

SENATE BILL NO. 251

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

1111S.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Section A. Section 558.019, RSMo, is repealed and one new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 or section
5 566.125, which set minimum terms of sentences, or the
6 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] sixty** percent of his or her sentence or until the
44 offender attains seventy years of age, and has served at
45 least thirty percent of the sentence imposed, whichever
46 occurs first, **and the term of conditional release from**
47 **prison or the parole term shall end no earlier than the last**
48 **day of the entire sentence;**

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] ninety**
53 percent of his or her sentence or until the offender attains
54 seventy years of age, and has served at least forty percent
55 of the sentence imposed, whichever occurs first, **and the**
56 **term of conditional release from prison or the parole term**
57 **shall end no earlier than the last day of the entire**
58 **sentence;**

59 (3) If the offender has three or more previous prison
60 commitments to the department of corrections for felonies
61 unrelated to the present offense, the minimum prison term
62 which the offender must serve shall be **[eighty] one hundred**
63 percent of his or her sentence **[or until the offender**
64 **attains seventy years of age, and has served at least forty**
65 **percent of the sentence imposed, whichever occurs first],**
66 **and shall not be eligible for parole or conditional release.**

67 3. Other provisions of the law to the contrary
68 notwithstanding, any offender who has been found guilty of a
69 dangerous felony as defined in section 556.061 and is
70 committed to the department of corrections shall be required
71 to serve a minimum prison term of **[eighty-five] one hundred**
72 percent of the sentence imposed by the court **[or until the**
73 **offender attains seventy years of age, and has served at**
74 **least forty percent of the sentence imposed, whichever**
75 **occurs first], and shall not be eligible for parole or**
76 **conditional release.**

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

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

81 (2) Any sentence either alone or in the aggregate with
82 other consecutive sentences for offenses committed at or

83 near the same time which is over seventy-five years shall be
84 calculated to be seventy-five years.

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

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

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

114 (2) The commission shall study sentencing practices in
115 the circuit courts throughout the state for the purpose of
116 determining whether and to what extent disparities exist
117 among the various circuit courts with respect to the length
118 of sentences imposed and the use of probation for offenders
119 convicted of the same or similar offenses and with similar
120 criminal histories. The commission shall also study and
121 examine whether and to what extent sentencing disparity
122 among economic and social classes exists in relation to the
123 sentence of death and if so, the reasons therefor, if
124 sentences are comparable to other states, if the length of
125 the sentence is appropriate, and the rate of rehabilitation
126 based on sentence. It shall compile statistics, examine
127 cases, draw conclusions, and perform other duties relevant
128 to the research and investigation of disparities in death
129 penalty sentencing among economic and social classes.

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

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

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

143 (6) The circuit and associate circuit courts of this
144 state, the office of the state courts administrator, the
145 department of public safety, and the department of

146 corrections shall cooperate with the commission by providing
147 information or access to information needed by the
148 commission. The office of the state courts administrator
149 will provide needed staffing resources.

150 8. Courts shall retain discretion to lower or exceed
151 the sentence recommended by the commission as otherwise
152 allowable by law, and to order restorative justice methods,
153 when applicable.

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

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

161 (2) Offender treatment programs;

162 (3) Mandatory community service;

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

164 (5) Community-based residential and nonresidential
165 programs.

166 10. Pursuant to subdivision (1) of subsection 9 of
167 this section, the court may order the assessment and payment
168 of a designated amount of restitution to a county law
169 enforcement restitution fund established by the county
170 commission pursuant to section 50.565. Such contribution
171 shall not exceed three hundred dollars for any charged
172 offense. Any restitution moneys deposited into the county
173 law enforcement restitution fund pursuant to this section
174 shall only be expended pursuant to the provisions of section
175 50.565.

176 11. A judge may order payment to a restitution fund
177 only if such fund had been created by ordinance or

178 resolution of a county of the state of Missouri prior to
179 sentencing. A judge shall not have any direct supervisory
180 authority or administrative control over any fund to which
181 the judge is ordering a person to make payment.

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

191 13. Nothing in this section shall be construed to
192 allow the sentencing advisory commission to issue
193 recommended sentences in specific cases pending in the
194 courts of this state.

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