

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NOS. 862, 314 & 389**  
**103RD GENERAL ASSEMBLY**

0277H.03C

JOSEPH ENGLER, Chief Clerk

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**AN ACT**

To repeal sections 217.760 and 558.019, RSMo, and to enact in lieu thereof two new sections relating to minimum prison terms.

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

Section A. Sections 217.760 and 558.019, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 217.760 and 558.019, to read as follows:

217.760. 1. In all felony cases and class A misdemeanor cases, the basis of which  
2 misdemeanor cases are contained in chapters 565 and 566 and section 577.023, at the request  
3 of a circuit judge of any circuit court, the division of probation and parole shall assign one or  
4 more state probation and parole officers to make an investigation of the person convicted of  
5 the crime or offense before sentence is imposed. In all felony cases in which the  
6 recommended sentence established by the sentencing advisory commission pursuant to  
7 subsection [7] 6 of section 558.019 includes probation but the recommendation of the  
8 prosecuting attorney or circuit attorney does not include probation, the division of probation  
9 and parole shall, prior to sentencing, provide the judge with a report on available alternatives  
10 to incarceration. If a presentence investigation report is completed then the available  
11 alternatives shall be included in the presentence investigation report.

12 2. The report of the presentence investigation or preparole investigation shall contain  
13 any prior criminal record of the defendant and such information about his or her  
14 characteristics, his or her financial condition, his or her social history, the circumstances  
15 affecting his or her behavior as may be helpful in imposing sentence or in granting probation  
16 or in the correctional treatment of the defendant, information concerning the impact of the  
17 crime upon the victim, the recommended sentence established by the sentencing advisory  
18 commission and available alternatives to incarceration including opportunities for restorative

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.

19 justice, as well as a recommendation by the probation and parole officer. The officer shall  
20 secure such other information as may be required by the court and, whenever it is practicable  
21 and needed, such investigation shall include a physical and mental examination of the  
22 defendant.

558.019. 1. This section shall not be construed to affect the powers of the governor  
2 under Article IV, Section 7, of the Missouri Constitution. This statute shall not affect those  
3 provisions of section 565.020 or section 566.125, which set minimum terms of sentences, or  
4 the provisions of section 559.115, relating to probation.

5 2. ~~[The provisions of subsections 2 to 5 of this section shall only be applicable to the~~  
6 ~~offenses contained in sections 565.021, 565.023, 565.024, 565.027, 565.050, 565.052,~~  
7 ~~565.054, 565.072, 565.073, 565.074, 565.090, 565.110, 565.115, 565.120, 565.153, 565.156,~~  
8 ~~565.225, 565.300, 566.030, 566.031, 566.032, 566.034, 566.060, 566.061, 566.062, 566.064,~~  
9 ~~566.067, 566.068, 566.069, 566.071, 566.083, 566.086, 566.100, 566.101, 566.103, 566.111,~~  
10 ~~566.115, 566.145, 566.151, 566.153, 566.203, 566.206, 566.209, 566.210, 566.211, 566.215,~~  
11 ~~568.030, 568.045, 568.060, 568.065, 568.175, 569.040, 569.160, 570.023, 570.025, 570.030~~  
12 ~~when punished as a class A, B, or C felony, 570.145 when punished as a class A or B felony,~~  
13 ~~570.223 when punished as a class B or C felony, 571.020, 571.030, 571.070, 573.023,~~  
14 ~~573.025, 573.035, 573.037, 573.200, 573.205, 574.070, 574.080, 574.115, 575.030, 575.150,~~  
15 ~~575.153, 575.155, 575.157, 575.200 when punished as a class A felony, 575.210, 575.230~~  
16 ~~when punished as a class B felony, 575.240 when punished as a class B felony, 576.070,~~  
17 ~~576.080, 577.010, 577.013, 577.078, 577.703, 577.706, 579.065, and 579.068 when punished~~  
18 ~~as a class A or B felony. For the purposes of this section, "prison commitment" means and is~~  
19 ~~the receipt by the department of corrections of an offender after sentencing. For purposes of~~  
20 ~~this section, prior prison commitments to the department of corrections shall not include an~~  
21 ~~offender's first incarceration prior to release on probation under section 217.362 or 559.115.]~~  
22 Other provisions of the law to the contrary notwithstanding, any offender who has been found  
23 guilty **after August 28, 2025**, of a felony other than a dangerous felony as defined in section  
24 556.061 and is committed to the department of corrections shall be required to serve the  
25 following minimum prison terms:

26 (1) If the offender has one **or two** previous ~~[prison commitment to the department of~~  
27 ~~corrections for a felony offense]~~ **convictions for felonies unrelated to the present offense**,  
28 the minimum prison term ~~[which]~~ **that** the offender ~~[must]~~ **shall** serve shall be ~~[forty]~~ **fifty**  
29 percent of his or her sentence or until the offender attains seventy years of age, and has served  
30 at least ~~[thirty]~~ **forty** percent of the sentence imposed, whichever occurs first;

31 (2) ~~[If the offender has two previous prison commitments to the department of~~  
32 ~~corrections for felonies unrelated to the present offense, the minimum prison term which the~~  
33 ~~offender must serve shall be fifty percent of his or her sentence or until the offender attains~~

34 ~~seventy years of age, and has served at least forty percent of the sentence imposed, whichever~~  
35 ~~occurs first;~~

36 (3) If the offender has three or more previous [~~prison commitments to the department~~  
37 ~~of corrections~~] **convictions** for felonies unrelated to the present offense, the minimum prison  
38 term [~~which~~] **that** the offender [~~must~~] **shall** serve shall be eighty percent of his or her  
39 sentence or until the offender attains seventy years of age, and has served at least forty  
40 percent of the sentence imposed, whichever occurs first.

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

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

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

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

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

55 6. [~~An offender who was convicted of, or pled guilty to, a felony offense other than~~  
56 ~~those offenses listed in subsection 2 of this section prior to August 28, 2019, shall no longer~~  
57 ~~be subject to the minimum prison term provisions under subsection 2 of this section, and shall~~  
58 ~~be eligible for parole, conditional release, or other early release by the department of~~  
59 ~~corrections according to the rules and regulations of the department.~~

60 7.] (1) A sentencing advisory commission is hereby created to consist of eleven  
61 members. One member shall be appointed by the speaker of the house. One member shall be  
62 appointed by the president pro tem of the senate. One member shall be the director of the  
63 department of corrections. Six members shall be appointed by and serve at the pleasure of the  
64 governor from among the following: the public defender commission; private citizens; a  
65 private member of the Missouri Bar; the board of probation and parole; and a prosecutor.  
66 Two members shall be appointed by the supreme court, one from a metropolitan area and one  
67 from a rural area. All members shall be appointed to a four-year term. All members of the  
68 sentencing commission appointed prior to August 28, 1994, shall continue to serve on the  
69 sentencing advisory commission at the pleasure of the governor.

70 (2) The commission shall study sentencing practices in the circuit courts throughout  
71 the state for the purpose of determining whether and to what extent disparities exist among  
72 the various circuit courts with respect to the length of sentences imposed and the use of  
73 probation for offenders convicted of the same or similar offenses and with similar criminal  
74 histories. The commission shall also study and examine whether and to what extent  
75 sentencing disparity among economic and social classes exists in relation to the sentence of  
76 death and if so, the reasons therefor, if sentences are comparable to other states, if the length  
77 of the sentence is appropriate, and the rate of rehabilitation based on sentence. It shall  
78 compile statistics, examine cases, draw conclusions, and perform other duties relevant to the  
79 research and investigation of disparities in death penalty sentencing among economic and  
80 social classes.

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

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

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

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

95 ~~[8:]~~ 7. Courts shall retain discretion to lower or exceed the sentence recommended by  
96 the commission as otherwise allowable by law, and to order restorative justice methods, when  
97 applicable.

98 ~~[9:]~~ 8. If the imposition or execution of a sentence is suspended, the court may order  
99 any or all of the following restorative justice methods, or any other method that the court  
100 finds just or appropriate:

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

103 (2) Offender treatment programs;

104 (3) Mandatory community service;

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

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

107           ~~[10:]~~ **9.** Pursuant to subdivision (1) of subsection ~~[9]~~ **8** of this section, the court may  
108 order the assessment and payment of a designated amount of restitution to a county law  
109 enforcement restitution fund established by the county commission pursuant to section  
110 50.565. Such contribution shall not exceed three hundred dollars for any charged offense.  
111 Any restitution moneys deposited into the county law enforcement restitution fund pursuant  
112 to this section shall only be expended pursuant to the provisions of section 50.565.

113           ~~[11:]~~ **10.** A judge may order payment to a restitution fund only if such fund had been  
114 created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A  
115 judge shall not have any direct supervisory authority or administrative control over any fund  
116 to which the judge is ordering a person to make payment.

117           ~~[12:]~~ **11.** A person who fails to make a payment to a county law enforcement  
118 restitution fund may not have his or her probation revoked solely for failing to make such  
119 payment unless the judge, after evidentiary hearing, makes a finding supported by a  
120 preponderance of the evidence that the person either willfully refused to make the payment or  
121 that the person willfully, intentionally, and purposefully failed to make sufficient bona fide  
122 efforts to acquire the resources to pay.

123           ~~[13:]~~ **12.** Nothing in this section shall be construed to allow the sentencing advisory  
124 commission to issue recommended sentences in specific cases pending in the courts of this  
125 state.

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