

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Bill No. 2, Page 8, Section 558.006, Line 24, by inserting after all of
2 said line and section the following:

3
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, or section 571.015, which set minimum terms of sentences, or the
7 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]~~ sixty-five years of age, and has served at
21 least thirty 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]~~ sixty-five
25 years of age, 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]~~ sixty-five years of age, and has served at least forty percent of the sentence imposed,
30 whichever occurs first.

31 3. Other provisions of the law to the contrary notwithstanding, any offender who has been

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found guilty of a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve a minimum prison term ~~[of]~~ as follows:

(1) If the offender has no previous felony convictions, the offender shall serve fifty percent of the sentence imposed by the court or, if the offender attains sixty-five years of age, forty percent of the sentence imposed, whichever occurs first;

(2) If the offender has one previous felony conviction unrelated to the offense for which the offender is serving, the offender shall serve sixty-six percent of the sentence imposed by the court or, if the offender attains sixty-five years of age, fifty percent of the sentence imposed, whichever occurs first; or

(3) If the offender has two or more previous felony convictions unrelated to the offense for which the offender is serving, the offender shall serve eighty-five percent of the sentence imposed by the court or ~~[until]~~ , if the offender attains ~~[seventy]~~ sixty-five years of age, ~~[and has served at least forty]~~ sixty percent of the sentence imposed, whichever occurs first.

4. For the purpose of determining the minimum prison term to be served, the following calculations shall apply:

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

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

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

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

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

1 economic and social classes.

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

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

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

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

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

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

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

22 (2) Offender treatment programs;

23 (3) Mandatory community service;

24 (4) Work release programs in local facilities; and

25 (5) Community-based residential and nonresidential programs.

26 9. The provisions of this section shall apply only to offenses occurring on or after August
27 28, 2003.

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

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

38 12. A person who fails to make a payment to a county law enforcement restitution fund may
39 not have his or her probation revoked solely for failing to make such payment unless the judge, after
40 evidentiary hearing, makes a finding supported by a preponderance of the evidence that the person
41 either willfully refused to make the payment or that the person willfully, intentionally, and

1 purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.
2 13. Nothing in this section shall be construed to allow the sentencing advisory commission
3 to issue recommended sentences in specific cases pending in the courts of this state."; and
4
5 Further amend said bill by amending the title, enacting clause, and intersectional references
6 accordingly.