

SECOND REGULAR SESSION

HOUSE COMMITTEE BILL NO. 20

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RODEN.

6766H.03I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 217.670, 217.690, 217.735, 221.050, 221.111, and 559.106, RSMo, and to enact in lieu thereof eleven new sections relating to corrections, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 217.670, 217.690, 217.735, 221.050, 221.111, and 559.106, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 197.130, 217.149, 217.151, 217.670, 217.690, 217.735, 221.050, 221.111, 221.520, 221.523, and 559.106, to read as follows:

197.130. 1. Any hospital shall not deny treatment to an inmate seeking medical care outside of a correctional facility solely on the basis of that inmate's status as an incarcerated individual. Hospitals shall provide the same standard of medical care to the inmate as the hospital would to any other person with the same or similar medical condition.

2. Any savings from contracts with Medicaid rates shall be passed on to the budget of the department of corrections.

3. Any health care provider providing health care to inmates in a correctional facility shall pay the department of corrections any increase in costs for staff and transportation to transport such inmates to a hospital that provides lower rates to such health care provider but is farther from the correctional facility.

217.149. 1. By January 1, 2019, all correctional centers shall develop specific procedures for the intake and care of offenders who are confirmed pregnant, which shall include procedures regarding:

(1) Maternal health evaluations;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 5 (2) Dietary supplements;
- 6 (3) Substance abuse treatment;
- 7 (4) Treatment for the human immunodeficiency virus and ways to avoid human
- 8 immunodeficiency virus transmission;
- 9 (5) Hepatitis C;
- 10 (6) Sleeping arrangements for such offenders, including requiring such offenders
- 11 to sleep on the bottom bunk bed;
- 12 (7) Access to mental health professionals;
- 13 (8) Sanitary materials; and
- 14 (9) A requirement that a female medical professional be present during any medical
- 15 examination of such offender.

16 2. As used in this section, "postpartum recovery" means, as determined by a
17 physician, the period immediately following delivery, including the entire period an
18 offender who was pregnant is in the hospital or infirmary after delivery.

217.151. 1. As used in this section, the following terms mean:

- 2 (1) "Labor", the period of time before a birth during which contractions are
- 3 present;
- 4 (2) "Postpartum", the period of recovery immediately following childbirth, which
- 5 is six weeks for a vaginal birth or eight weeks for a cesarean birth, or longer if so
- 6 determined by a physician or registered nurse;
- 7 (3) "Restraints", any physical restraint or other device used to control the
- 8 movement of a person's body or limbs.
- 9 2. Pregnant offenders shall be transported in vehicles equipped with seatbelts.
- 10 3. Any time restraints are used on a pregnant offender in her third trimester or on
- 11 a postpartum offender within forty-eight hours postdelivery, the restraints shall be the
- 12 least restrictive available.
- 13 4. If a physician or registered nurse treating the pregnant offender in her third
- 14 trimester or the postpartum offender within forty-eight hours postdelivery requests that
- 15 restraints not be used, the corrections officer accompanying such offender shall
- 16 immediately remove all restraints; however, the physician or registered nurse shall be
- 17 liable for any injury that results from the removal of the restraints.
- 18 5. The chief administrative officer, or equivalent position, of each correctional
- 19 center shall inform female offenders, in writing or orally, of any policies and practices
- 20 developed in accordance with this section upon admission to the correctional center,
- 21 including policies and practices in any offender handbook.

217.670. 1. The board shall adopt an official seal of which the courts shall take official
2 notice.

3 2. Decisions of the board regarding granting of paroles, extensions of a conditional
4 release date or revocations of a parole or conditional release shall be by a majority vote of the
5 hearing panel members. The hearing panel shall consist of one member of the board and two
6 hearing officers appointed by the board. A member of the board may remove the case from the
7 jurisdiction of the hearing panel and refer it to the full board for a decision. Within thirty days
8 of entry of the decision of the hearing panel to deny parole or to revoke a parole or conditional
9 release, the offender may appeal the decision of the hearing panel to the board. The board shall
10 consider the appeal within thirty days of receipt of the appeal. The decision of the board shall
11 be by majority vote of the board members and shall be final.

12 3. The orders of the board shall not be reviewable except as to compliance with the terms
13 of sections 217.650 to 217.810 or any rules promulgated pursuant to such section.

14 4. The board shall keep a record of its acts and shall notify each correctional center of
15 its decisions relating to persons who are or have been confined in such correctional center.

16 5. Notwithstanding any other provision of law, any meeting, record, or vote, of
17 proceedings involving probation, parole, or pardon, may be a closed meeting, closed record, or
18 closed vote.

19 6. Notwithstanding any other provision of law, when the appearance or presence of an
20 offender before the board or a hearing panel is required for the purpose of deciding whether to
21 grant conditional release or parole, extend the date of conditional release, revoke parole or
22 conditional release, or for any other purpose, such appearance or presence may occur by means
23 of a videoconference at the discretion of the board. Victims having a right to attend parole
24 hearings may testify either at the site where the board is conducting the videoconference or at the
25 institution where the offender is located. The use of videoconferencing in this section shall be
26 at the discretion of the board, and shall not be utilized if ~~[either the offender,]~~ the victim or the
27 victim's family objects to it.

217.690. 1. When in its opinion there is reasonable probability that an offender of a
2 correctional center can be released without detriment to the community or to ~~[himself]~~ **the**
3 **offender**, the board may in its discretion release or parole such person except as otherwise
4 prohibited by law. All paroles shall issue upon order of the board, duly adopted.

5 2. Before ordering the parole of any offender, the board shall have the offender appear
6 before a hearing panel and shall conduct ~~[a personal]~~ **an** interview with ~~[him]~~ **the offender**,
7 unless waived by the offender. A parole shall be ordered only for the best interest of society, not
8 as an award of clemency; it shall not be considered a reduction of sentence or a pardon. An
9 offender shall be placed on parole only when the board believes that ~~[he]~~ **the offender** is able

10 and willing to fulfill the obligations of a law-abiding citizen. Every offender while on parole
11 shall remain in the legal custody of the department but shall be subject to the orders of the board.

12 3. The board has discretionary authority to require the payment of a fee, not to exceed
13 sixty dollars per month, from every offender placed under board supervision on probation,
14 parole, or conditional release, to waive all or part of any fee, to sanction offenders for willful
15 nonpayment of fees, and to contract with a private entity for fee collections services. All fees
16 collected shall be deposited in the inmate fund established in section 217.430. Fees collected
17 may be used to pay the costs of contracted collections services. The fees collected may otherwise
18 be used to provide community corrections and intervention services for offenders. Such services
19 include substance abuse assessment and treatment, mental health assessment and treatment,
20 electronic monitoring services, residential facilities services, employment placement services,
21 and other offender community corrections or intervention services designated by the board to
22 assist offenders to successfully complete probation, parole, or conditional release.

23 The board shall adopt rules not inconsistent with law, in accordance with section 217.040, with
24 respect to sanctioning offenders and with respect to establishing, waiving, collecting, and using
25 fees.

26 4. The board shall adopt rules not inconsistent with law, in accordance with section
27 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or
28 conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall
29 recite the conditions of such parole.

30 5. When considering parole for an offender with consecutive sentences, the minimum
31 term for eligibility for parole shall be calculated by adding the minimum terms for parole
32 eligibility for each of the consecutive sentences, except the minimum term for parole eligibility
33 shall not exceed the minimum term for parole eligibility for an ordinary life sentence.

34 6. Any offender under a sentence for first degree murder who has been denied release
35 on parole after a parole hearing shall not be eligible for another parole hearing until at least three
36 years from the month of the parole denial; however, this subsection shall not prevent a release
37 pursuant to subsection 4 of section 558.011.

38 7. Parole hearings shall, at a minimum, contain the following procedures:

39 (1) The victim or person representing the victim who attends a hearing may be
40 accompanied by one other person;

41 (2) The victim or person representing the victim who attends a hearing shall have the
42 option of giving testimony in the presence of the inmate or to the hearing panel without the
43 inmate being present;

44 (3) The victim or person representing the victim may call or write the parole board rather
45 than attend the hearing;

46 (4) The victim or person representing the victim may have a personal meeting with a
47 board member at the board's central office;

48 (5) The judge, prosecuting attorney or circuit attorney and a representative of the local
49 law enforcement agency investigating the crime shall be allowed to attend the hearing or provide
50 information to the hearing panel in regard to the parole consideration; and

51 (6) The board shall evaluate information listed in the juvenile sex offender registry
52 pursuant to section 211.425, provided the offender is between the ages of seventeen and
53 twenty-one, as it impacts the safety of the community.

54 8. The board shall notify any person of the results of a parole eligibility hearing if the
55 person indicates to the board a desire to be notified.

56 9. The board may, at its discretion, require any offender seeking parole to meet certain
57 conditions during the term of that parole so long as said conditions are not illegal or impossible
58 for the offender to perform. These conditions may include an amount of restitution to the state
59 for the cost of that offender's incarceration.

60 10. Nothing contained in this section shall be construed to require the release of an
61 offender on parole nor to reduce the sentence of an offender heretofore committed.

62 11. Beginning January 1, 2001, the board shall not order a parole unless the offender has
63 obtained a high school diploma or its equivalent, or unless the board is satisfied that the offender,
64 while committed to the custody of the department, has made an honest good-faith effort to obtain
65 a high school diploma or its equivalent; provided that the director may waive this requirement
66 by certifying in writing to the board that the offender has actively participated in mandatory
67 education programs or is academically unable to obtain a high school diploma or its equivalent.

68 12. Any rule or portion of a rule, as that term is defined in section 536.010, that is
69 created under the authority delegated in this section shall become effective only if it complies
70 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
71 This section and chapter 536 are nonseverable and if any of the powers vested with the general
72 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
73 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
74 any rule proposed or adopted after August 28, 2005, shall be invalid and void.

217.735. 1. Notwithstanding any other provision of law to the contrary, the board shall
2 supervise an offender for the duration of his or her natural life when the offender has been found
3 guilty of an offense under:

4 (1) Section 566.030, 566.032, 566.060, 566.062, 566.067, 566.083, 566.100, 566.151,
5 566.212, 566.213, 568.020, 568.080, or 568.090 based on an act committed on or after August
6 28, 2006; or

(2) Section 566.068, 566.069, 566.210, 566.211, 573.200, or 573.205 based on an act committed on or after January 1, 2017, against a victim who was less than fourteen years old and the offender is a prior sex offender as defined in subsection 2 of this section.

2. For the purpose of this section, a prior sex offender is a person who has previously pleaded guilty to or been found guilty of an offense contained in chapter 566 or violating section 568.020 when the person had sexual intercourse or deviate sexual intercourse with the victim, or violating subdivision (2) of subsection 1 of section 568.045.

3. Subsection 1 of this section applies to offenders who have been granted probation, and to offenders who have been released on parole, conditional release, or upon serving their full sentence without early release. Supervision of an offender who was released after serving his or her full sentence will be considered as supervision on parole.

4. A mandatory condition of lifetime supervision of an offender under this section is that the offender be electronically monitored. Electronic monitoring shall be based on a global positioning system or other technology that identifies and records the offender's location at all times.

5. In appropriate cases as determined by a risk assessment, the board may terminate the supervision of an offender who is being supervised under this section when the offender is sixty-five years of age or older.

6. In accordance with section 217.040, the board may adopt rules relating to supervision and electronic monitoring of offenders under this section.

7. If an offender subject to lifetime supervision under this section is supervised during the offender's probation, parole, or conditional release in a receiving state under the interstate compact authorized in section 217.810, following completion of probation, parole, or conditional release the offender shall be permitted to remain in the receiving state, and the board shall defer to the standards of supervision of the receiving state, including electronic monitoring. If at any time the offender returns to Missouri for more than thirty consecutive days, the offender shall be subject to lifetime supervision required by this section.

221.050. Persons confined in jails shall be separated and confined according to sex. Persons confined under civil process or for civil causes shall be kept separate from criminals. **Nothing in this section shall be construed to prohibit the housing of persons on probation or parole with offenders or persons being held on criminal charges.**

221.111. 1. A person commits the offense of possession of unlawful items in a prison or jail if such person knowingly delivers, attempts to deliver, possesses, deposits, or conceals in or about the premises of any correctional center as the term "correctional center" is defined under section 217.010, or any city, county, or private jail:

5 (1) Any controlled substance as that term is defined by law, except upon the written
6 prescription of a licensed physician, dentist, or veterinarian;

7 (2) Any other alkaloid of any kind or any intoxicating liquor as the term intoxicating
8 liquor is defined in section 311.020;

9 (3) Any article or item of personal property which a prisoner is prohibited by law, by rule
10 made pursuant to section 221.060, or by regulation of the department of corrections from
11 receiving or possessing, except as herein provided;

12 (4) Any gun, knife, weapon, or other article or item of personal property that may be
13 used in such manner as to endanger the safety or security of the institution or as to endanger the
14 life or limb of any prisoner or employee thereof;

15 **(5) Any two-way telecommunications device or its component parts.**

16 2. The violation of subdivision (1) of subsection 1 of this section shall be a class D
17 felony; the violation of subdivision (2) **or (5) of subsection 1** of this section shall be a class E
18 felony; the violation of subdivision (3) **of subsection 1** of this section shall be a class A
19 misdemeanor; and the violation of subdivision (4) **of subsection 1** of this section shall be a class
20 B felony.

21 3. The chief operating officer of a county or city jail or other correctional facility or the
22 administrator of a private jail may deny visitation privileges to or refer to the county prosecuting
23 attorney for prosecution any person who knowingly delivers, attempts to deliver, possesses,
24 deposits, or conceals in or about the premises of such jail or facility any personal item which is
25 prohibited by rule or regulation of such jail or facility. Such rules or regulations, including a list
26 of personal items allowed in the jail or facility, shall be prominently posted for viewing both
27 inside and outside such jail or facility in an area accessible to any visitor, and shall be made
28 available to any person requesting such rule or regulation. Violation of this subsection shall be
29 an infraction if not covered by other statutes.

30 4. Any person who has been found guilty of a violation of subdivision (2) of subsection
31 1 of this section involving any alkaloid shall be entitled to expungement of the record of the
32 violation. The procedure to expunge the record shall be pursuant to section 610.123. The record
33 of any person shall not be expunged if such person has been found guilty of knowingly
34 delivering, attempting to deliver, possessing, depositing, or concealing any alkaloid of any
35 controlled substance in or about the premises of any correctional center, or city or county jail,
36 or private prison or jail.

37 **5. Subdivision (5) of subsection 1 of this section shall not apply to:**

38 **(1) Any law enforcement officer employed by a state agency, federal agency, or**
39 **political subdivision lawfully engaged in his or her duties as a law enforcement officer;**

40 (2) Any other person who is authorized by the correctional center or city, county,
41 or private jail to possess or use a two-way telecommunications device in the correctional
42 center or city, county, or private jail; or

43 (3) Any person who is not an inmate possessing a two-way telecommunications
44 device or its component parts in an area of a correctional center or city, county, or private
45 jail where such person may lawfully be without the intent to conceal, deliver to, or deposit
46 for the use of another; except that, if such person refuses to comply with orders to
47 surrender such device or its component parts, he or she shall be guilty of a class A
48 misdemeanor.

221.520. 1. As used in this section, the following terms shall mean:

2 (1) "Labor", the period of time before a birth during which contractions are
3 present;

4 (2) "Postpartum", the period of recovery immediately following childbirth, which
5 is six weeks for a vaginal birth or eight weeks for a cesarean birth, or longer if so
6 determined by a physician or registered nurse;

7 (3) "Restraints", any physical restraint or other device used to control the
8 movement of a person's body or limbs.

9 2. Pregnant prisoners shall be transported in vehicles equipped with seatbelts.

10 3. Any time restraints are used on a pregnant prisoner in her third trimester or on
11 a postpartum prisoner within forty-eight hours postdelivery, the restraints shall be the
12 least restrictive available.

13 4. If a physician or registered nurse treating the pregnant prisoner in her third
14 trimester or the postpartum prisoner within forty-eight hours postdelivery requests that
15 restraints not be used, the sheriff or jailer accompanying such prisoner shall immediately
16 remove all restraints; however, the physician or registered nurse shall be liable for any
17 injury that results from the removal of the restraints.

18 5. The county or city jail shall inform female prisoners, in writing or orally, of any
19 policies and practices developed in accordance with this section upon admission to the jail.

221.523. 1. By January 1, 2019, all county and city jails shall develop specific
2 procedures for the intake and care of prisoners who are confirmed pregnant, which shall
3 include procedures regarding:

4 (1) Maternal health evaluations;

5 (2) Dietary supplements;

6 (3) Substance abuse treatment;

7 (4) Treatment for the human immunodeficiency virus and ways to avoid human
8 immunodeficiency virus transmission;

9 **(5) Hepatitis C;**

10 **(6) Sleeping arrangements for such prisoners, including requiring such prisoners**
11 **to sleep on the bottom bunk bed;**

12 **(7) Access to mental health professionals;**

13 **(8) Sanitary materials; and**

14 **(9) A requirement that a female medical professional be present during any medical**
15 **examination of such prisoner.**

16 **2. As used in this section, "postpartum recovery" means, as determined by a**
17 **physician, the period immediately following delivery, including the entire period a prisoner**
18 **who was pregnant is in the hospital or infirmary after delivery.**

 559.106. 1. Notwithstanding any statutory provision to the contrary, when a court grants
2 probation to an offender who has been found guilty of an offense in:

3 (1) Section 566.030, 566.032, 566.060, 566.062, 566.067, 566.083, 566.100, 566.151,
4 566.212, 566.213, 568.020, 568.080, or 568.090, based on an act committed on or after August
5 28, 2006; or

6 (2) Section 566.068, 566.069, 566.210, 566.211, 573.200, or 573.205 based on an act
7 committed on or after January 1, 2017, against a victim who was less than fourteen years of age
8 and the offender is a prior sex offender as defined in subsection 2 of this section;

9
10 the court shall order that the offender be supervised by the board of probation and parole for the
11 duration of his or her natural life.

12 2. For the purpose of this section, a prior sex offender is a person who has previously
13 been found guilty of an offense contained in chapter 566, or violating section 568.020, when the
14 person had sexual intercourse or deviate sexual intercourse with the victim, or of violating
15 subdivision (2) of subsection 1 of section 568.045.

16 3. When probation for the duration of the offender's natural life has been ordered, a
17 mandatory condition of such probation is that the offender be electronically monitored.
18 Electronic monitoring shall be based on a global positioning system or other technology that
19 identifies and records the offender's location at all times.

20 4. In appropriate cases as determined by a risk assessment, the court may terminate the
21 probation of an offender who is being supervised under this section when the offender is
22 sixty-five years of age or older.

23 **5. If an offender subject to lifetime supervision under this section is supervised**
24 **during the offender's probation, parole, or conditional release in a receiving state under**
25 **the interstate compact authorized in section 217.810, following completion of probation,**
26 **parole, or conditional release the offender shall be permitted to remain in the receiving**

27 state, and the board shall defer to the standards of supervision of the receiving state,
28 including electronic monitoring. If at any time the offender returns to Missouri for more
29 than thirty consecutive days, the offender shall be subject to lifetime supervision required
30 by this section.

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