

SENATE BILL NO. 695

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BEAN.

2712S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 558.019 and 575.095, RSMo, and to enact in lieu thereof eight new sections relating to public safety, with penalty provisions and an emergency clause for certain sections.

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

Section A. Sections 558.019 and 575.095, RSMo, are
2 repealed and eight new sections enacted in lieu thereof, to be
3 known as sections 56.601, 217.830, 544.453, 558.019, 569.175,
4 571.031, 575.095, and 578.710, to read as follows:

**56.601. 1. If the governor determines that a threat
2 to public safety and health exists in a circuit or
3 prosecuting attorney's jurisdiction after:**

4 **(1) Reviewing federal, state, or local crime
5 statistics; or**

6 **(2) Finding that the number of occurrences of homicide
7 cases in the twelve months immediately preceding exceeds a
8 rate of thirty-five cases per every one hundred thousand
9 people within the circuit or prosecuting attorney's
10 jurisdiction,**

11 **the governor may appoint a special prosecutor who shall
12 serve for a period of up to five years. The special
13 prosecutor shall be employed at the will of the governor,
14 shall not be required to reside in the jurisdiction to which
15 he or she was appointed to serve, and shall be an attorney**

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

16 but shall not be the attorney general or an assistant
17 attorney general.

18 2. (1) The special prosecutor shall have exclusive
19 jurisdiction to initiate and prosecute the following felony
20 offenses:

- 21 (a) First degree murder under section 565.020;
- 22 (b) Second degree murder under section 565.021;
- 23 (c) Assault in the first degree under section 565.050;
- 24 (d) Assault in the second degree under section 565.052;
- 25 (e) Robbery in the first degree under section 570.023;
- 26 (f) Robbery in the second degree under section
27 570.025; and
- 28 (g) Vehicle hijacking under section 570.027.

29 (2) For felony offenses listed under subdivision (1)
30 of this subsection, the special prosecutor shall have all
31 powers, duties, and responsibilities granted to the circuit
32 or prosecuting attorney in the jurisdiction under sections
33 56.087, 56.130, and 56.360. If an offense leads to criminal
34 charges for which the special prosecutor has exclusive
35 jurisdiction, the special prosecutor shall also have
36 exclusive jurisdiction over all other charges stemming from
37 the same criminal event. After the special prosecutor has
38 filed criminal charges in a case over which he or she has
39 exclusive jurisdiction, the special prosecutor shall
40 continue to have exclusive jurisdiction over the entire
41 criminal case regardless of whether the charges are later
42 reduced.

43 3. (1) Moneys for the special prosecutor shall be
44 provided by the state from the general revenue fund. The
45 special prosecutor shall be paid the same salary as a state
46 circuit court judge and, upon his or her appointment, shall
47 become a member of the prosecuting attorneys and circuit

48 attorneys' retirement system as set forth under sections
49 56.800 to 56.840.

50 (2) The special prosecutor shall have a budget, which
51 shall be provided by the state from the general revenue
52 fund, to hire up to fifteen assistant special prosecuting
53 attorneys and up to fifteen staff members including, but not
54 limited to, assistants, clerks, reporters, grand jury
55 reporters, legal investigators, and stenographers, as the
56 special prosecutor deems necessary. The assistant special
57 prosecuting attorneys and staff of the special prosecutor
58 shall be subject to the same duties and responsibilities as
59 those in the circuit or prosecuting attorney's office. The
60 salaries of all employees hired by the special prosecutor
61 shall be set and determined by the special prosecutor but
62 shall be within the budget provided by the state.

63 (3) If, at the end of the first five-year term of the
64 special prosecutor, the governor, after reviewing federal,
65 state, or local crime statistics or finding that the number
66 of occurrences of homicide cases in the twelve months
67 immediately preceding exceeds a rate of thirty-five cases
68 per every one hundred thousand people within the circuit or
69 prosecuting attorney's jurisdiction, determines that a
70 threat to public safety and health still exists, the
71 governor may continue to appoint the special prosecutor for
72 five-year terms as provided under this section.

217.830. The department of corrections shall develop a
2 policy and procedures outlining for offenders how to apply
3 for Medicaid and how to obtain a birth certificate, Social
4 Security card, and state identification prior to release
5 from a correctional center. The policy shall be made
6 available to the offender population. If an offender does
7 not have access to his or her birth certificate, Social

8 Security card, or state identification upon release, the
9 department shall assist such offender in obtaining the
10 documents prior to release. Any educational or special
11 training certificate shall be provided to the offender at
12 the time he or she is released from custody.

544.453. Notwithstanding any provision of the law or
2 court rule to the contrary, a judge or judicial officer,
3 when setting bail or conditions of release in all courts in
4 Missouri for any offense charged, shall consider, in
5 addition to any factor required by law, whether:

6 (1) A defendant poses a danger to a victim of a crime,
7 the community, any witness to the crime, or to any other
8 person;

9 (2) A defendant is a flight risk;

10 (3) A defendant has committed a misdemeanor offense
11 involving a crime of violence, sexual offense, or felony
12 offense in this state or any other state in the last five
13 years; and

14 (4) A defendant has failed to appear in court as a
15 required condition of probation or parole for a misdemeanor
16 involving a crime of violence or felony or a sexual offense
17 within the last three years.

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
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 [10.] 9. Pursuant to subdivision (1) of subsection [9]
161 8 of this section, the court may order the assessment and
162 payment of a designated amount of restitution to a county
163 law enforcement restitution fund established by the county
164 commission pursuant to section 50.565. Such contribution
165 shall not exceed three hundred dollars for any charged
166 offense. Any restitution moneys deposited into the county
167 law enforcement restitution fund pursuant to this section

168 shall only be expended pursuant to the provisions of section
169 50.565.

170 [11.] 10. A judge may order payment to a restitution
171 fund only if such fund had been created by ordinance or
172 resolution of a county of the state of Missouri prior to
173 sentencing. A judge shall not have any direct supervisory
174 authority or administrative control over any fund to which
175 the judge is ordering a person to make payment.

176 [12.] 11. A person who fails to make a payment to a
177 county law enforcement restitution fund may not have his or
178 her probation revoked solely for failing to make such
179 payment unless the judge, after evidentiary hearing, makes a
180 finding supported by a preponderance of the evidence that
181 the person either willfully refused to make the payment or
182 that the person willfully, intentionally, and purposefully
183 failed to make sufficient bona fide efforts to acquire the
184 resources to pay.

185 [13.] 12. Nothing in this section shall be construed
186 to allow the sentencing advisory commission to issue
187 recommended sentences in specific cases pending in the
188 courts of this state.

569.175. 1. A person commits the offense of
2 unlawfully gaining entry into motor vehicles if the person
3 lifts the door handles or otherwise tries the doors and
4 locks of successive motor vehicles to gain entry into the
5 motor vehicles unless the person is the owner of the motor
6 vehicles or has the owners' permission to enter the motor
7 vehicles. For purposes of this section, "successive" means
8 lifting the door handles or otherwise trying the doors and
9 locks of one vehicle after another.

10 2. The offense of unlawfully gaining entry into motor
11 vehicles is a class A misdemeanor for the first offense,

12 unless the person is a prior felony offender then it shall
13 be a class E felony; and a class E felony for any second or
14 subsequent offenses.

571.031. 1. This section shall be known and may be
2 cited as "Blair's Law".

3 2. A person commits the offense of unlawful discharge
4 of a firearm if, with criminal negligence, he or she
5 discharges a firearm within or into the limits of any
6 municipality.

7 3. This section shall not apply if the firearm is
8 discharged:

9 (1) As allowed by a defense of justification under
10 chapter 563;

11 (2) On a properly supervised shooting range;

12 (3) To lawfully take wildlife during an open season
13 established by the department of conservation. Nothing in
14 this subdivision shall prevent a municipality from adopting
15 an ordinance restricting the discharge of a firearm within
16 one-quarter mile of an occupied structure;

17 (4) For the control of nuisance wildlife as permitted
18 by the department of conservation or the United States Fish
19 and Wildlife Service;

20 (5) By special permit of the chief of police of the
21 municipality;

22 (6) As required by an animal control officer in the
23 performance of his or her duties;

24 (7) Using blanks;

25 (8) More than one mile from any occupied structure;

26 (9) In self-defense or defense of another person
27 against an animal attack if a reasonable person would
28 believe that deadly physical force against the animal is

29 immediately necessary and reasonable under the circumstances
30 to protect oneself or the other person; or

31 (10) By law enforcement personnel, as defined in
32 section 590.1040, or a member of the United States Armed
33 Forces if acting in an official capacity.

34 4. A person who commits the offense of unlawful
35 discharge of a firearm shall be guilty of:

36 (1) For a first offense, a class A misdemeanor;

37 (2) For a second offense, a class E felony; and

38 (3) For a third or subsequent offense, a class D
39 felony.

575.095. 1. A person commits the offense of tampering
2 with a judicial officer if, with the purpose to harass,
3 intimidate or influence a judicial officer in the
4 performance of such officer's official duties, such person:

5 (1) Threatens or causes harm to such judicial officer
6 or members of such judicial officer's family;

7 (2) Uses force, threats, or deception against or
8 toward such judicial officer or members of such judicial
9 officer's family;

10 (3) Offers, conveys or agrees to convey any benefit
11 direct or indirect upon such judicial officer or such
12 judicial officer's family;

13 (4) Engages in conduct reasonably calculated to harass
14 or alarm such judicial officer or such judicial officer's
15 family, including stalking pursuant to section 565.225 or
16 565.227;

17 (5) Disseminates through any means, including by
18 posting on the internet, the judicial officer's or the
19 judicial officer's family's personal information. For
20 purposes of this section, "personal information" includes a
21 home address, home or mobile telephone number, personal

22 **email address, Social Security number, federal tax**
23 **identification number, checking or savings account number,**
24 **marital status, and identity of a child under eighteen years**
25 **of age.**

26 2. A judicial officer for purposes of this section
27 shall be a judge **or commissioner of a state or federal**
28 **court,** arbitrator, special master, juvenile officer, deputy
29 juvenile officer, state prosecuting or circuit attorney,
30 state assistant prosecuting or circuit attorney, juvenile
31 court commissioner, state probation or parole officer, or
32 referee.

33 3. A judicial officer's family for purposes of this
34 section shall be:

35 (1) Such officer's spouse; or

36 (2) Such officer or such officer's spouse's ancestor
37 or descendant by blood or adoption; or

38 (3) Such officer's stepchild, while the marriage
39 creating that relationship exists.

40 4. The offense of tampering with a judicial officer is
41 a class D felony.

42 5. **If a violation of this section results in death or**
43 **bodily injury to a judicial officer or a member of the**
44 **judicial officer's family, the offense is a class B felony.**

578.710. 1. For purposes of this section, the
2 following terms mean:

3 (1) "Elected official", any elected member of state
4 government or any political subdivision thereof;

5 (2) "Personal information", the same meaning as
6 defined in section 407.1500.

7 2. A person commits the offense of unlawful disclosure
8 of personally identifiable information if he or she
9 knowingly releases, publicizes, or otherwise publicly

10 discloses the name, home address, Social Security number,
11 telephone number, or other personal information of an
12 elected official or a family member of the elected official
13 with the purpose to harass, intimidate, or cause death or
14 bodily injury to the elected official or a family member of
15 the elected official.

16 3. The offense of unlawful disclosure of personally
17 identifiable information is a class A misdemeanor. However,
18 if a violation of this section is done with the purpose to
19 influence an elected official in the performance of such
20 official's official duties, the offense is a class D felony.

Section B. Because immediate action is necessary to
2 reduce crime, the enactment of section 56.601 of this act is
3 deemed necessary for the immediate preservation of the
4 public health, welfare, peace, and safety, and is hereby
5 declared to be an emergency act within the meaning of the
6 constitution, and the enactment of section 56.601 of this
7 act shall be in full force and effect upon its passage and
8 approval.

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