

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILLS NOS. 8 & 74

## 100TH GENERAL ASSEMBLY

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Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 4, 2019, with recommendation that the Senate Committee Substitute do pass.

0157S.10C

ADRIANE D. CROUSE, Secretary.

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### AN ACT

To repeal section 558.019, RSMo, and to enact in lieu thereof one new section relating to required minimum prison sentences.

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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Section A. Section 558.019, RSMo, is repealed and one new section  
2 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  
2 governor under Article IV, Section 7, of the Missouri Constitution. This statute  
3 shall not affect those provisions of section 565.020, section 566.125, or section  
4 571.015, which set minimum terms of sentences, or the provisions of section  
5 559.115, relating to probation.

6 2. The provisions of subsections 2 to 5 of this section shall **only** be  
7 applicable to [all classes of felonies except those set forth in chapter 579, or in  
8 chapter 195 prior to January 1, 2017, and those otherwise excluded in subsection  
9 1 of this section] **the offenses contained in sections 565.020, 565.021,**  
10 **565.023, 565.024, 565.027, 565.050, 565.052, 565.054, 565.072, 565.073,**  
11 **565.074, 565.090, 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, 566.061, 566.062,**  
13 **566.064, 566.067, 566.068, 566.069, 566.071, 566.083, 566.086, 566.100,**  
14 **566.101, 566.103, 566.111, 566.115, 566.145, 566.151, 566.153, 566.203,**  
15 **566.206, 566.209, 566.210, 566.211, 566.215, 568.030, 568.045, 568.060,**  
16 **568.065, 568.175, 569.040, 569.160, 570.023, 570.025, 570.030 when**  
17 **punished as a class A, B, or C felony, 570.145 when punished as a class**  
18 **A or B felony, 570.223 when punished as a class B or C felony, 571.020,**

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

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

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

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

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

48 3. Other provisions of the law to the contrary notwithstanding, any  
49 offender who has been found guilty of a dangerous felony as defined in section  
50 556.061 and is committed to the department of corrections shall be required to  
51 serve a minimum prison term of eighty-five percent of the sentence imposed by  
52 the court or until the offender attains seventy years of age, and has served at  
53 least forty percent of the sentence imposed, whichever occurs first.

54 4. For the purpose of determining the minimum prison term to be served,

55 the following calculations shall apply:

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

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

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

63 **6. The provisions of subsections 2 to 5 of this section shall also**  
64 **apply to any offense which a person pled guilty to, or was convicted of,**  
65 **on or before August 28, 2019.**

66 7. (1) A sentencing advisory commission is hereby created to consist of  
67 eleven members. One member shall be appointed by the speaker of the  
68 house. One member shall be appointed by the president pro tem of the  
69 senate. One member shall be the director of the department of corrections. Six  
70 members shall be appointed by and serve at the pleasure of the governor from  
71 among the following: the public defender commission; private citizens; a private  
72 member of the Missouri Bar; the board of probation and parole; and a  
73 prosecutor. Two members shall be appointed by the supreme court, one from a  
74 metropolitan area and one from a rural area. All members shall be appointed to  
75 a four-year term. All members of the sentencing commission appointed prior to  
76 August 28, 1994, shall continue to serve on the sentencing advisory commission  
77 at the pleasure of the governor.

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

90 (3) The commission shall study alternative sentences, prison work

91 programs, work release, home-based incarceration, probation and parole options,  
92 and any other programs and report the feasibility of these options in Missouri.

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

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

100 (6) The circuit and associate circuit courts of this state, the office of the  
101 state courts administrator, the department of public safety, and the department  
102 of corrections shall cooperate with the commission by providing information or  
103 access to information needed by the commission. The office of the state courts  
104 administrator will provide needed staffing resources.

105 [7.] 8. Courts shall retain discretion to lower or exceed the sentence  
106 recommended by the commission as otherwise allowable by law, and to order  
107 restorative justice methods, when applicable.

108 [8.] 9. If the imposition or execution of a sentence is suspended, the court  
109 may order any or all of the following restorative justice methods, or any other  
110 method that the court finds just or appropriate:

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

113 (2) Offender treatment programs;

114 (3) Mandatory community service;

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

116 (5) Community-based residential and nonresidential programs.

117 [9.] 10. The provisions of this section shall apply only to offenses  
118 occurring on or after August 28, 2003.

119 [10.] 11. Pursuant to subdivision (1) of subsection [8] 9 of this section,  
120 the court may order the assessment and payment of a designated amount of  
121 restitution to a county law enforcement restitution fund established by the county  
122 commission pursuant to section 50.565. Such contribution shall not exceed three  
123 hundred dollars for any charged offense. Any restitution moneys deposited into  
124 the county law enforcement restitution fund pursuant to this section shall only  
125 be expended pursuant to the provisions of section 50.565.

126 [11.] 12. A judge may order payment to a restitution fund only if such

127 fund had been created by ordinance or resolution of a county of the state of  
128 Missouri prior to sentencing. A judge shall not have any direct supervisory  
129 authority or administrative control over any fund to which the judge is ordering  
130 a person to make payment.

131 [12.] **13.** A person who fails to make a payment to a county law  
132 enforcement restitution fund may not have his or her probation revoked solely for  
133 failing to make such payment unless the judge, after evidentiary hearing, makes  
134 a finding supported by a preponderance of the evidence that the person either  
135 willfully refused to make the payment or that the person willfully, intentionally,  
136 and purposefully failed to make sufficient bona fide efforts to acquire the  
137 resources to pay.

138 [13.] **14.** Nothing in this section shall be construed to allow the  
139 sentencing advisory commission to issue recommended sentences in specific cases  
140 pending in the courts of this state.

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Bill

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