

# SENATE BILL NO. 75

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BEAN.

1053S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal section 558.019, RSMo, and to enact in lieu thereof one new section relating to criminal sentencing.

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Section A. Section 558.019, RSMo, is repealed and one new  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

558.019. 1. This section shall not be construed to  
2 affect the powers of the governor under Article IV, Section  
3 7, of the Missouri Constitution. This statute shall not  
4 affect those provisions of section 565.020, section 566.125,  
5 or section 571.015, which set minimum terms of sentences, or  
6 the provisions of section 559.115, relating to probation.

7 2. The provisions of subsections 2 to 5 of this  
8 section shall [only] be applicable to [the offenses  
9 contained in sections 565.021, 565.023, 565.024, 565.027,  
10 565.050, 565.052, 565.054, 565.072, 565.073, 565.074,  
11 565.090, 565.110, 565.115, 565.120, 565.153, 565.156,  
12 565.225, 565.300, 566.030, 566.031, 566.032, 566.034,  
13 566.060, 566.061, 566.062, 566.064, 566.067, 566.068,  
14 566.069, 566.071, 566.083, 566.086, 566.100, 566.101,  
15 566.103, 566.111, 566.115, 566.145, 566.151, 566.153,  
16 566.203, 566.206, 566.209, 566.210, 566.211, 566.215,  
17 568.030, 568.045, 568.060, 568.065, 568.175, 569.040,  
18 569.160, 570.023, 570.025, 570.030 when punished as a class

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 A, B, or C felony, 570.145 when punished as a class A or B  
20 felony, 570.223 when punished as a class B or C felony,  
21 571.020, 571.030, 571.070, 573.023, 573.025, 573.035,  
22 573.037, 573.200, 573.205, 574.070, 574.080, 574.115,  
23 575.030, 575.150, 575.153, 575.155, 575.157, 575.200 when  
24 punished as a class A felony, 575.210, 575.230 when punished  
25 as a class B felony, 575.240 when punished as a class B  
26 felony, 576.070, 576.080, 577.010, 577.013, 577.078,  
27 577.703, 577.706, 579.065, and 579.068 when punished as a  
28 class A or B felony] **all classes of felonies except those**  
29 **set forth in chapter 579, or in chapter 195 prior to January**  
30 **1, 2017, and those otherwise excluded in subsection 1 of**  
31 **this section.** For the purposes of this section, "prison  
32 commitment" means and is the receipt by the department of  
33 corrections of an offender after sentencing. For purposes  
34 of this section, prior prison commitments to the department  
35 of corrections shall not include an offender's first  
36 incarceration prior to release on probation under section  
37 217.362 or 559.115. Other provisions of the law to the  
38 contrary notwithstanding, any offender who has been found  
39 guilty of a felony other than a dangerous felony as defined  
40 in section 556.061 and is committed to the department of  
41 corrections shall be required to serve the following minimum  
42 prison terms:

43 (1) If the offender has one previous prison commitment  
44 to the department of corrections for a felony offense, the  
45 minimum prison term which the offender must serve shall be  
46 forty percent of his or her sentence or until the offender  
47 attains seventy years of age, and has served at least thirty  
48 percent of the sentence imposed, whichever occurs first;

49 (2) If the offender has two previous prison  
50 commitments to the department of corrections for felonies

51 unrelated to the present offense, the minimum prison term  
52 which the offender must serve shall be fifty percent of his  
53 or her sentence or until the offender attains seventy years  
54 of age, and has served at least forty percent of the  
55 sentence imposed, whichever occurs first;

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

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

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

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

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

79 5. For purposes of this section, the term "minimum  
80 prison term" shall mean time required to be served by the  
81 offender before he or she is eligible for parole,

82 conditional release or other early release by the department  
83 of corrections.

84 6. [An offender who was convicted of, or pled guilty  
85 to, a felony offense other than those offenses listed in  
86 subsection 2 of this section prior to August 28, 2019, shall  
87 no longer be subject to the minimum prison term provisions  
88 under subsection 2 of this section, and shall be eligible  
89 for parole, conditional release, or other early release by  
90 the department of corrections according to the rules and  
91 regulations of the department.

92 7.] (1) A sentencing advisory commission is hereby  
93 created to consist of eleven members. One member shall be  
94 appointed by the speaker of the house. One member shall be  
95 appointed by the president pro tem of the senate. One  
96 member shall be the director of the department of  
97 corrections. Six members shall be appointed by and serve at  
98 the pleasure of the governor from among the following: the  
99 public defender commission; private citizens; a private  
100 member of the Missouri Bar; the board of probation and  
101 parole; and a prosecutor. Two members shall be appointed by  
102 the supreme court, one from a metropolitan area and one from  
103 a rural area. All members shall be appointed to a four-year  
104 term. All members of the sentencing commission appointed  
105 prior to August 28, 1994, shall continue to serve on the  
106 sentencing advisory commission at the pleasure of the  
107 governor.

108 (2) The commission shall study sentencing practices in  
109 the circuit courts throughout the state for the purpose of  
110 determining whether and to what extent disparities exist  
111 among the various circuit courts with respect to the length  
112 of sentences imposed and the use of probation for offenders  
113 convicted of the same or similar offenses and with similar

114 criminal histories. The commission shall also study and  
115 examine whether and to what extent sentencing disparity  
116 among economic and social classes exists in relation to the  
117 sentence of death and if so, the reasons therefor, if  
118 sentences are comparable to other states, if the length of  
119 the sentence is appropriate, and the rate of rehabilitation  
120 based on sentence. It shall compile statistics, examine  
121 cases, draw conclusions, and perform other duties relevant  
122 to the research and investigation of disparities in death  
123 penalty sentencing among economic and social classes.

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

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

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

137 (6) The circuit and associate circuit courts of this  
138 state, the office of the state courts administrator, the  
139 department of public safety, and the department of  
140 corrections shall cooperate with the commission by providing  
141 information or access to information needed by the  
142 commission. The office of the state courts administrator  
143 will provide needed staffing resources.

144 [8.] 7. Courts shall retain discretion to lower or  
145 exceed the sentence recommended by the commission as

146 otherwise allowable by law, and to order restorative justice  
147 methods, when applicable.

148       **[9.] 8.** If the imposition or execution of a sentence  
149 is suspended, the court may order any or all of the  
150 following restorative justice methods, or any other method  
151 that the court finds just or appropriate:

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

155           (2) Offender treatment programs;

156           (3) Mandatory community service;

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

158           (5) Community-based residential and nonresidential  
159 programs.

160       **9. The provisions of this section shall apply only to**  
161 **offenses occurring on or after August 28, 2003.**

162       10. Pursuant to subdivision (1) of subsection **[9] 8**  
163 of this section, the court may order the assessment and  
164 payment of a designated amount of restitution to a county  
165 law enforcement restitution fund established by the county  
166 commission pursuant to section 50.565. Such contribution  
167 shall not exceed three hundred dollars for any charged  
168 offense. Any restitution moneys deposited into the county  
169 law enforcement restitution fund pursuant to this section  
170 shall only be expended pursuant to the provisions of section  
171 50.565.

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

178           12. A person who fails to make a payment to a county  
179 law enforcement restitution fund may not have his or her  
180 probation revoked solely for failing to make such payment  
181 unless the judge, after evidentiary hearing, makes a finding  
182 supported by a preponderance of the evidence that the person  
183 either willfully refused to make the payment or that the  
184 person willfully, intentionally, and purposefully failed to  
185 make sufficient bona fide efforts to acquire the resources  
186 to pay.

187           13. Nothing in this section shall be construed to  
188 allow the sentencing advisory commission to issue  
189 recommended sentences in specific cases pending in the  
190 courts of this state.

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