

SENATE BILL NO. 1437

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

5971S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 106.220, 106.230, 106.250, 106.270, 558.011, and 558.016, RSMo, and to enact in lieu thereof twelve new sections relating to repeat offenders, with penalty provisions, a severability clause, and an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 106.220, 106.230, 106.250, 106.270, 2 558.011, and 558.016, RSMo, are repealed and twelve new sections 3 enacted in lieu thereof, to be known as sections 56.063, 4 106.220, 106.230, 106.250, 106.270, 106.301, 106.305, 478.2000, 5 546.395, 546.950, 558.011, and 558.016, to read as follows:

56.063. It shall be the official duty of a prosecuting 2 attorney to faithfully comply with the provisions of 3 sections 546.950, 557.036, and 558.016, with respect to the 4 execution and enforcement of the criminal laws of this 5 state. A prosecuting attorney who has failed, personally, 6 to devote his or her time to the performance of the 7 requirements therein, or has been guilty of any willful, 8 corrupt, or fraudulent violations of neglect of the official 9 duties therein, or has knowingly or willfully failed or 10 refused to comply with the provisions therein shall be 11 subject to removal pursuant to the applicable provisions of 12 chapter 106.

106.220. Any person elected or appointed to any 2 county, city, town or township office in this state, except

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

3 such officers as may be subject to removal by impeachment,
4 who shall fail personally to devote his **or her** time to the
5 performance of the duties of such office, or who shall be
6 guilty of any willful or fraudulent violation or neglect of
7 any official duty, or who shall knowingly or willfully fail
8 or refuse to do or perform any official act or duty which by
9 law it is his **or her** duty to do or perform with respect to
10 the execution or enforcement of the criminal laws of the
11 state, shall thereby forfeit his **or her** office, and may be
12 removed therefrom in the manner provided in sections 106.230
13 to ~~[106.290]~~ **106.301**.

106.230. When any person has knowledge that any
2 official mentioned in section 106.220 has failed,
3 personally, to devote his **or her** time to the performance of
4 the duties of such office, or has been guilty of any
5 willful, corrupt or fraudulent violations or neglect of any
6 official duty, or has knowingly or willfully failed or
7 refused to perform any official act or duty which by law it
8 was his **or her** duty to do or perform with respect to the
9 execution or enforcement of the criminal laws of this state,
10 **with the exception of violations of section 106.301, which**
11 **shall be responded to as provided therein,** he **or she** may
12 make his **or her** affidavit before any person authorized to
13 administer oaths, setting forth the facts constituting such
14 offense and file the same with the clerk of the court having
15 jurisdiction of the offense, for the use of the prosecuting
16 attorney or deposit it with the prosecuting attorney,
17 furnishing also the names of witnesses who have knowledge of
18 the facts constituting such offense; and it shall be the
19 duty of the prosecuting attorney, if, in his **or her** opinion,
20 the facts stated in said affidavit justify the prosecution
21 of the official charged, to file a complaint in the circuit

22 court as soon as practicable upon such affidavit, setting
23 forth in plain and concise language the charge against such
24 official, or the prosecuting attorney may file such
25 complaint against such official upon his **or her** official
26 oath and upon his **or her** own affidavit.

106.250. **1.** When an affidavit has been filed with the
2 clerk of the circuit court of any county in this state, as
3 provided in sections 106.230 and 106.240, the governor may,
4 in his **or her** discretion, direct the attorney general to
5 assist in the prosecution against said officer; and in case
6 of the refusal of the prosecuting attorney or special
7 prosecutor, after the filing of the affidavit provided for
8 in sections 106.230 and 106.240, to file a complaint, the
9 attorney general shall have authority to file a complaint
10 against the official complained of.

**2. In the case of an affidavit filed with the attorney
11 general, as provided for in section 106.301, the attorney
12 general shall have the power and authority to file a
13 complaint against the official complained of, or the
14 attorney general may file such complaint against such
15 official upon his or her official oath and upon his or her
16 own affidavit.
17**

106.270. **1.** If any official against whom a proceeding
2 has been filed, as provided for in sections 106.220 to
3 **[106.290] 106.301**, shall be found guilty of failing
4 personally to devote his **or her** time to the performance of
5 the duties of such office, or of any willful, corrupt or
6 fraudulent violation or neglect of official duty, or of
7 knowingly or willfully failing or refusing to do or perform
8 any official act or duty which by law it is made his **or her**
9 duty to do or perform with respect to the execution or
10 enforcement of the criminal laws of the state, the court

11 shall render judgment removing him **or her** from such office,
12 and he **or she** shall not be elected or appointed to fill the
13 vacancy thereby created, but the same shall be filled as
14 provided by law for filling vacancies in other cases. All
15 actions and proceedings under sections 106.220 to [106.290]
16 **106.301** shall be in the nature of civil actions, and tried
17 as such.

18 2. Nothing in this section shall be construed to
19 authorize the removal or discharge of any chief, as that
20 term is defined in section 106.273.

106.301. 1. Failure by a prosecuting attorney to
2 **charge and faithfully plead and prove defendants eligible**
3 **for an enhancement under sections 557.036 and 558.016 or**
4 **failure to abide by the plea restrictions provided under**
5 **section 546.950 shall be cause for immediate removal from**
6 **office.**

7 2. When any person has knowledge that any prosecuting
8 attorney has knowingly or willfully failed or refused to
9 perform or abide by a requirement under sections 546.950 or
10 557.036 which by law it was his or her duty to do or perform
11 with respect to the execution or enforcement of the criminal
12 laws of this state, he or she may make his affidavit before
13 any person authorized to administer oaths, setting forth the
14 facts constituting such offense and deposit it with the
15 attorney general, and it shall be the duty of the attorney
16 general, if, in his or her opinion, the facts stated in said
17 affidavit justify the prosecution of the official charged,
18 to file a complaint in the court of his or her choosing with
19 appropriate jurisdiction as soon as practicable upon such
20 affidavit, but no later than six months following receipt of
21 the affidavit, setting forth in plain and concise language
22 the charge against such official.

23 3. In all prosecutions under this section, the
24 defendant shall, upon conviction, after judgement of removal
25 is entered, be entitled to an appeal to the Missouri supreme
26 court, and said cause shall have precedence in said court on
27 such appeal, and the supreme court shall hear such appeal as
28 soon as possible, except in cases filed originally in the
29 Missouri supreme court following the discretion of the
30 attorney general provided for under subsection 2 of this
31 section, in which case the defendant shall have no right to
32 appeal. Pending such appeal, as applicable, such officer
33 shall be suspended from office, and the governor shall
34 appoint a resident of the county, qualified in law, who
35 shall act as such special officer pending the appeal; and if
36 the decision on the appeal in the supreme court shall be in
37 favor of the defendant, he or she shall be entitled to pay
38 for the time for which he or she was removed. The person
39 acting as such officer during such appeal shall be entitled
40 to the same compensation of a duly elected officer. The
41 costs herein provided for shall be taxed against and paid
42 for by the county in which the officer held office.

43 4. A decision by the court hearing the complaint need
44 only establish facts determining whether, as applicable:

45 (1) The criminal defendant in the case giving rise to
46 the complaint herein was eligible for sentencing enhancement
47 under section 558.016; and

48 (2) The prosecuting attorney failed to plead and prove
49 the eligible criminal defendant with the sentencing
50 enhancement pursuant to section 557.036; or

51 (3) The prosecuting attorney failed to abide by the
52 requirements of section 546.950.

53 5. If a prosecuting attorney against whom a proceeding
54 has been filed, as provided for in this section, shall be

55 found guilty of the charge therein, said court shall render
56 judgment removing him or her from such office, and he or she
57 shall not be elected or appointed to fill the vacancy
58 thereby created, nor be eligible to serve such office in any
59 jurisdiction of this state, but the vacancy shall be filled
60 as provided by law for filling vacancies in other cases.
61 All actions and proceedings under this section shall be in
62 the nature of civil actions, and tried as such.

63 6. The sentencing event giving rise to the removal
64 under this section shall not be subject to review, appeal,
65 retrial, or any other form of reconsideration or amendment
66 on the sole basis of the rendered judgment of guilt against
67 the prosecuting attorney.

68 7. A suit initiated under this section shall be
69 governed by the provisions set forth under section 106.305,
70 and each party shall be responsible for costs incurred as a
71 result of the filing.

106.305. 1. The legislature finds that an allegation
2 of dereliction of duty under section 106.301 by a
3 prosecuting attorney represents a matter of urgent public
4 concern that implicates the integrity of the proper
5 functioning of government. Accordingly, actions initiated
6 under section 106.301 shall be afforded the highest priority
7 and shall be heard and resolved at the earliest practicable
8 date.

9 2. The attorney general may file a complaint pursuant
10 to the requirements of section 106.301 in a court of his or
11 her choosing with appropriate jurisdiction, including, but
12 not necessarily limited to, the circuit court where the
13 violation occurred or the Missouri supreme court.

14 3. (1) Upon the filing of a complaint in a court of
15 appropriate jurisdiction, or an appeal thereof, the clerk of

16 the court shall immediately docket the action for expedited
17 consideration and said cause shall have precedence in said
18 court.

19 (2) Such court shall, within twenty calendar days of
20 the action, hold a mandatory conference to establish a
21 binding timeline for all pretrial matters.

22 (3) A trial on the merits shall be set for a date not
23 more than one-hundred-twenty calendar days from the date the
24 petition was filed. No continuance of the trial date shall
25 be granted except upon a showing of extraordinary and
26 unforeseen circumstances that are not attributable to the
27 conduct of either party.

28 4. (1) All discovery shall be completed no later than
29 sixty days from the filing of the petition. Such court
30 shall limit the scope and methods of discovery to the
31 matters necessary to establish prima facie the facts alleged.

32 (2) Any motion that would dispose of the action prior
33 to a trial on the merits, including a motion to dismiss or a
34 motion for summary judgment, shall be filed no later than
35 thirty days from the filing of the action. Such motions
36 shall be ruled upon within ten business days of the date of
37 filing. The filing of such a motion shall not operate to
38 stay the discovery deadlines or trial schedule established.

39 5. An appeal, if applicable, may be filed no later
40 than thirty days following the final judgment of such court.

478.2000. 1. Failure by a circuit judge to faithfully
2 sentence eligible defendants with an enhancement pursuant to
3 section 558.016 or failure to abide by the plea restrictions
4 provided under section 546.950 shall constitute willful
5 neglect of duty and such circuit judge shall forfeit his or
6 her right to continue holding such office.

7 2. Such forfeiture shall be sufficient cause for a quo
8 warranto proceeding initiated by the attorney general in a
9 court of his or her choosing with appropriate jurisdiction,
10 as provided by Article V, Section 4 of the Constitution of
11 Missouri, chapter 531, or any other authority provided to
12 the office.

13 3. (1) Upon the filing of a proceeding in a court of
14 appropriate jurisdiction, or an appeal thereof, the clerk of
15 the court shall immediately docket the action for expedited
16 consideration and said cause shall have precedence in said
17 court.

18 (2) Such court shall, within twenty calendar days of
19 the action, hold a mandatory conference to establish a
20 binding timeline for all pretrial matters.

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22 more than one-hundred-twenty calendar days from the date the
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25 unforeseen circumstances that are not attributable to the
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32 to a trial on the merits, including a motion to dismiss or a
33 motion for summary judgment, must be filed no later than
34 thirty days from the filing of the action. Such motions
35 shall be ruled upon within ten business days of the date of
36 filing. The filing of such a motion shall not operate to
37 stay the discovery deadlines or trial schedule established.

38 5. An appeal, if applicable, may be filed no later
39 than thirty days following the final judgment of such court.

 546.395. In such cases of a person found guilty of an
2 offense and sentenced to an extended term of imprisonment
3 pursuant to section 558.016, the present offense giving rise
4 to the term of imprisonment shall be recorded as an offense
5 of the class of the extended sentence. All records
6 heretofore recording the present offense shall be amended to
7 reflect the enhanced class of offense.

 546.950. 1. Plea bargaining in any case in which the
2 original charging document includes any offense listed under
3 subsection 5 of this section, or in any case in which the
4 defendant is eligible for an enhancement pursuant to section
5 558.016, is prohibited, except in instances where there is
6 insufficient evidence to prove the state's case.

 2. Any exercise of the exception provided in
8 subsection 1 of this section shall be accompanied by a
9 written statement on the record to the court by the
10 prosecuting attorney detailing the good faith justification
11 that the prosecution would not be able to establish a prima
12 facie case. If the original charging document was filed by
13 a law enforcement officer, such law enforcement officer
14 shall be given sufficient notice of the intention to
15 exercise the exception provided in subsection 1 of this
16 section and the opportunity to present to the presiding
17 judge evidence or reasoning relating to the original
18 charging document prior to the presiding judge's decision on
19 the motion.

 3. A presiding judge shall not accept any plea bargain
21 that violates subsection 1 of this section and any plea
22 bargain that is insufficiently justified pursuant to
23 subsection 2 of this section.

24 4. As used in this section, "plea bargaining" or "plea
25 bargain" means any bargaining, negotiation, or discussion
26 between a criminal defendant, or their counsel, and a
27 prosecuting attorney or presiding judge, whereby the
28 defendant agrees to plead in the affirmative, in any form or
29 capacity, in exchange for any promises, commitments,
30 concessions, assurances, or consideration by the prosecuting
31 attorney or presiding judge relating to any charge against
32 the defendant or to the sentencing of the defendant in any
33 form, such that the agreement would reduce, dismiss, delay,
34 or in any way lessen the charges against the defendant or
35 the term of incarceration of the defendant.

36 5. The following offenses, to include attempts to
37 commit such offenses, are ineligible for plea agreement:

38 (1) First degree murder, as defined in section 565.020;

39 (2) Rape in the first degree, as defined in section
40 566.030;

41 (3) Rape in the second degree, as defined in section
42 566.031;

43 (4) Statutory rape and attempt to commit, first
44 degree, as defined in section 566.032;

45 (5) Statutory rape in the second degree, as defined in
46 section 566.034;

47 (6) Domestic assault in the first degree, as defined
48 in section 565.072;

49 (7) Domestic assault in the second degree, as defined
50 in section 565.073;

51 (8) Domestic assault in the third degree, as defined
52 in section 565.074;

53 (9) Domestic assault in the fourth degree, as defined
54 in section 565.076;

- 55 (10) Kidnapping in the first degree, as defined in
56 section 565.110;
- 57 (11) Kidnapping in the second degree, as defined in
58 section 565.120;
- 59 (12) Kidnapping in the third degree, as defined in
60 section 565.130;
- 61 (13) Child kidnapping, as defined in section 565.115;
- 62 (14) Parental kidnapping, as defined in section
63 565.153;
- 64 (15) Vehicle hijacking, as defined in section 570.027;
- 65 (16) Robbery in the first degree, as defined in
66 section 570.023;
- 67 (17) Robbery in the second degree, as defined in
68 section 570.025;
- 69 (18) Burglary in the first degree, as defined in
70 section 569.160;
- 71 (19) Burglary in the second degree, as defined in
72 section 569.170;
- 73 (20) Armed criminal action, as defined in section
74 571.015;
- 75 (21) Unlawful possession of a firearm, as defined in
76 section 571.070;
- 77 (22) Arson in the first degree, as defined in section
78 569.040;
- 79 (23) Arson in the second degree, as defined in section
80 569.050;
- 81 (24) Arson in the third degree, as defined in section
82 569.053;
- 83 (25) The delivery of a controlled substance, as
84 defined in section 579.020 where the offense is classified
85 as a class B felony and the person has one or more prior
86 convictions for the delivery of a controlled substance

87 classified as a class C felony, as defined in 579.020, prior
88 to or at the time of committing the offense;

89 (26) Manufacture of a controlled substance, as defined
90 in section 579.055 where the offense is classified as a
91 class B felony and the person has one or more prior
92 convictions for the manufacture of a controlled substance
93 classified as a class C felony, as defined in section
94 579.055, prior to or at the time of committing the offense.

558.011. 1. The authorized terms of imprisonment,
2 including both prison and conditional release terms, are:

3 (1) For a class A felony, a term of years not less
4 than [ten] **fifteen** years and not to exceed [thirty years]
5 **forty years**, or life imprisonment;

6 (2) For a class B felony, a term of years not less
7 than [five] **ten** years and not to exceed [fifteen] **twenty**
8 years;

9 (3) For a class C felony, a term of years not less
10 than [three] **five** years and not to exceed [ten] **fifteen**
11 years;

12 (4) For a class D felony, a term of years **not less**
13 **than three years and** not to exceed [seven] **ten** years;

14 (5) For a class E felony, a term of years **not less**
15 **than two years and** not to exceed [four] **five** years;

16 (6) For a class A misdemeanor, a term not to exceed
17 one year;

18 (7) For a class B misdemeanor, a term not to exceed
19 six months;

20 (8) For a class C misdemeanor, a term not to exceed
21 fifteen days.

22 2. [In cases of class D and E felonies, the court
23 shall have discretion to imprison for a special term not to
24 exceed one year in the county jail or other authorized penal

25 institution, and the place of confinement shall be fixed by
26 the court. If the court imposes a sentence of imprisonment
27 for a term longer than one year upon a person convicted of a
28 class D or E felony, it shall commit the person to the
29 custody of the department of corrections.

30 **3.]** (1) When a regular sentence of imprisonment for a
31 felony is imposed, the court shall commit the person to the
32 custody of the department of corrections for the term
33 imposed under section 557.036, or until released under
34 procedures established elsewhere by law.

35 (2) A sentence of imprisonment for a misdemeanor shall
36 be for a definite term and the court shall commit the person
37 to the county jail or other authorized penal institution for
38 the term of his or her sentence or until released under
39 procedure established elsewhere by law.

40 **[4.] 3.** (1) Except as otherwise provided, a sentence
41 of imprisonment for a term of years for felonies other than
42 dangerous felonies as defined in section 556.061, and other
43 than sentences of imprisonment which involve the
44 individual's fourth or subsequent remand to the department
45 of corrections shall consist of a prison term and a
46 conditional release term. The conditional release term of
47 any term imposed under section 557.036 shall be:

48 (a) One-third for terms of nine years or less;

49 (b) Three years for terms between nine and fifteen
50 years;

51 (c) Five years for terms more than fifteen years; and
52 the prison term shall be the remainder of such term. The
53 prison term may be extended by the parole board pursuant to
54 subsection 5 of this section.

55 (2) "Conditional release" means the conditional
56 discharge of an offender by the parole board, subject to

57 conditions of release that the parole board deems reasonable
58 to assist the offender to lead a law-abiding life, and
59 subject to the supervision under the division of probation
60 and parole. The conditions of release shall include
61 avoidance by the offender of any other offense, federal or
62 state, and other conditions that the parole board in its
63 discretion deems reasonably necessary to assist the releasee
64 in avoiding further violation of the law.

65 [5.] 4. The date of conditional release from the prison
66 term may be extended up to a maximum of the entire sentence
67 of imprisonment by the parole board. The director of any
68 division of the department of corrections except the
69 division of probation and parole may file with the parole
70 board a petition to extend the conditional release date when
71 an offender fails to follow the rules and regulations of the
72 division or commits an act in violation of such rules.
73 Within ten working days of receipt of the petition to extend
74 the conditional release date, the parole board shall convene
75 a hearing on the petition. The offender shall be present
76 and may call witnesses in his or her behalf and cross-
77 examine witnesses appearing against the offender. The
78 hearing shall be conducted as provided in section 217.670.
79 If the violation occurs in close proximity to the
80 conditional release date, the conditional release may be
81 held for a maximum of fifteen working days to permit
82 necessary time for the division director to file a petition
83 for an extension with the parole board and for the parole
84 board to conduct a hearing, provided some affirmative
85 manifestation of an intent to extend the conditional release
86 has occurred prior to the conditional release date. If at
87 the end of a fifteen-working-day period a parole board
88 decision has not been reached, the offender shall be

89 released conditionally. The decision of the parole board
90 shall be final.

558.016. 1. [The court may sentence a person who has
2 been found guilty of an offense to a term of imprisonment as
3 authorized by section 558.011 or to a term of imprisonment
4 authorized by a statute governing the offense if it finds
5 the defendant is a prior offender or a persistent
6 misdemeanor offender. The court may sentence a person to an
7 extended term of imprisonment if:

8 (1) The defendant is a persistent offender or a
9 dangerous offender, and the person is sentenced under
10 subsection 7 of this section;

11 (2) The statute under which the person was found
12 guilty contains a sentencing enhancement provision that is
13 based on a prior finding of guilt or a finding of prior
14 criminal conduct and the person is sentenced according to
15 the statute; or

16 (3) A more specific sentencing enhancement provision
17 applies that is based on a prior finding of guilt or a
18 finding of prior criminal conduct] **The court shall sentence
19 a person who has been found guilty of an offense to a term
20 of imprisonment pursuant to this section if it finds the
21 defendant is eligible as provided in this section, except in
22 such cases where a more specific sentencing enhancement
23 provision applies that provides for a term of imprisonment
24 that exceeds the term of imprisonment applied in this
25 section, in which instance only subsection 8 of this section
26 shall apply.**

27 2. [A "prior offender" is one who has been found
28 guilty of one felony] **The court shall sentence a person, who
29 has been found to be a prior felony offender, and is found**

30 **guilty of a class A felony, to the maximum term of**
31 **imprisonment for that class that is not life imprisonment.**

32 3. [A "persistent offender" is one who has been found
33 guilty of two or more felonies committed at different times,
34 or one who has been previously found guilty of a dangerous
35 felony as defined in subdivision (19) of section 556.061]

36 **The court shall sentence a person, who has been found to be**
37 **a persistent felony offender, and is found guilty of a class**
38 **A felony, to life imprisonment.**

39 4. [A "dangerous offender" is one who:] **The court**
40 **shall sentence a person, who has been found to be a prior**
41 **felony offender, and is found guilty of a class B, C, D, or**
42 **E felony, to the maximum authorized term of imprisonment for**
43 **the class that is one class higher than the offense for**
44 **which the person is found guilty, except life imprisonment.**

45 [(1) Is being sentenced for a felony during the
46 commission of which he knowingly murdered or endangered or
47 threatened the life of another person or knowingly inflicted
48 or attempted or threatened to inflict serious physical
49 injury on another person; and

50 (2) Has been found guilty of a class A or B felony or
51 a dangerous felony.]

52 5. [A "persistent misdemeanor offender" is one who has
53 been found guilty of two or more offenses, committed at
54 different times that are classified as A or B misdemeanors
55 under the laws of this state] **The court shall sentence a**
56 **person, who has been found to be a persistent felony**
57 **offender, and is found guilty of a class B, C, D, or E**
58 **felony, to the maximum authorized term of imprisonment for**
59 **the class that is two classes higher than the offense for**
60 **which the person is found guilty, including life**
61 **imprisonment.**

62 6. [The findings of guilt shall be prior to the date
63 of commission of the present offense] (1) Except as
64 provided by subdivision (2) of this subsection, the court
65 shall sentence a person, who has been found to be a
66 persistent misdemeanor offender, and is found guilty of a
67 class A, B, or C misdemeanor, to the maximum term of
68 imprisonment for a class E felony.

69 (2) Notwithstanding subdivision (1) of this
70 subsection, if such person, who has been found to be both a
71 persistent misdemeanor offender and a prior felony offender,
72 or a persistent felony offender, is found guilty of a class
73 A or B misdemeanor, the application of subsection 4 of this
74 section shall compound, in that the class E felony otherwise
75 imposed be the maximum authorized term of imprisonment of a
76 class D felony.

77 7. [The court shall sentence a person, who has been
78 found to be a persistent offender or a dangerous offender,
79 and is found guilty of a class B, C, D, or E felony to the
80 authorized term of imprisonment for the offense that is one
81 class higher than the offense for which the person is found
82 guilty] As used in this section, the following terms mean:

83 (1) "Guilty", in the context of determining applicable
84 prior offenses and the eligibility of the present offense,
85 includes any affirmative disposition of the charge for any
86 reason, including by guilty plea, trial resulting in a
87 finding of guilty, deferred adjudication, plea of nolo
88 contendere, or other form of affirmative disposition, such
89 as participation in a pretrial diversion program, applicable
90 as the context demands;

91 (2) "Persistent felony offender", an individual who
92 has been found guilty of two felonies of any class or one
93 felony of a class B or above;

94 (3) "Persistent misdemeanor offender", an individual
95 who has been found guilty of three misdemeanors.

96 8. The findings of guilt for prior offenses shall be
97 prior to the date of conviction of the present offense.

98 9. The use of a prior offense or prior offenses for
99 enhancement under this section shall not preclude the
100 subsequent use of such offenses for enhancement purposes,
101 and such present offense giving rise to the enhanced
102 sentence shall be recorded as an offense of the class of the
103 enhanced sentence pursuant to section 546.395 and shall
104 constitute an eligible offense in subsequent applications of
105 this section.

106 10. A term of imprisonment imposed pursuant to this
107 section shall not be suspended, waived, nor reduced by any
108 other means, including by the parole board, nor shall such
109 sentence be served in a community or nonsecure setting. In
110 no event shall a defendant serve a term of imprisonment less
111 than the maximum term of imprisonment allowable under law
112 for a felony of the respective class.

 Section B. If any provision of section A of this act
2 or the application thereof to anyone or to any circumstance
3 is held invalid, the remainder of those sections and the
4 application of such provisions to others or other
5 circumstances shall not be affected thereby.

 Section C. Because of the need to ensure the safety of
2 all Missourians, section A of this act is deemed necessary
3 for the immediate preservation of the public health,
4 welfare, peace, and safety, and is hereby declared to be an
5 emergency act within the meaning of the constitution, and
6 section A of this act shall be in full force and effect upon
7 its passage and approval.

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