

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 186, Page 5, Section 211.031, Line 93, by
2 inserting after all of said section and line the following:

3
4 "217.035. The director shall have the authority to:

5 (1) Establish, with approval of the governor, the internal organization of the department and
6 file the plan thereof with the secretary of state in the manner in which administrative rules are filed,
7 the commissioner of administration and the revisor of statutes;

8 (2) Exclusively prepare the budgets of the department and each division within the
9 department in the form and manner set out by statute or by the commissioner of administration;

10 (3) Designate by written order filed with the governor, the president pro tem of the senate,
11 and the chairman of the joint committee on corrections, a deputy director of the department to act
12 for and exercise the powers of the director during the director's absence for official business,
13 vacation, illness or incapacity. The deputy director shall serve as acting director no longer than six
14 months; however, after the deputy director has acted as director for longer than thirty days the
15 deputy director shall receive compensation equal to that of the director;

16 (4) Procure, either through the division of purchasing or by other means authorized by law,
17 supplies, material, equipment or contractual services for the department and each of its divisions;

18 (5) Establish policy for the department and each of its divisions;

19 (6) Designate any responsibilities, duties and powers given by sections 217.010, ~~[217.810,]~~
20 558.011 and 558.026 to the department or the department director to any division or division
21 director.

22 217.650. As used in sections 217.650 to ~~[217.810]~~ 217.805, unless the context clearly
23 indicates otherwise, the following terms mean:

24 (1) "Chairperson", chairperson of the parole board who shall be appointed by the governor;

25 (2) "Diversionary program", a program designed to utilize alternatives to incarceration
26 undertaken under the supervision of the division of probation and parole after commitment of an
27 offense and prior to arraignment;

28 (3) "Parole", the release of an offender to the community by the court or the state parole
29 board prior to the expiration of his term, subject to conditions imposed by the court or the parole
30 board and to its supervision by the division of probation and parole;

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1 (4) "Parole board", the state board of parole;

2 (5) "Prerelease program", a program relating to an offender's preparation for, or orientation
3 to, supervision by the division of probation and parole immediately prior to or immediately after
4 assignment of the offender to the division of probation and parole for supervision;

5 (6) "Pretrial program", a program relating to the investigation or supervision of persons
6 referred or assigned to the division of probation and parole prior to their conviction;

7 (7) "Probation", a procedure under which a defendant found guilty of a crime upon verdict
8 or plea is released by the court without imprisonment, subject to conditions imposed by the court
9 and subject to the supervision of the division of probation and parole;

10 (8) "Recognizance program", a program relating to the release of an individual from
11 detention who is under arrest for an offense for which he or she may be released as provided in
12 section 544.455.

13 217.670. 1. The board shall adopt an official seal of which the courts shall take official
14 notice.

15 2. Decisions of the board regarding granting of paroles, extensions of a conditional release
16 date or revocations of a parole or conditional release shall be by a majority vote of the hearing panel
17 members. The hearing panel shall consist of one member of the board and two hearing officers
18 appointed by the board. A member of the board may remove the case from the jurisdiction of the
19 hearing panel and refer it to the full board for a decision. Within thirty days of entry of the decision
20 of the hearing panel to deny parole or to revoke a parole or conditional release, the offender may
21 appeal the decision of the hearing panel to the board. The board shall consider the appeal within
22 thirty days of receipt of the appeal. The decision of the board shall be by majority vote of the board
23 members and shall be final.

24 3. The orders of the board shall not be reviewable except as to compliance with the terms of
25 sections 217.650 to ~~[217.810]~~ 217.805 or any rules promulgated pursuant to such section.

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

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

30 6. Notwithstanding any other provision of law, when the appearance or presence of an
31 offender before the board or a hearing panel is required for the purpose of deciding whether to grant
32 conditional release or parole, extend the date of conditional release, revoke parole or conditional
33 release, or for any other purpose, such appearance or presence may occur by means of a
34 videoconference at the discretion of the board. Victims having a right to attend parole hearings may
35 testify either at the site where the board is conducting the videoconference or at the institution where
36 the offender is located. The use of videoconferencing in this section shall be at the discretion of the
37 board, and shall not be utilized if either the victim or the victim's family objects to it.

38 217.710. 1. Probation and parole officers, supervisors and members of the parole board,
39 who are certified pursuant to the requirements of subsection 2 of this section shall have the authority

1 to carry their firearms at all times. The department of corrections shall promulgate policies and
 2 operating regulations which govern the use of firearms by probation and parole officers, supervisors,
 3 and members of the parole board when carrying out the provisions of sections 217.650 to ~~[217.810]~~
 4 217.805. Mere possession of a firearm shall not constitute an employment activity for the purpose
 5 of calculating compensatory time or overtime.

6 2. The department shall determine the content of the required firearms safety training and
 7 provide firearms certification and recertification training for probation and parole officers,
 8 supervisors, and members of the parole board. A minimum of sixteen hours of firearms safety
 9 training shall be required. In no event shall firearms certification or recertification training for
 10 probation and parole officers and supervisors exceed the training required for officers of the state
 11 highway patrol.

12 3. The department shall determine the type of firearm to be carried by the officers,
 13 supervisors, and members of the parole board.

14 4. Any officer, supervisor, or member of the parole board ~~[that]~~ who chooses to carry a
 15 firearm in the performance of such officer's, supervisor's, or member's duties shall purchase the
 16 firearm and holster.

17 5. The department shall furnish such ammunition as is necessary for the performance of the
 18 officer's, supervisor's, and member's duties.

19 6. Any rule or portion of a rule, as that term is defined in section 536.010, that is
 20 promulgated under the authority of this chapter, shall become effective only if the agency has fully
 21 complied with all of the requirements of chapter 536 including but not limited to, section 536.028, if
 22 applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is
 23 of no force and effect and repealed as of August 28, 1998, however nothing in section 571.030 or
 24 this section shall be interpreted to repeal or affect the validity of any rule adopted and promulgated
 25 prior to August 28, 1998. If the provisions of section 536.028 apply, the provisions of this section
 26 are nonseverable and if any of the powers vested with the general assembly pursuant to section
 27 536.028 to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule
 28 are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so
 29 proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in
 30 section 571.030 or this section shall affect the validity of any rule adopted and promulgated prior to
 31 August 28, 1998.

32 217.720. 1. At any time during release on parole or conditional release the division of
 33 probation and parole may issue a warrant for the arrest of a released offender for violation of any of
 34 the conditions of parole or conditional release. The warrant shall authorize any law enforcement
 35 officer to return the offender to the actual custody of the correctional center from which the offender
 36 was released, or to any other suitable facility designated by the division. If any parole or probation
 37 officer has probable cause to believe that such offender has violated a condition of parole or
 38 conditional release, the probation or parole officer may issue a warrant for the arrest of the offender.
 39 The probation or parole officer may effect the arrest or may deputize any officer with the power of

1 arrest to do so by giving the officer a copy of the warrant which shall outline the circumstances of
2 the alleged violation and contain the statement that the offender has, in the judgment of the
3 probation or parole officer, violated conditions of parole or conditional release. The warrant
4 delivered with the offender by the arresting officer to the official in charge of any facility designated
5 by the division to which the offender is brought shall be sufficient legal authority for detaining the
6 offender. After the arrest the parole or probation officer shall present to the detaining authorities a
7 similar statement of the circumstances of violation. Pending hearing as hereinafter provided, upon
8 any charge of violation, the offender shall remain in custody or incarcerated without consideration
9 of bail.

10 2. If the offender is arrested under the authority granted in subsection 1 of this section, the
11 offender shall have the right to a preliminary hearing on the violation charged unless the offender
12 waives such hearing. Upon such arrest and detention, the parole or probation officer shall
13 immediately notify the board and shall submit in writing a report showing in what manner the
14 offender has violated the conditions of his parole or conditional release. The board shall order the
15 offender discharged from such facility, require as a condition of parole or conditional release the
16 placement of the offender in a treatment center operated by the department of corrections, or shall
17 cause the offender to be brought before it for a hearing on the violation charged, under such rules
18 and regulations as the board may adopt. If the violation is established and found, the board may
19 continue or revoke the parole or conditional release, or enter such other order as it may see fit. If no
20 violation is established and found, then the parole or conditional release shall continue. If at any
21 time during release on parole or conditional release the offender is arrested for a crime which later
22 leads to conviction, and sentence is then served outside the Missouri department of corrections, the
23 board shall determine what part, if any, of the time from the date of arrest until completion of the
24 sentence imposed is counted as time served under the sentence from which the offender was paroled
25 or conditionally released.

26 3. An offender for whose return a warrant has been issued by the division shall, if it is found
27 that the warrant cannot be served, be deemed to be a fugitive from justice or to have fled from
28 justice. If it shall appear that the offender has violated the provisions and conditions of his parole or
29 conditional release, the board shall determine whether the time from the issuing date of the warrant
30 to the date of his arrest on the warrant, or continuance on parole or conditional release shall be
31 counted as time served under the sentence. In all other cases, time served on parole or conditional
32 release shall be counted as time served under the sentence.

33 4. At any time during parole or probation, the division may issue a warrant for the arrest of
34 any person from another jurisdiction~~[, the visitation and supervision of whom the division has~~
35 ~~undertaken pursuant to the provisions of the interstate compact for the supervision of parolees and~~
36 ~~probationers authorized in section 217.810,]~~ for violation of any of the conditions of release~~;~~ or a
37 notice to appear to answer a charge of violation. The notice shall be served personally upon the
38 person. The warrant shall authorize any law enforcement officer to return the offender to any
39 suitable detention facility designated by the division. Any parole or probation officer may arrest

1 such person without a warrant, or may deputize any other officer with power of arrest to do so by
 2 issuing a written statement setting forth that the defendant has, in the judgment of the parole or
 3 probation officer, violated the conditions of his release. The written statement delivered with the
 4 person by the arresting officer to the official in charge of the detention facility to which the person is
 5 brought shall be sufficient legal authority for detaining him. After making an arrest the parole or
 6 probation officer shall present to the detaining authorities a similar statement of the circumstances of
 7 violation."; and

8
 9 Further amend said bill, Page 6, Section 544.453, Line 13, by inserting after all of said section and
 10 line the following:

11
 12 "548.241. 1. All necessary and proper expenses accruing under section 548.221, upon being
 13 ascertained to the satisfaction of the governor, shall be allowed on his certificate and paid out of the
 14 state treasury as other demands against the state.

15 2. All necessary and proper expenses accruing as a result of a person being returned to this
 16 state pursuant to the provisions of section 548.243 [~~or 217.810~~] shall be allowed and paid out of the
 17 state treasury as if the person were being returned to this state pursuant to section 548.221.

18 3. Any necessary and proper expenses accruing as a result of a person being returned to this
 19 state under the provisions of chapter 589 may be paid either out of the Missouri interstate compact
 20 fund established in chapter 589 or out of the state treasury."; and

21
 22 Further amend said bill, Page 28, Section 579.022, Line 10, by inserting after all of said section and
 23 line the following:

24
 25 "589.564. 1. Upon a petition from the state, a circuit court is authorized to add any
 26 condition to a term of probation for an offender supervised in this state for a term of probation
 27 ordered by another state, including shock incarceration; however, the court shall not reduce, extend,
 28 or revoke such a term of probation. The circuit court for the jurisdiction in which a probationer is
 29 under supervision shall serve as the authorizing court for the purposes of this section. The
 30 prosecuting attorney or circuit attorney for the jurisdiction in which a probationer is under
 31 supervision shall serve as the authorized person to petition the court to add a condition of probation.
 32 Notwithstanding any provision of section 549.500 or 559.125, the division of probation and parole
 33 may submit violation reports to the prosecuting attorney or circuit attorney with authority to petition
 34 the court to add a condition to a term of probation under this section.

35 2. If supervision of a parolee in Missouri is administered pursuant to this compact, the
 36 division of probation and parole shall have the authority to impose a sanction or additional
 37 conditions in response to written violations of supervision; however, the division of probation and
 38 parole shall not reduce, extend, or revoke such a term of parole.

589.565. A Missouri probationer or parolee seeking transfer of their supervision through this compact shall pay a fee in the amount of one hundred seventy-five dollars for each transfer application submitted. The transfer application fee shall be paid to the compact commissioner upon submission of the transfer application. The commissioner or commissioner's designee may waive the application fee if either the commissioner or the commissioner's designee finds that payment of the fee would constitute an undue economic burden on the offender. All fees collected pursuant to this section shall be paid and deposited to the credit of the "Missouri Interstate Compact Fund", which is hereby established in the state treasury. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, moneys in the fund shall be used for the sole benefit of the department of corrections in support of administration of this section; expenses related to assessment, retaking, staff development, and training; and implementation of evidence-based practices in support of offenders under supervision. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund."; and

Further amend said bill, Page 30, Section 590.1075, Line 11, by inserting after all of said section and line the following:

~~"[217.810. 1. The governor is hereby authorized and directed to enter into the interstate compact for the supervision of parolees and probationers on behalf of the state of Missouri with the commonwealth of Puerto Rico, the Virgin Islands, the District of Columbia and any and all other states of the United States legally joining therein and pursuant to the provisions of an act of the Congress of the United States of America granting the consent of Congress to the commonwealth of Puerto Rico, the Virgin Islands, the District of Columbia and any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes, which compact shall have as its objective the permitting of persons placed on probation or released on parole to reside in any other state signatory to the compact assuming the duties of visitation and supervision over such probationers and parolees; permitting the extradition and transportation without interference of prisoners, being retaken, through any and all states signatory to the compact under such terms, conditions, rules and regulations, and for such duration as in the opinion of the governor of this state shall be necessary and proper and in a form substantially as contained in subsection 2 of this section. The chairman of the board shall administer the compact for the state.~~

~~2. INTERSTATE COMPACT FOR THE SUPERVISION OF PAROLEES AND PROBATIONERS~~

~~This compact shall be entered into by and among the contracting states, signatories hereto, with the consent of the Congress of the United States of America, granted by an act entitled "An act granting the consent of Congress to~~

1 any two or more states to enter into agreements or compacts for cooperative effort
2 and mutual assistance in the prevention of crime and for other purposes."

3 The contracting states solemnly agree:

4 (1) That it shall be competent for the duly constituted judicial and
5 administrative authorities of a state party to this compact (herein called "sending
6 state") to permit any person convicted of an offense within such state and placed
7 on probation or released on parole to reside in any other state party to this compact
8 (herein called "receiving state"), while on probation or parole, if

9 (a) Such a person is in fact a resident of or has his family residing within
10 the receiving state and can obtain employment there;

11 (b) Though not a resident of the receiving state and not having his family
12 residing there, the receiving state consents to such person being sent there.

13 Before granting such permission, opportunity shall be granted to the
14 receiving state to investigate the home and prospective employment of such
15 person.

16 A resident of the receiving state, within the meaning of this section, is one
17 who has been an actual inhabitant of such state continuously for more than one
18 year prior to his coming to the sending state and has not resided within the sending
19 state more than six continuous months immediately preceding the commission of
20 the offense for which he has been convicted.

21 (2) The receiving state shall assume the duties of visitation and
22 supervision over probationers or parolees of any sending state transferred under
23 the compact and will apply the same standards of supervision that prevail for its
24 own probationers and parolees.

25 (3) That duly accredited officers of a sending state may at all times enter a
26 receiving state and there apprehend and retake any person on probation or parole.
27 For that purpose no formalities will be required other than establishing the
28 authority of the officer and the identity of the person to be retaken. All legal
29 requirements to obtain extradition of fugitives from justice are hereby expressly
30 waived on the part of states party hereto, as to such persons. The decision of the
31 sending state to retake a person on probation or parole shall be conclusive upon
32 and not reviewable within the receiving state. Provided, however, that if at the
33 time when a state seeks to retake a probationer or parolee there should be pending
34 against him within the receiving state any criminal charge, or he should be
35 suspected of having committed within such state a criminal offense, he shall not be
36 retaken without the consent of the receiving state until discharged from
37 prosecution or from imprisonment for such offense.

38 (4) That the duly accredited officers of the sending state will be permitted
39 to transport prisoners being retaken through any and all states parties to this
40 compact, without interference.

41 (5) Each state may designate an officer who, acting jointly with like
42 officers of other contracting states shall promulgate such rules and regulations as
43 may be deemed necessary to more effectively carry out the terms of this compact.

44 (6) That this compact shall become operative immediately upon its
45 execution by any state as between it and any other state or states so executing.
46 When executed it shall have the full force and effect of law within such state, the
47 form of execution to be in accordance with the laws of the executing state.

48 (7) That this compact shall continue in force and remain binding upon
49 each executing state until renounced by it. The duties and obligations hereunder

1 of a renouncing state shall continue as to parolees or probationers residing therein
2 at the time of withdrawal until retaken or finally discharged by the sending state.
3 Renunciation of this compact shall be by the same authority which executed it, by
4 sending six months' notice in writing of its intention to withdraw from the compact
5 to the other states party hereto.

6 3. ~~If any section, sentence, subdivision or clause within subsection 2 of~~
7 ~~this section is for any reason held invalid or to be unconstitutional, such decision~~
8 ~~shall not affect the validity of the remaining provisions of that subsection or this~~
9 ~~section.~~

10 4. ~~All necessary and proper expenses accruing as a result of a person being~~
11 ~~returned to this state by order of a court or the parole board shall be paid by the~~
12 ~~state as provided in section 548.241 or 548.243.]"; and~~
13

14 Further amend said bill by amending the title, enacting clause, and intersectional references
15 accordingly.