

FIRST REGULAR SESSION

# SENATE BILL NO. 667

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATOR BLAND.

Read 1st time February 27, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

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### AN ACT

To repeal section 558.019, RSMo, and to enact in lieu thereof one new section relating to sentencing.

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*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Section A. Section 558.019, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 558.019, to read as follows:

558.019. 1. This section shall not be construed to affect the powers of the governor under article IV, section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020, RSMo, section 558.018 or section 571.015, RSMo, which set minimum terms of sentences, or the provisions of section 559.115, RSMo, relating to probation.

2. The provisions of this section shall be applicable to all classes of felonies except those set forth in chapter 195, RSMo, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of a defendant after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include commitment to a regimented discipline program established pursuant to section 217.378, RSMo. Other provisions of the law to the contrary notwithstanding, any defendant who has pleaded guilty to or has been found guilty of a felony other than a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve

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

the following minimum prison terms:

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

(2) If the defendant has two previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the defendant must serve shall be fifty percent of his sentence or until the defendant attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

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

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

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

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

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

5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the defendant before he is eligible for parole, conditional release or other early release by the department of corrections. Except that the board of probation and parole, in the case of consecutive sentences imposed at the same time pursuant to a course of conduct constituting a common scheme or plan, shall be authorized to convert consecutive sentences to concurrent sentences, when the board finds, after hearing with notice to the prosecuting or circuit attorney,

that the sum of the terms results in an unreasonably excessive total term, taking into consideration all factors related to the crime or crimes committed and the sentences received by others similarly situated.

6. (1) A sentencing advisory commission is hereby created to consist of ~~[eleven]~~ **thirteen** members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. ~~[Six]~~ **Eight** members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; **four** private citizens, **two from urban and two from rural areas of the state**; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for defendants convicted of the same or similar crimes and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor **sentences are comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation based on sentence.** It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes **sentencing issues.**

(3) The commission shall establish a system of recommended sentences, within the statutory minimum and maximum sentences provided by law for each felony committed under the laws of this state. This system of recommended sentences shall be distributed to all sentencing courts within the state of Missouri. The recommended sentence for each crime shall take into account, but not be limited to, the following factors:

- (a) The nature and severity of each offense;
- (b) The record of prior offenses by the offender;
- (c) The data gathered by the commission showing the duration and nature

of sentences imposed for each crime; and

(d) The resources of the department of corrections and other authorities to carry out the punishments that are imposed.

(4) **The commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report the feasibility of these options in Missouri.**

(5) The commission shall publish and distribute its [system of recommended sentences] **recommendations** on or before July 1, [1995] **2004**. The commission shall study the implementation and use of the [system of recommended sentences] **recommendations** until July 1, [1998] **2005**, and return a [final] report to the governor, the speaker of the house of representatives, and the president pro tem of the senate. Following the July 1, [1998] **2005**, report, the commission [may] **shall** revise the recommended sentences every [three] **two** years.

[(5)] (6) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

[(6)] (7) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.

[(7)] (8) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

7. The provisions of this section shall apply only to offenses occurring on or after August 28, [1994] **2003**.