

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 1108 & 1181, Page 22, Section 556.021,
2 Line 23, by inserting after said section and line 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 ~~[the~~
9 ~~offenses contained in sections 565.021, 565.023, 565.024, 565.027, 565.050, 565.052, 565.054,~~
10 ~~565.072, 565.073, 565.074, 565.090, 565.110, 565.115, 565.120, 565.153, 565.156, 565.225,~~
11 ~~565.300, 566.030, 566.031, 566.032, 566.034, 566.060, 566.061, 566.062, 566.064, 566.067,~~
12 ~~566.068, 566.069, 566.071, 566.083, 566.086, 566.100, 566.101, 566.103, 566.111, 566.115,~~
13 ~~566.145, 566.151, 566.153, 566.203, 566.206, 566.209, 566.210, 566.211, 566.215, 568.030,~~
14 ~~568.045, 568.060, 568.065, 568.175, 569.040, 569.160, 570.023, 570.025, 570.030 when punished~~
15 ~~as a class A, B, or C felony, 570.145 when punished as a class A or B felony, 570.223 when~~
16 ~~punished as a class B or C felony, 571.020, 571.030, 571.070, 573.023, 573.025, 573.035, 573.037,~~
17 ~~573.200, 573.205, 574.070, 574.080, 574.115, 575.030, 575.150, 575.153, 575.155, 575.157,~~
18 ~~575.200 when punished as a class A felony, 575.210, 575.230 when punished as a class B felony,~~
19 ~~575.240 when punished as a class B felony, 576.070, 576.080, 577.010, 577.013, 577.078, 577.703,~~
20 ~~577.706, 579.065, and 579.068 when punished as a class A or B felony]~~ all classes of felonies
21 except those set forth in chapter 579, or in chapter 195 prior to January 1, 2017, and those otherwise
22 excluded in subsection 1 of this section. For the purposes of this section, "prison commitment"
23 means and is the receipt by the department of corrections of an offender after sentencing. For
24 purposes of this section, prior prison commitments to the department of corrections shall not include
25 an offender's first incarceration prior to release on probation under section 217.362 or 559.115.
26 Other provisions of the law to the contrary notwithstanding, any offender who has been found guilty
27 of a felony other than a dangerous felony as defined in section 556.061 and is committed to the
28 department of 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

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1 his or her sentence or until the offender attains seventy years of age, and has served at least thirty
2 percent of the sentence imposed, whichever occurs first;

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

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

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

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

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

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

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

26 6. (1) An offender who was convicted of, or pled guilty to, a felony offense other than those
27 offenses listed in subsection 2 of this section prior to August 28, 2019, shall ~~[no longer]~~ be subject
28 to the minimum prison term provisions under subsection 2 of this section, and shall not be eligible
29 for parole, conditional release, or other early release by the department of corrections ~~[according to~~
30 ~~the rules and regulations of the department]~~ unless the offender:

31 (a) Has completed the drug treatment program under section 217.632 if the offense was drug
32 related;

33 (b) Has successfully completed the requirements of subsection 4 of section 217.355;

34 (c) Has completed a job training or educational program provided by the department of
35 corrections and would be considered work ready; and

36 (d) Passes a drug test before release.

37 (2) If the conditions of subdivision (1) of this subsection are met, an offender may be
38 eligible for parole after serving eighty-five percent of his or her sentence.

1 (3) Notwithstanding any other provision of law, on or after August 28, 2023, no individual
2 convicted of a sexually violent crime, as defined in section 632.480, or an offense under chapter 566
3 shall be eligible for probation or parole and shall serve one hundred percent of any sentence
4 imposed.

5 (4) No provision of this subsection shall be construed to prevent an individual convicted of
6 an offense listed in subsection 1 or 2 of this section from earning credits through the department of
7 corrections while incarcerated for the purpose of increased privileges, reduction in security
8 classification, or for any purpose other than for the reduction of the sentence imposed.

9 7. (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

1 with the commission by providing information or access to information needed by the commission.
2 The office of the state courts administrator will provide needed staffing resources.

3 8. Courts shall retain discretion to lower or exceed the sentence recommended by the
4 commission as otherwise allowable by law, and to order restorative justice methods, when
5 applicable.

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

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

11 (2) Offender treatment programs;

12 (3) Mandatory community service;

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

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

15 10. Pursuant to subdivision (1) of subsection 9 of this section, the court may order the
16 assessment and payment of a designated amount of restitution to a county law enforcement
17 restitution fund established by the county commission pursuant to section 50.565. Such contribution
18 shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited
19 into the county law enforcement restitution fund pursuant to this section shall only be expended
20 pursuant to the provisions of section 50.565.

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

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

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

32
33 Further amend said bill by amending the title, enacting clause, and intersectional references
34 accordingly.