The director of the department of corrections shall issue a policy for awarding credit. The policy may reward an inmate who has served his or her sentence in an orderly and peaceable manner and has taken advantage of the rehabilitation programs available to him or her. Any violation of institutional rules or the laws of this state may result in the loss of all or a portion of any credit earned by the inmate pursuant to this section.

4. The department shall cause the policy to be published in the code of state regulations.

5. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024."; and

Further amend said bill and page, Section 558.046, Line 15, by inserting after all of said line the following:

1 "559.100. 1. The circuit courts of this state shall have power, herein provided, to place on
 2 probation or to parole persons convicted of any offense over which they have jurisdiction, except as
 3 otherwise provided in section 559.115, section 565.020, sections 566.030, 566.060, 566.067,
 4 ~~[566.125]~~ 566.123, 566.151, and 566.210, section 571.015, section 579.170, and subsection 3 of
 5 section 589.425.

6 2. The circuit court shall have the power to revoke the probation or parole previously
 7 granted under section 559.036 and commit the person to the department of corrections. The circuit
 8 court shall determine any conditions of probation or parole for the defendant that it deems necessary
 9 to ensure the successful completion of the probation or parole term, including the extension of any
 10 term of supervision for any person while on probation or parole. The circuit court may require that
 11 the defendant pay restitution for his or her offense. The probation or parole may be revoked under
 12 section 559.036 for failure to pay restitution or for failure to conform his or her behavior to the
 13 conditions imposed by the circuit court. The circuit court may, in its discretion, credit any period of
 14 probation or parole as time served on a sentence.

15 3. Restitution, whether court-ordered as provided in subsection 2 of this section or agreed to
 16 by the parties, or as enforced under section 558.019, shall be paid through the office of the
 17 prosecuting attorney or circuit attorney. Nothing in this section shall prohibit the prosecuting
 18 attorney or circuit attorney from contracting with or utilizing another entity for the collection of
 19 restitution and costs under this section. When ordered by the court, interest shall be allowed under
 20 subsection 2 of section 408.040. In addition to all other costs and fees allowed by law, each
 21 prosecuting attorney or circuit attorney who takes any action to collect restitution shall collect from
 22 the person paying restitution an administrative handling cost. The cost shall be twenty-five dollars
 23 for restitution of less than one hundred dollars and fifty dollars for restitution of at least one hundred
 24 dollars but less than two hundred fifty dollars. For restitution of two hundred fifty dollars or more
 25 an additional fee of ten percent of the total restitution shall be assessed, with a maximum fee for
 26 administrative handling costs not to exceed seventy-five dollars total. Notwithstanding the
 27 provisions of sections 50.525 to 50.745, the costs provided for in this subsection shall be deposited
 28 by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting
 29 attorney or circuit attorney. This fund shall be known as the "Administrative Handling Cost Fund",
 30 and it shall be the fund for deposits under this section and under section 570.120. The funds shall
 31 be expended, upon warrants issued by the prosecuting attorney or circuit attorney directing the
 32 treasurer to issue checks thereon, only for purposes related to that authorized by subsection 4 of this
 33 section.

34 4. The moneys deposited in the fund may be used by the prosecuting attorney or circuit
 35 attorney for office supplies, postage, books, training, office equipment, capital outlay, expenses of
 36 trial and witness preparation, additional employees for the staff of the prosecuting or circuit
 37 attorney, employees' salaries, and for other lawful expenses incurred by the prosecuting or circuit
 38 attorney in the operation of that office.

39 5. This fund may be audited by the state auditor's office or the appropriate auditing agency.

40 6. If the moneys collected and deposited into this fund are not totally expended annually,
 41 then the unexpended balance shall remain in the fund and the balance shall be kept in the fund to
 42 accumulate from year to year.

43 7. Nothing in this section shall be construed to prohibit a crime victim from pursuing other
 44 lawful remedies against a defendant for restitution."; and

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 46 Further amend said bill, Page 12, Section 566.124, Line 57, by inserting after all of said line the
 47 following:
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1 "589.407. 1. Any registration pursuant to sections 589.400 to 589.425 shall consist of
2 completion of an offender registration form developed by the Missouri state highway patrol. Such
3 form shall include, but is not limited to the following:

4 (1) A statement in writing signed by the person, giving the name, address, Social Security
5 number and phone number of the person, the license plate number and vehicle description,
6 including the year, make, model, and color of each vehicle owned or operated by the offender, any
7 online identifiers, as defined in section 43.651, used by the person, the place of employment of such
8 person, enrollment within any institutions of higher education, the crime which requires registration,
9 whether the person was sentenced as a persistent sexual offender under section 566.124 or a
10 predatory sexual offender [~~pursuant to~~] under section [566.125] 566.123, the date, place, and a brief
11 description of such crime, the date and place of the conviction or plea regarding such crime, the age
12 and gender of the victim at the time of the offense and whether the person successfully completed
13 the Missouri sexual offender program pursuant to section 589.040, if applicable;

14 (2) The fingerprints, palm prints, and a photograph of the person; and

15 (3) A DNA sample, if a sample has not already been obtained.

16 2. The offender shall provide positive identification and documentation to substantiate the
17 accuracy of the information completed on the offender registration form, including but not limited
18 to the following:

19 (1) A photocopy of a valid driver's license or nondriver's identification card;

20 (2) A document verifying proof of the offender's residency; and

21 (3) A photocopy of the vehicle registration for each of the offender's vehicles."; and
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23 Further amend said bill by amending the title, enacting clause, and intersectional references
24 accordingly.
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