

SECOND REGULAR SESSION

# HOUSE BILL NO. 2859

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE RILEY.

5802H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 217.695, 217.720, and 217.722, RSMo, and to enact in lieu thereof four new sections relating to persons on probation and parole.

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

Section A. Sections 217.695, 217.720, and 217.722, RSMo, are repealed and four  
2 new sections enacted in lieu thereof, to be known as sections 217.695, 217.720, 217.722, and  
3 217.723, to read as follows:

217.695. 1. As used in this section, the following terms mean:

2 (1) "Chief law enforcement official", the county sheriff, chief of police or other public  
3 official responsible for enforcement of criminal laws within a county or city not within a  
4 county;

5 (2) "County" includes a city not within a county;

6 (3) "Offender", a person in the custody of the department or under the supervision of  
7 the division of probation and parole.

8 2. **(1)** Each offender to be released from custody of the department who will be under  
9 the supervision of the division of probation and parole, except an offender transferred to  
10 another state pursuant to the interstate corrections compact, shall shortly before release be  
11 required to: complete a registration form indicating his or her intended address upon release,  
12 employer, parent's address, and such other information as may be required; submit to  
13 photographs; submit to fingerprints; or undergo other identification procedures including but  
14 not limited to hair samples or other identification indicia. All data and indicia of  
15 identification shall be compiled in duplicate, with one set to be retained by the department,  
16 and one set for the chief law enforcement official of the county of intended residence.

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.

17           **(2) Notwithstanding any provision of law to the contrary, the division of**  
18 **probation and parole shall forward the terms and conditions of an offender's probation**  
19 **or parole to the Missouri state highway patrol within five business days of an offender's**  
20 **release from custody of the department of corrections and entry into supervision by the**  
21 **division. Such terms and conditions of probation or parole shall be recorded in the**  
22 **Missouri uniform law enforcement system (MULES), where such information is**  
23 **available to members of the criminal justice system, and other entities as provided by**  
24 **law, upon inquiry.**

25           3. Any offender subject to the provisions of this section who changes his or her  
26 county of residence shall, in addition to notifying the division of probation and parole, notify  
27 and register with the chief law enforcement official of the county of residence within seven  
28 days after he or she changes his or her residence to that county.

29           4. Failure by an offender to register with the chief law enforcement official upon a  
30 change in the county of his or her residence shall be cause for revocation of the parole of the  
31 person except for good cause shown.

32           5. The department, the division of probation and parole, and the chief law  
33 enforcement official shall cause the information collected on the initial registration and any  
34 subsequent changes in residence or registration to be recorded with the highway patrol  
35 criminal information system.

36           6. The director of the department of public safety shall design and distribute the  
37 registration forms required by this section and shall provide any administrative assistance  
38 needed to facilitate the provisions of this section.

217.720. 1. At any time during release on parole or conditional release the division of  
2 probation and parole may issue a warrant for the arrest of a released offender for violation of  
3 any of the conditions of parole or conditional release. The warrant shall authorize any law  
4 enforcement officer to return the offender to the actual custody of the correctional center from  
5 which the offender was released, or to any other suitable facility designated by the division.  
6 If any parole or probation officer has probable cause to believe that such offender has violated  
7 a condition of parole or conditional release, the probation or parole officer may issue a  
8 warrant for the arrest of the offender. The probation or parole officer may effect the arrest or  
9 may deputize any officer with the power of arrest to do so by giving the officer a copy of the  
10 warrant which shall outline the circumstances of the alleged violation and contain the  
11 statement that the offender has, in the judgment of the probation or parole officer, violated  
12 conditions of parole or conditional release. The warrant delivered with the offender by the  
13 arresting officer to the official in charge of any facility designated by the division to which the  
14 offender is brought shall be sufficient legal authority for detaining the offender. After the  
15 arrest the parole or probation officer shall present to the detaining authorities a similar

16 statement of the circumstances of violation. Pending hearing as hereinafter provided, upon  
17 any charge of violation, the offender shall remain in custody or incarcerated without  
18 consideration of bail.

19         2. If the offender is arrested under the authority granted in subsection 1 of this section  
20 **or under the authority granted in section 217.723**, the offender shall have the right to a  
21 preliminary hearing on the violation charged unless the offender waives such hearing. Upon  
22 such arrest and detention, the parole or probation officer shall immediately notify the board  
23 and shall submit in writing a report showing in what manner the offender has violated the  
24 conditions of his parole or conditional release. The board shall order the offender discharged  
25 from such facility, require as a condition of parole or conditional release the placement of the  
26 offender in a treatment center operated by the department of corrections, or shall cause the  
27 offender to be brought before it for a hearing on the violation charged, under such rules and  
28 regulations as the board may adopt. If the violation is established and found, the board may  
29 continue or revoke the parole or conditional release, or enter such other order as it may see fit.  
30 If no violation is established and found, then the parole or conditional release shall continue.  
31 If at any time during release on parole or conditional release the offender is arrested for a  
32 crime which later leads to conviction, and sentence is then served outside the Missouri  
33 department of corrections, the board shall determine what part, if any, of the time from the  
34 date of arrest until completion of the sentence imposed is counted as time served under the  
35 sentence from which the offender was paroled or conditionally released.

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

44         4. At any time during parole or probation, the division may issue a warrant for the  
45 arrest of any person from another jurisdiction, the visitation and supervision of whom the  
46 division has undertaken pursuant to the provisions of the interstate compact for the  
47 supervision of parolees and probationers authorized in section 217.810, for violation of any of  
48 the conditions of release, or a notice to appear to answer a charge of violation. The notice  
49 shall be served personally upon the person. The warrant shall authorize any law enforcement  
50 officer to return the offender to any suitable detention facility designated by the division. Any  
51 parole or probation officer may arrest such person without a warrant, or may deputize any  
52 other officer with power of arrest to do so by issuing a written statement setting forth that the

53 defendant has, in the judgment of the parole or probation officer, violated the conditions of  
54 his release. The written statement delivered with the person by the arresting officer to the  
55 official in charge of the detention facility to which the person is brought shall be sufficient  
56 legal authority for detaining him. After making an arrest the parole or probation officer shall  
57 present to the detaining authorities a similar statement of the circumstances of violation.

217.722. 1. If any probation officer has probable cause to believe that the person on  
2 probation has violated a condition of probation, the probation officer may issue a warrant for  
3 the arrest of the person on probation. The officer may effect the arrest or may deputize any  
4 other officer with the power of arrest to do so by giving the officer a copy of the warrant  
5 which will outline the circumstances of the alleged violation and contain the statement that  
6 the person on probation has, in the judgment of the probation officer, violated the conditions  
7 of probation. The warrant delivered with the offender by the arresting officer to the official in  
8 charge of any jail or other detention facility shall be sufficient authority for detaining the  
9 person on probation pending a preliminary hearing on the alleged violation. Other provisions  
10 of law relating to release on bail of persons charged with criminal offenses shall be applicable  
11 to persons detained on alleged probation violations.

12 2. Any person on probation arrested under the authority granted in subsection 1 of  
13 this section **or under the authority granted in section 217.723** shall have the right to a  
14 preliminary hearing on the violation charged as long as the person on probation remains in  
15 custody or unless the offender waives such hearing. The person on probation shall be notified  
16 immediately in writing of the alleged probation violation. If arrested in the jurisdiction of the  
17 sentencing court, and the court which placed the person on probation is immediately  
18 available, the preliminary hearing shall be heard by the sentencing court. Otherwise, the  
19 person on probation shall be taken before a judge or associate circuit judge in the county of  
20 the alleged violation or arrest having original jurisdiction to try criminal offenses or before an  
21 impartial member of the staff of the division of probation and parole, and the preliminary  
22 hearing shall be held as soon as possible after the arrest. Such preliminary hearings shall be  
23 conducted as provided by rule of court or by rules of the parole board. If it appears that there  
24 is probable cause to believe that the person on probation has violated a condition of probation,  
25 or if the person on probation waives the preliminary hearing, the judge or associate circuit  
26 judge, or member of the staff of the division of probation and parole shall order the person on  
27 probation held for further proceedings in the sentencing court. If probable cause is not found,  
28 the court shall not be barred from holding a hearing on the question of the alleged violation of  
29 a condition of probation nor from ordering the person on probation to be present at such a  
30 hearing.

31 3. Upon such arrest and detention, the probation officer shall immediately notify the  
32 sentencing court and shall submit to the court a written report showing in what manner the

33 person on probation has violated the conditions of probation. Thereupon, or upon arrest by  
34 warrant, the court shall cause the person on probation to be brought before it without  
35 unnecessary delay for a hearing on the violation charged. Revocation hearings shall be  
36 conducted as provided by rule of court.

**217.723. Notwithstanding any provision of law to the contrary, any probation or  
2 parole officer or law enforcement officer with power of arrest may arrest a probationer  
3 or parolee without a warrant if the probationer or parolee violates the conditions of  
4 probation or parole in the presence of the arresting officer. The arresting officer, or his  
5 or her agency, as soon as practicable, but no later than twenty-four hours following the  
6 arrest, shall notify the board of probation and parole of the probationer or parolee's  
7 arrest. The probationer or parolee may be detained in the county jail or other  
8 appropriate place of detention until the probationer or parolee is brought before the  
9 court as provided under subsection 2 of section 217.720 or under subsection 2 of section  
10 217.722.**

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