

# SENATE BILL NO. 1088

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

3023S.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Section A. Section 558.019, RSMo, is repealed and one new  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, section 566.125,  
5 or section 571.015, which set minimum terms of sentences, or  
6 the 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.

✓