

SECOND REGULAR SESSION

# HOUSE BILL NO. 2757

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ANDERSON.

5776H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 217.690, RSMo, and to enact in lieu thereof one new section relating to fee waivers for certain offenders.

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

Section A. Section 217.690, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 217.690, to read as follows:

217.690. 1. All releases or paroles shall issue upon order of the parole board, duly adopted.

2. Before ordering the parole of any offender, the parole board shall conduct a validated risk and needs assessment and evaluate the case under the rules governing parole that are promulgated by the parole board. The parole board shall then have the offender appear before a hearing panel and shall conduct a personal interview with him or her, unless waived by the offender, or if the guidelines indicate the offender may be paroled without need for an interview. The guidelines and rules shall not allow for the waiver of a hearing if a victim requests a hearing. The appearance or presence may occur by means of a videoconference at the discretion of the parole board. A parole may be ordered for the best interest of society when there is a reasonable probability, based on the risk assessment and indicators of release readiness, that the person can be supervised under parole supervision and successfully reintegrated into the community, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. Every offender while on parole shall remain in the legal custody of the department but shall be subject to the orders of the parole board.

3. **(1) Subject to subdivision (2) of this subsection**, the division of probation and parole has discretionary authority to require the payment of a fee, not to exceed sixty dollars

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.

18 per month, from every offender placed under division supervision on probation, parole, or  
19 conditional release, to waive all or part of any fee, to sanction offenders for willful  
20 nonpayment of fees, and to contract with a private entity for fee collections services. All fees  
21 collected shall be deposited in the inmate fund established in section 217.430. Fees collected  
22 may be used to pay the costs of contracted collections services. The fees collected may  
23 otherwise be used to provide community corrections and intervention services for offenders.  
24 Such services include substance abuse assessment and treatment, mental health assessment  
25 and treatment, electronic monitoring services, residential facilities services, employment  
26 placement services, and other offender community corrections or intervention services  
27 designated by the division of probation and parole to assist offenders to successfully complete  
28 probation, parole, or conditional release. The division of probation and parole shall adopt  
29 rules not inconsistent with law, in accordance with section 217.040, with respect to  
30 sanctioning offenders and with respect to establishing, waiving, collecting, and using fees.

31 **(2) The fee under subdivision (1) of this subsection shall be waived unless the**  
32 **offender is subject to lifetime supervision or requires electronic monitoring services.**

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

37 5. When considering parole for an offender with consecutive sentences, the minimum  
38 term for eligibility for parole shall be calculated by adding the minimum terms for parole  
39 eligibility for each of the consecutive sentences, except the minimum term for parole  
40 eligibility shall not exceed the minimum term for parole eligibility for an ordinary life  
41 sentence.

42 6. Any offender sentenced to a term of imprisonment amounting to fifteen years or  
43 more or multiple terms of imprisonment that, taken together, amount to fifteen or more years  
44 who was under eighteen years of age at the time of the commission of the offense or offenses  
45 may be eligible for parole after serving fifteen years of incarceration, regardless of whether  
46 the case is final for the purposes of appeal, and may be eligible for reconsideration hearings in  
47 accordance with regulations promulgated by the parole board.

48 7. The provisions of subsection 6 of this section shall not apply to an offender found  
49 guilty of murder in the first degree or capital murder who was under eighteen years of age  
50 when the offender committed the offense or offenses who may be found ineligible for parole  
51 or whose parole eligibility may be controlled by section 558.047 or 565.033.

52 8. Any offender under a sentence for first degree murder who has been denied release  
53 on parole after a parole hearing shall not be eligible for another parole hearing until at least

54 three years from the month of the parole denial; however, this subsection shall not prevent a  
55 release pursuant to subsection 4 of section 558.011.

56 9. A victim who has requested an opportunity to be heard shall receive notice that the  
57 parole board is conducting an assessment of the offender's risk and readiness for release and  
58 that the victim's input will be particularly helpful when it pertains to safety concerns and  
59 specific protective measures that may be beneficial to the victim should the offender be  
60 granted release.

61 10. Parole hearings shall, at a minimum, contain the following procedures:

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

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

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

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

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

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

77 11. The parole board shall notify any person of the results of a parole eligibility  
78 hearing if the person indicates to the parole board a desire to be notified.

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

83 13. Special parole conditions shall be responsive to the assessed risk and needs of the  
84 offender or the need for extraordinary supervision, such as electronic monitoring. The parole  
85 board shall adopt rules to minimize the conditions placed on low-risk cases, to frontload  
86 conditions upon release, and to require the modification and reduction of conditions based on  
87 the person's continuing stability in the community. Parole board rules shall permit parole  
88 conditions to be modified by parole officers with review and approval by supervisors.

89 14. Nothing contained in this section shall be construed to require the release of an  
90 offender on parole nor to reduce the sentence of an offender heretofore committed.

91           15. Beginning January 1, 2001, the parole board shall not order a parole unless the  
92 offender has obtained a high school diploma or its equivalent, or unless the parole board is  
93 satisfied that the offender, while committed to the custody of the department, has made an  
94 honest good-faith effort to obtain a high school diploma or its equivalent; provided that the  
95 director may waive this requirement by certifying in writing to the parole board that the  
96 offender has actively participated in mandatory education programs or is academically unable  
97 to obtain a high school diploma or its equivalent.

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

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