

FIRST REGULAR SESSION

# SENATE BILL NO. 449

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

0097S.01I

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Section A. Section 558.019, RSMo, is repealed and one new  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  
39 minimum 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] a minimum prison term  
56 [which the offender must serve shall be] of eighty percent  
57 of his or her sentence or until the offender attains seventy  
58 years 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. An offender who was convicted of, or pled guilty  
82 to, a felony offense other than those offenses listed in

83 subsection 2 of this section prior to August 28, 2019, shall  
84 no longer be subject to the minimum prison term provisions  
85 under subsection 2 of this section, and shall be eligible  
86 for parole, conditional release, or other early release by  
87 the department of corrections according to the rules and  
88 regulations of the department.

89         7. (1) A sentencing advisory commission is hereby  
90 created to consist of eleven members. One member shall be  
91 appointed by the speaker of the house. One member shall be  
92 appointed by the president pro tem of the senate. One  
93 member shall be the director of the department of  
94 corrections. Six members shall be appointed by and serve at  
95 the pleasure of the governor from among the following: the  
96 public defender commission; private citizens; a private  
97 member of the Missouri Bar; the board of probation and  
98 parole; and a prosecutor. Two members shall be appointed by  
99 the supreme court, one from a metropolitan area and one from  
100 a rural area. All members shall be appointed to a four-year  
101 term. All members of the sentencing commission appointed  
102 prior to August 28, 1994, shall continue to serve on the  
103 sentencing advisory commission at the pleasure of the  
104 governor.

105         (2) The commission shall study sentencing practices in  
106 the circuit courts throughout the state for the purpose of  
107 determining whether and to what extent disparities exist  
108 among the various circuit courts with respect to the length  
109 of sentences imposed and the use of probation for offenders  
110 convicted of the same or similar offenses and with similar  
111 criminal histories. The commission shall also study and  
112 examine whether and to what extent sentencing disparity  
113 among economic and social classes exists in relation to the  
114 sentence of death and if so, the reasons therefor, if

115 sentences are comparable to other states, if the length of  
116 the sentence is appropriate, and the rate of rehabilitation  
117 based on sentence. It shall compile statistics, examine  
118 cases, draw conclusions, and perform other duties relevant  
119 to the research and investigation of disparities in death  
120 penalty sentencing among economic and social classes.

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

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

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

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

141 8. Courts shall retain discretion to lower or exceed  
142 the sentence recommended by the commission as otherwise  
143 allowable by law, and to order restorative justice methods,  
144 when applicable.

145 9. If the imposition or execution of a sentence is  
146 suspended, the court may order any or all of the following

147 restorative justice methods, or any other method that the  
148 court finds just or appropriate:

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

152 (2) Offender treatment programs;

153 (3) Mandatory community service;

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

155 (5) Community-based residential and nonresidential  
156 programs.

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

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

173 12. A person who fails to make a payment to a county  
174 law enforcement restitution fund may not have his or her  
175 probation revoked solely for failing to make such payment  
176 unless the judge, after evidentiary hearing, makes a finding  
177 supported by a preponderance of the evidence that the person  
178 either willfully refused to make the payment or that the

179 person willfully, intentionally, and purposefully failed to  
180 make sufficient bona fide efforts to acquire the resources  
181 to pay.

182         13. Nothing in this section shall be construed to  
183 allow the sentencing advisory commission to issue  
184 recommended sentences in specific cases pending in the  
185 courts of this state.

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