

SECOND REGULAR SESSION

HOUSE BILL NO. 2880

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOK.

6207H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 558.019, 566.030, 566.151, and 571.015, RSMo, and to enact in lieu thereof four new sections relating to minimum prison terms, with penalty provisions.

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

Section A. Sections 558.019, 566.030, 566.151, and 571.015, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 558.019, 566.030,
3 566.151, and 571.015, to read as follows:

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 566.030**, section 566.125, **or section 566.151**,
4 which set minimum terms of sentences, or the provisions of section 559.115, relating to
5 probation.

6 2. The provisions of subsections 2 to 5 of this section shall only be applicable to the
7 offenses contained in sections 565.021, 565.023, 565.024, 565.027, 565.050, 565.052,
8 565.054, 565.072, 565.073, 565.074, 565.090, 565.110, 565.115, 565.120, 565.153, 565.156,
9 565.225, 565.300, [~~566.030~~] 566.031, 566.032, 566.034, 566.060, 566.061, 566.062,
10 566.064, 566.067, 566.068, 566.069, 566.071, 566.083, 566.086, 566.100, 566.101,
11 566.103, 566.111, 566.115, 566.145, [~~566.151~~] 566.153, 566.203, 566.206, 566.209,
12 566.210, 566.211, 566.215, 568.030, 568.045, 568.060, 568.065, 568.175, 569.040,
13 569.160, 570.023, 570.025, 570.030 when punished as a class A, B, or C felony, 570.145
14 when punished as a class A or B felony, 570.223 when punished as a class B or C felony,
15 571.020, 571.030, 571.070, 573.023, 573.025, 573.035, 573.037, 573.200, 573.205, 574.070,
16 574.080, 574.115, 575.030, 575.150, 575.153, 575.155, 575.157, 575.200 when punished as a

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 class A felony, 575.210, 575.230 when punished as a class B felony, 575.240 when punished
18 as a class B felony, 576.070, 576.080, 577.010, 577.013, 577.078, 577.703, 577.706, 579.065,
19 and 579.068 when punished as a class A or B felony. For the purposes of this section, "prison
20 commitment" means and is the receipt by the department of corrections of an offender after
21 sentencing. For purposes of this section, prior prison commitments to the department of
22 corrections shall not include an offender's first incarceration prior to release on probation
23 under section 217.362 or 559.115. Other provisions of the law to the contrary
24 notwithstanding, any offender who has been found guilty of a felony other than a
25 dangerous felony as defined in section 556.061 and is committed to the department of
26 corrections shall be required to serve the following minimum prison terms:

27 (1) ~~If the offender has one previous prison commitment to the department of
28 corrections for a felony offense, the minimum prison term which the offender must serve shall
29 be forty percent of his or her sentence or until the offender attains seventy years of age, and
30 has served at least thirty 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 for felonies unrelated to the present offense, the minimum prison term which
38 the offender must serve shall be eighty percent of his or her sentence or until the offender
39 attains seventy years of age, and has served at least forty percent of the sentence imposed,
40 whichever occurs first] If the offender has no previous prison commitment to the
41 department of corrections for a felony offense, the minimum prison term the offender
42 shall serve is seventy-five percent of the offender's sentence; and~~

43 (2) **If the offender has one or more previous prison commitments to the
44 department of corrections for a felony offense unrelated to the previous offense, the
45 minimum prison term the offender shall serve is eighty percent of the offender's
46 sentence.**

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

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

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

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

61 6. An offender who was convicted of, or pled guilty to, a felony offense other than
62 those offenses listed in subsection 2 of this section prior to August 28, [2019] **2026**, shall no
63 longer be subject to the minimum prison term provisions under subsection 2 of this section,
64 and shall be eligible for parole, conditional release, or other early release by the department of
65 corrections according to the rules and regulations of the department.

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

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

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

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

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

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

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

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

109 (2) Offender treatment programs;

110 (3) Mandatory community service;

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

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

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

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

123 12. A person who fails to make a payment to a county law enforcement restitution
124 fund may not have his or her probation revoked solely for failing to make such payment
125 unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of
126 the evidence that the person either willfully refused to make the payment or that the person

127 willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire
128 the resources to pay.

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

12 566.030. 1. A person commits the offense of rape in the first degree if he or she has
2 sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the
3 capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the
4 use of a substance administered without a victim's knowledge or consent which renders the
5 victim physically or mentally impaired so as to be incapable of making an informed consent
6 to sexual intercourse.

7 2. The offense of rape in the first degree or an attempt to commit rape in the first
8 degree is a felony for which the authorized term of imprisonment is life imprisonment or a
9 term of years not less than five years, unless:

10 (1) The offense is an aggravated sexual offense, in which case the authorized term of
11 imprisonment is life imprisonment or a term of years not less than fifteen years;

12 (2) The person is a persistent or predatory sexual offender as defined in section
13 566.125 and subjected to an extended term of imprisonment under said section;

14 (3) The victim is a child less than twelve years of age, in which case the required term
15 of imprisonment is life imprisonment without eligibility for probation or parole until the
16 offender has served not less than thirty years of such sentence or unless the offender has
17 reached the age of seventy-five years and has served at least fifteen years of such sentence,
18 unless such rape in the first degree is described under subdivision (4) of this subsection; or

19 (4) The victim is a child less than twelve years of age and such rape in the first degree
20 or attempt to commit rape in the first degree was outrageously or wantonly vile, horrible or
21 inhumane, in that it involved torture or depravity of mind, in which case the required term of
22 imprisonment is life imprisonment without eligibility for probation, parole or conditional
23 release.

24 3. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has
25 been found guilty of rape in the first degree or attempt to commit rape in the first degree when
26 the victim is less than twelve years of age, and "life imprisonment" shall mean imprisonment
27 for the duration of a person's natural life for the purposes of this section.

28 4. No person found guilty of rape in the first degree or an attempt to commit rape in
29 the first degree shall be granted a suspended imposition of sentence or suspended execution of
30 sentence.

31 **5. Notwithstanding any provision of law to the contrary, any person found guilty
32 of rape in the first degree or an attempt to commit rape in the first degree under this**

33 **section shall be required to serve one hundred percent of the sentence imposed by the**
34 **court.**

566.151. 1. A person twenty-one years of age or older commits the offense of
2 enticement of a child if he or she persuades, solicits, coaxes, entices, or lures whether by
3 words, actions or through communication via the internet or any electronic communication,
4 any person who is less than seventeen years of age for the purpose of engaging in sexual
5 conduct.

6 2. It is not a defense to a prosecution for a violation of this section that the other
7 person was a peace officer masquerading as a minor.

8 3. Enticement of a child or an attempt to commit enticement of a child is a felony for
9 which the authorized term of imprisonment shall be not less than five years and not more than
10 thirty years. No person convicted under this section shall be eligible for parole, probation,
11 conditional release, or suspended imposition or execution of sentence ~~[for a period of five~~
12 ~~calendar years]~~.

13 **4. Notwithstanding any provision of law to the contrary, any person convicted of**
14 **enticement of a child or an attempt to commit enticement of a child under this section**
15 **shall be required to serve one hundred percent of the sentence imposed by the court.**

571.015. 1. Any person who commits any felony under the laws of this state by, with,
2 or through the use, assistance, or aid of a dangerous instrument or deadly weapon is also
3 guilty of the offense of armed criminal action; the offense of armed criminal action shall be an
4 unclassified felony and, upon conviction, shall be punished by imprisonment by the
5 department of corrections for a term of not less than three years and not to exceed fifteen
6 years, unless the person is unlawfully possessing a firearm, in which case the term of
7 imprisonment shall be for a term of not less than five years. The punishment imposed
8 pursuant to this subsection shall be in addition to and consecutive to any punishment provided
9 by law for the crime committed by, with, or through the use, assistance, or aid of a dangerous
10 instrument or deadly weapon. No person convicted under this subsection shall be eligible for
11 parole, probation, conditional release, or suspended imposition or execution of sentence ~~[for a~~
12 ~~period of three calendar years]~~. **Notwithstanding any provision of law to the contrary, any**
13 **person convicted under this subsection shall be required to serve one hundred percent of**
14 **the sentence imposed by the court.**

15 2. Any person convicted of a second offense of armed criminal action under
16 subsection 1 of this section shall be punished by imprisonment by the department of
17 corrections for a term of not less than five years and not to exceed thirty years, unless the
18 person is unlawfully possessing a firearm, in which case the term of imprisonment shall be for
19 a term not less than fifteen years. The punishment imposed pursuant to this subsection shall
20 be in addition to and consecutive to any punishment provided by law for the crime committed

21 by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon.
22 No person convicted under this subsection shall be eligible for parole, probation, conditional
23 release, or suspended imposition or execution of sentence ~~[for a period of five calendar~~
24 **years]. Notwithstanding any provision of law to the contrary, any person convicted**
25 **under this subsection shall be required to serve one hundred percent of the sentence**
26 **imposed by the court.**

27 3. Any person convicted of a third or subsequent offense of armed criminal action
28 under subsection 1 of this section shall be punished by imprisonment by the department of
29 corrections for a term of not less than ten years, unless the person is unlawfully possessing a
30 firearm, in which case the term of imprisonment shall be no less than fifteen years. The
31 punishment imposed pursuant to this subsection shall be in addition to and consecutive to any
32 punishment provided by law for the crime committed by, with, or through the use, assistance,
33 or aid of a dangerous instrument or deadly weapon. No person convicted under this
34 subsection shall be eligible for parole, probation, conditional release, or suspended imposition
35 or execution of sentence ~~[for a period of ten calendar years]. Notwithstanding any~~
36 **provision of law to the contrary, any person convicted under this subsection shall be**
37 **required to serve one hundred percent of the sentence imposed by the court.**

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