

FIRST REGULAR SESSION

HOUSE BILL NO. 773

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ALLEN.

1761H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 558.019, RSMo, and to enact in lieu thereof one new section relating to minimum prison terms.

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

Section A. Section 558.019, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 558.019, to read as follows:

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

2. The provisions of subsections 2 to 5 of this section shall only be applicable to the offenses contained in sections 565.021, 565.023, 565.024, 565.027, 565.050, 565.052, 565.054, 565.072, 565.073, 565.074, 565.090, 565.110, 565.115, 565.120, 565.153, 565.156, 565.225, 565.300, 566.030, 566.031, 566.032, 566.034, 566.060, 566.061, 566.062, 566.064, 566.067, 566.068, 566.069, 566.071, 566.083, 566.086, 566.100, 566.101, 566.103, 566.111, 566.115, 566.145, 566.151, 566.153, 566.203, 566.206, 566.209, 566.210, 566.211, 566.215, 568.030, 568.045, 568.060, 568.065, 568.175, 569.040, 569.160, 570.023, 570.025, 570.030 when punished as a class A, B, or C felony, 570.145 when punished as a class A or B felony, 570.223 when punished as a class B or C felony, 571.020, 571.030, 571.070, 573.023, 573.025, 573.035, 573.037, 573.200, 573.205, 574.070, 574.080, 574.115, 575.030, 575.150, 575.153, 575.155, 575.157, 575.200 when punished as a class A felony, 575.210, 575.230 when punished as a class B felony, 575.240 when punished as a class B felony, 576.070, 576.080, 577.010, 577.013, 577.078, 577.703, 577.706, 579.065, and 579.068 when punished

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 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 of a felony other than a dangerous felony as defined in section 556.061 and is
24 committed to the department of corrections shall be required to serve the following minimum
25 prison terms:

26 (1) If the offender has one previous prison commitment to the department of
27 corrections for a felony offense, the minimum prison term which the offender must serve shall
28 be forty percent of his or her sentence or until the offender attains seventy years of age, and
29 has served at least thirty percent of the sentence imposed, whichever occurs first; **except that,**
30 **for any such offender who has a disability, as defined under section 556.061, the**
31 **minimum prison term shall be forty percent of his or her sentence, or until such**
32 **offender attains sixty years of age and has served at least twenty-five percent of the**
33 **sentence imposed, whichever occurs first, provided that neither the offender's previous**
34 **prison commitment nor the present offense involves domestic assault or is for a**
35 **dangerous felony or a felony that is sexual in nature;**

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

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

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

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

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

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

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

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

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

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

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

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

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

95 (6) The circuit and associate circuit courts of this state, the office of the state courts
96 administrator, the department of public safety, and the department of corrections shall
97 cooperate with the commission by providing information or access to information needed by
98 the commission. The office of the state courts administrator will provide needed staffing
99 resources.

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

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

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

108 (2) Offender treatment programs;

109 (3) Mandatory community service;

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

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

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

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

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

128 13. Nothing in this section shall be construed to allow the sentencing advisory
129 commission to issue recommended sentences in specific cases pending in the courts of this
130 state.

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