

FIRST REGULAR SESSION

# SENATE BILL NO. 281

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CARTER.

0098S.01I

KRISTINA MARTIN, Secretary

## 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  
2 571.015, RSMo, are repealed and four new sections enacted in  
3 lieu thereof, to be known as sections 558.019, 566.030, 566.151,  
4 and 571.015, 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 **566.030**, section 566.125, **or section 566.151**, which set  
6 minimum terms of sentences, or the provisions of section  
7 559.115, relating to probation.

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

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

18 568.045, 568.060, 568.065, 568.175, 569.040, 569.160,  
19 570.023, 570.025, 570.030 when punished as a class A, B, or  
20 C felony, 570.145 when punished as a class A or B felony,  
21 570.223 when punished as a class B or C felony, 571.020,  
22 571.030, 571.070, 573.023, 573.025, 573.035, 573.037,  
23 573.200, 573.205, 574.070, 574.080, 574.115, 575.030,  
24 575.150, 575.153, 575.155, 575.157, 575.200 when punished as  
25 a class A felony, 575.210, 575.230 when punished as a class  
26 B felony, 575.240 when punished as a class B felony,  
27 576.070, 576.080, 577.010, 577.013, 577.078, 577.703,  
28 577.706, 579.065, and 579.068 when punished as a class A or  
29 B felony. For the purposes of this section, "prison  
30 commitment" means and is the receipt by the department of  
31 corrections of an offender after sentencing. For purposes  
32 of this section, prior prison commitments to the department  
33 of corrections shall not include an offender's first  
34 incarceration prior to release on probation under section  
35 217.362 or 559.115. Other provisions of the law to the  
36 contrary notwithstanding, any offender who has been found  
37 guilty of a felony other than a dangerous felony as defined  
38 in section 556.061 and is committed to the department of  
39 corrections shall be required to serve the following minimum  
40 prison terms:

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

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

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

55 (3) If the offender has three or more previous prison  
56 commitments to the department of corrections for felonies  
57 unrelated to the present offense, the minimum prison term  
58 which the offender must serve shall be eighty percent of his  
59 or her sentence or until the offender attains seventy years  
60 of age, and has served at least forty percent of the  
61 sentence imposed, whichever occurs first] **If the offender**  
62 **has no previous prison commitment to the department of**  
63 **corrections for a felony offense, the minimum prison term**  
64 **the offender shall serve is seventy-five percent of the**  
65 **offender's sentence; and**

66 (2) **If the offender has one or more prison commitments**  
67 **to the department of corrections for a felony offense**  
68 **unrelated to the previous offense, the minimum prison term**  
69 **the offender shall serve is eighty percent of the offender's**  
70 **sentence.**

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

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

81           (1) A sentence of life shall be calculated to be  
82 thirty years;

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

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

92           6. An offender who was convicted of, or pled guilty  
93 to, a felony offense other than those offenses listed in  
94 subsection 2 of this section prior to August 28, [2019]  
95 **2025**, shall no longer be subject to the minimum prison term  
96 provisions under subsection 2 of this section, and shall be  
97 eligible for parole, conditional release, or other early  
98 release by the department of corrections according to the  
99 rules and regulations of the department.

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

113 prior to August 28, 1994, shall continue to serve on the  
114 sentencing advisory commission at the pleasure of the  
115 governor.

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

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

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

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

145           (6) The circuit and associate circuit courts of this  
146 state, the office of the state courts administrator, the  
147 department of public safety, and the department of  
148 corrections shall cooperate with the commission by providing  
149 information or access to information needed by the  
150 commission. The office of the state courts administrator  
151 will provide needed staffing resources.

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

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

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

163           (2) Offender treatment programs;

164           (3) Mandatory community service;

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

166           (5) Community-based residential and nonresidential  
167 programs.

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

176 shall only be expended pursuant to the provisions of section  
177 50.565.

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

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

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

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

10 2. The offense of rape in the first degree or an  
11 attempt to commit rape in the first degree is a felony for

12 which the authorized term of imprisonment is life  
13 imprisonment or a term of years not less than five years,  
14 unless:

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

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

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

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

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

42 4. No person found guilty of rape in the first degree  
43 or an attempt to commit rape in the first degree shall be

44 granted a suspended imposition of sentence or suspended  
45 execution of sentence.

46 **5. Notwithstanding any provision of law to the**  
47 **contrary, any person found guilty of rape in the first**  
48 **degree or an attempt to commit rape in the first degree**  
49 **under this section shall be required to serve one hundred**  
50 **percent of the sentence imposed by the court.**

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

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

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

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

571.015. 1. Any person who commits any felony under  
2 the laws of this state by, with, or through the use,  
3 assistance, or aid of a dangerous instrument or deadly

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

23 2. Any person convicted of a second offense of armed  
24 criminal action under subsection 1 of this section shall be  
25 punished by imprisonment by the department of corrections  
26 for a term of not less than five years and not to exceed  
27 thirty years, unless the person is unlawfully possessing a  
28 firearm, in which case the term of imprisonment shall be for  
29 a term not less than fifteen years. The punishment imposed  
30 pursuant to this subsection shall be in addition to and  
31 consecutive to any punishment provided by law for the crime  
32 committed by, with, or through the use, assistance, or aid  
33 of a dangerous instrument or deadly weapon. No person  
34 convicted under this subsection shall be eligible for  
35 parole, probation, conditional release, or suspended

36 imposition or execution of sentence [for a period of five  
37 calendar years]. **Notwithstanding any provision of law to  
38 the contrary, any person convicted under this subsection  
39 shall be required to serve one hundred percent of the  
40 sentence imposed by the court.**

41 3. Any person convicted of a third or subsequent  
42 offense of armed criminal action under subsection 1 of this  
43 section shall be punished by imprisonment by the department  
44 of corrections for a term of not less than ten years, unless  
45 the person is unlawfully possessing a firearm, in which case  
46 the term of imprisonment shall be no less than fifteen  
47 years. The punishment imposed pursuant to this subsection  
48 shall be in addition to and consecutive to any punishment  
49 provided by law for the crime committed by, with, or through  
50 the use, assistance, or aid of a dangerous instrument or  
51 deadly weapon. No person convicted under this subsection  
52 shall be eligible for parole, probation, conditional  
53 release, or suspended imposition or execution of sentence  
54 [for a period of ten calendar years]. **Notwithstanding any  
55 provision of law to the contrary, any person convicted under  
56 this subsection shall be required to serve one hundred  
57 percent of the sentence imposed by the court.**

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