

SENATE BILL NO. 1426

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

5197S.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Section A. Section 558.019, RSMo, is repealed and one new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
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.

✓