

SENATE BILL NO. 153

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

1071S.01H

KRISTINA MARTIN, Secretary

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Section A. Section 558.019, RSMo, is repealed and one new
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 contained
9 in sections 565.021, 565.023, 565.024, 565.027, 565.050,
10 565.052, 565.054, 565.072, 565.073, 565.074, 565.090,
11 565.110, 565.115, 565.120, 565.153, 565.156, 565.225,
12 565.300, 566.030, 566.031, 566.032, 566.034, 566.060,
13 566.061, 566.062, 566.064, 566.067, 566.068, 566.069,
14 566.071, 566.083, 566.086, 566.100, 566.101, 566.103,
15 566.111, 566.115, 566.145, 566.151, 566.153, 566.203,
16 566.206, 566.209, 566.210, 566.211, 566.215, 568.030,
17 568.045, 568.060, 568.065, 568.175, 569.040, 569.160,
18 570.023, 570.025, 570.030 when punished as a class A, B, or

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

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

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

46 (2) If the offender has two previous prison
47 commitments to the department of corrections for felonies
48 unrelated to the present offense, the minimum prison term
49 which the offender must serve shall be fifty percent of his
50 or her sentence or until the offender attains seventy years

51 of age, and has served at least forty percent of the
52 sentence imposed, whichever occurs first;

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

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

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

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

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

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

81 6. (1) An offender who was convicted of, or pled
82 guilty to, a felony offense other than those offenses listed

83 in subsection 2 of this section prior to August 28, 2019,
84 shall [no longer] be subject to the minimum prison term
85 provisions under subsection 2 of this section, and shall **not**
86 be eligible for parole, conditional release, or other early
87 release by the department of corrections [according to the
88 rules and regulations of the department] **unless the following**
89 **conditions are met:**

90 (a) The offender has completed the drug treatment
91 program under section 217.362 if the offense was drug
92 related;

93 (b) The offender has successfully completed the
94 requirements of section 217.355;

95 (c) The offender has completed a job training or
96 educational program provided by the Missouri department of
97 corrections and would be considered work ready; and

98 (d) The offender passes a drug test before release.

99 (2) Notwithstanding any other provision of law, on or
100 after August 28, 2023, no individual convicted of a sexually
101 violent crime as defined in section 632.480, or under
102 chapter 566 shall be eligible for probation or parole and
103 shall serve one hundred percent of any sentence imposed.

104 (3) No provision of this subsection shall be construed
105 to prevent an individual convicted of an offense listed in
106 subsections 1 or 2 of this section from earning credits
107 through the Missouri department of corrections while
108 incarcerated for the purpose of increased privileges,
109 reduction in security classification, or for any purpose
110 other than for the reduction of the sentence imposed.

111 7. (1) A sentencing advisory commission is hereby
112 created to consist of eleven members. One member shall be
113 appointed by the speaker of the house. One member shall be
114 appointed by the president pro tem of the senate. One

115 member shall be the director of the department of
116 corrections. Six members shall be appointed by and serve at
117 the pleasure of the governor from among the following: the
118 public defender commission; private citizens; a private
119 member of the Missouri Bar; the board of probation and
120 parole; and a prosecutor. Two members shall be appointed by
121 the supreme court, one from a metropolitan area and one from
122 a rural area. All members shall be appointed to a four-year
123 term. All members of the sentencing commission appointed
124 prior to August 28, 1994, shall continue to serve on the
125 sentencing advisory commission at the pleasure of the
126 governor.

127 (2) The commission shall study sentencing practices in
128 the circuit courts throughout the state for the purpose of
129 determining whether and to what extent disparities exist
130 among the various circuit courts with respect to the length
131 of sentences imposed and the use of probation for offenders
132 convicted of the same or similar offenses and with similar
133 criminal histories. The commission shall also study and
134 examine whether and to what extent sentencing disparity
135 among economic and social classes exists in relation to the
136 sentence of death and if so, the reasons therefor, if
137 sentences are comparable to other states, if the length of
138 the sentence is appropriate, and the rate of rehabilitation
139 based on sentence. It shall compile statistics, examine
140 cases, draw conclusions, and perform other duties relevant
141 to the research and investigation of disparities in death
142 penalty sentencing among economic and social classes.

143 (3) The commission shall study alternative sentences,
144 prison work programs, work release, home-based
145 incarceration, probation and parole options, and any other

146 programs and report the feasibility of these options in
147 Missouri.

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

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

156 (6) The circuit and associate circuit courts of this
157 state, the office of the state courts administrator, the
158 department of public safety, and the department of
159 corrections shall cooperate with the commission by providing
160 information or access to information needed by the
161 commission. The office of the state courts administrator
162 will provide needed staffing resources.

163 8. Courts shall retain discretion to lower or exceed
164 the sentence recommended by the commission as otherwise
165 allowable by law, and to order restorative justice methods,
166 when applicable.

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

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

174 (2) Offender treatment programs;

175 (3) Mandatory community service;

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

177 (5) Community-based residential and nonresidential
178 programs.

179 10. Pursuant to subdivision (1) of subsection 9 of
180 this section, the court may order the assessment and payment
181 of a designated amount of restitution to a county law
182 enforcement restitution fund established by the county
183 commission pursuant to section 50.565. Such contribution
184 shall not exceed three hundred dollars for any charged
185 offense. Any restitution moneys deposited into the county
186 law enforcement restitution fund pursuant to this section
187 shall only be expended pursuant to the provisions of section
188 50.565.

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

195 12. A person who fails to make a payment to a county
196 law enforcement restitution fund may not have his or her
197 probation revoked solely for failing to make such payment
198 unless the judge, after evidentiary hearing, makes a finding
199 supported by a preponderance of the evidence that the person
200 either willfully refused to make the payment or that the
201 person willfully, intentionally, and purposefully failed to
202 make sufficient bona fide efforts to acquire the resources
203 to pay.

204 13. Nothing in this section shall be construed to
205 allow the sentencing advisory commission to issue
206 recommended sentences in specific cases pending in the
207 courts of this state.

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