

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Committee Bill No. 2, Page 9, Section 558.043, Lines 1-21, by deleting said lines  
2 and inserting in lieu thereof 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 only be applicable to ~~[all classes~~  
9 ~~of felonies except those set forth in chapter 579, or in chapter 195 prior to January 1, 2017, and~~  
10 ~~those otherwise excluded in subsection 1 of this section]~~ the offenses contained in sections 565.020,  
11 565.021, 565.023, 565.024, 565.027, 565.050, 565.052, 565.054, 565.072, 565.073, 565.074,  
12 565.090, 565.110, 565.115, 565.120, 565.153, 565.156, 565.225, 565.300, 566.030, 566.031,  
13 566.032, 566.034, 566.060, 566.061, 566.062, 566.064, 566.067, 566.068, 566.069, 566.071,  
14 566.083, 566.086, 566.100, 566.101, 566.103, 566.111, 566.115, 566.145, 566.151, 566.153,  
15 566.203, 566.206, 566.209, 566.210, 566.211, 566.215, 568.030, 568.045, 568.060, 568.065,  
16 568.175, 569.040, 569.160, 570.023, 570.025, 570.030 when punished as a class A, B, or C felony,  
17 570.145 when punished as a class A or B felony, 570.223 when punished as a class B or C felony,  
18 571.020, 571.030, 571.070, 573.023, 573.025, 573.035, 573.037, 573.200, 573.205, 574.070,  
19 574.080, 574.115, 575.030, 575.150, 575.153, 575.155, 575.157, 575.200 when punished as a class  
20 A felony, 575.210, 575.230 when punished as a class B felony, 575.240 when punished as a class B  
21 felony, 576.070, 576.080, 577.010, 577.013, 577.078, 577.703, 577.706, 579.065, and 579.068 when  
22 punished as a class A or B felony. For the purposes of this section, "prison commitment" means and  
23 is the receipt by the department of corrections of an offender after sentencing. For purposes of this  
24 section, prior prison commitments to the department of corrections shall not include an offender's  
25 first incarceration prior to release on probation under section 217.362 or 559.115. Other provisions  
26 of the law to the contrary notwithstanding, any offender who has been found guilty of a felony other  
27 than a dangerous felony as defined in section 556.061 and is committed to the department of  
28 corrections shall be required to serve the following minimum prison terms:

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

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

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

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

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

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

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

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

20           6. The provisions of subsections 2 to 5 of this section shall also apply to any offense which a  
21 person pled guilty to, or was convicted of, on or before August 28, 2019.

22           7. (1) A sentencing advisory commission is hereby created to consist of eleven members.  
23 One member shall be appointed by the speaker of the house. One member shall be appointed by the  
24 president pro tem of the senate. One member shall be the director of the department of corrections.  
25 Six members shall be appointed by and serve at the pleasure of the governor from among the  
26 following: the public defender commission; private citizens; a private member of the Missouri Bar;  
27 the board of probation and parole; and a prosecutor. Two members shall be appointed by the  
28 supreme court, one from a metropolitan area and one from a rural area. All members shall be  
29 appointed to a four-year term. All members of the sentencing commission appointed prior to  
30 August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of  
31 the governor.

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

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

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

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

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

~~[7-]~~ 8. Courts shall retain discretion to lower or exceed the sentence recommended by the commission as otherwise allowable by law, and to order restorative justice methods, when applicable.

~~[8-]~~ 9. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:

(1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the 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-]~~ 10. The provisions of this section shall apply only to offenses occurring on or after August 28, 2003.

~~[10-]~~ 11. Pursuant to subdivision (1) of subsection ~~[8]~~ 9 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-]~~ 12. 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-]~~ 13. 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-]~~ 14. 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 by amending the title, enacting clause, and intersectional references accordingly.