

SECOND REGULAR SESSION

HOUSE BILL NO. 2333

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PRICE.

4752H.011

DANA RADEMAN MILLER, Chief Clerk

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Section A. Section 558.019, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 558.019, to read as follows: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, section 566.125, or section 571.015, which set minimum terms of sentences, or the provisions of section 559.115, relating to probation.

2. The provisions of subsections 2 to 5 of this section shall only be applicable to the offenses contained in sections 565.021, 565.023, 565.024, 565.027, 565.050, 565.052, 565.054, 565.072, 565.073, 565.074, 565.090, 565.110, 565.115, 565.120, 565.153, 565.156, 565.225, 565.300, 566.030, 566.031, 566.032, 566.034, 566.060, 566.061, 566.062, 566.064, 566.067, 566.068, 566.069, 566.071, 566.083, 566.086, 566.100, 566.101, 566.103, 566.111, 566.115, 566.145, 566.151, 566.153, 566.203, 566.206, 566.209, 566.210, 566.211, 566.215, 568.030, 568.045, 568.060, 568.065, 568.175, 569.040, 569.160, 570.023, 570.025, 570.030 when punished as a class A, B, or C felony, 570.145 when punished as a class A or B felony, 570.223 when punished as a class B or C felony, 571.020, 571.030, 571.070, 573.023, 573.025, 573.035, 573.037, 573.200, 573.205, 574.070, 574.080, 574.115, 575.030, 575.150, 575.153, 575.155, 575.157, 575.200 when punished as a class A felony, 575.210, 575.230 when punished as a class B felony, 575.240 when punished as a class B felony, 576.070, 576.080, 577.010, 577.013, 577.078, 577.703, 577.706, 579.065, and 579.068 when punished as a class A or B felony. For

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 the purposes of this section, "prison commitment" means and is the receipt by the department
19 of corrections of an offender after sentencing. For purposes of this section, prior prison
20 commitments to the department of corrections shall not include an offender's first incarceration
21 prior to release on probation under section 217.362 or 559.115. Other provisions of the law to
22 the contrary notwithstanding, any offender who has been found guilty of a felony other than a
23 dangerous felony as defined in section 556.061 and is committed to the department of corrections
24 shall be required to serve the following minimum prison terms:

25 (1) If the offender has one previous prison commitment to the department of corrections
26 for a felony offense, the minimum prison term ~~[which]~~ the offender must serve shall be forty
27 percent of his or her sentence or until the offender attains ~~[seventy]~~ **sixty-five** years of age~~;~~ and
28 has served at least thirty percent of the sentence imposed, whichever occurs first;

29 (2) If the offender has two previous prison commitments to the department of corrections
30 for felonies unrelated to the present offense, the minimum prison term ~~[which]~~ the offender must
31 serve shall be fifty percent of his or her sentence or until the offender attains ~~[seventy]~~ **sixty-five**
32 years of age~~;~~ and has served at least forty percent of the sentence imposed, whichever occurs
33 first;

34 (3) If the offender has three or more previous prison commitments to the department of
35 corrections for felonies unrelated to the present offense, the minimum prison term ~~[which]~~ the
36 offender must serve shall be eighty percent of his or her sentence or until the offender attains
37 ~~[seventy]~~ **sixty-five** years of age~~;~~ and has served at least forty percent of the sentence imposed,
38 whichever occurs first.

39 3. Other provisions of the law to the contrary notwithstanding, any offender who has
40 been found guilty of a dangerous felony as defined in section 556.061 and is committed to the
41 department of corrections shall be required to serve ~~[a] the following~~ **the following** minimum prison ~~[term of~~
42 ~~eighty-five percent of the sentence imposed by the court or until the offender attains seventy~~
43 ~~years of age, and has served at least forty percent of the sentence imposed, whichever occurs~~
44 ~~first]~~ **terms:**

45 (1) **If the offender has no previous prison commitment to the department of**
46 **corrections for a felony offense, the minimum prison term the offender must serve shall be**
47 **fifty percent of his or her sentence or until the offender attains sixty-five years of age and**
48 **has served at least forty percent of the sentence imposed, whichever occurs first;**

49 (2) **If the offender has one previous prison commitment to the department of**
50 **corrections for a felony offense, the minimum prison term the offender must serve shall be**
51 **sixty-six percent of his or her sentence or until the offender attains sixty-five years of age**
52 **and has served at least fifty percent of the sentence imposed, whichever occurs first;**

53 **(3) If the offender has two or more previous prison commitments to the department**
54 **of corrections for felonies unrelated to the present offense, the minimum prison term the**
55 **offender must serve shall be eighty-five percent of his or her sentence or until the offender**
56 **attains sixty-five years of age and has served at least sixty percent of the sentence imposed,**
57 **whichever occurs first.**

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

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

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

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

67 6. An offender who was convicted of, or pled guilty to, a felony offense other than those
68 offenses listed in subsection 2 of this section prior to August 28, 2019, shall no longer be subject
69 to the minimum prison term provisions under subsection 2 of this section, and shall be eligible
70 for parole, conditional release, or other early release by the department of corrections according
71 to the rules and regulations of the department.

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

82 (2) The commission shall study sentencing practices in the circuit courts throughout the
83 state for the purpose of determining whether and to what extent disparities exist among the
84 various circuit courts with respect to the length of sentences imposed and the use of probation
85 for offenders convicted of the same or similar offenses and with similar criminal histories. The
86 commission shall also study and examine whether and to what extent sentencing disparity among
87 economic and social classes exists in relation to the sentence of death and if so, the reasons
88 therefor, if sentences are comparable to other states, if the length of the sentence is appropriate,

89 and the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw
90 conclusions, and perform other duties relevant to the research and investigation of disparities in
91 death penalty sentencing among economic and social classes.

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

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

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

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

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

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

111 (1) Restitution to any victim or a statutorily created fund for costs incurred as a result
112 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 10. Pursuant to subdivision (1) of subsection 9 of this section, the court may order the
118 assessment and payment of a designated amount of restitution to a county law enforcement
119 restitution fund established by the county commission pursuant to section 50.565. Such
120 contribution shall not exceed three hundred dollars for any charged offense. Any restitution
121 moneys deposited into the county law enforcement restitution fund pursuant to this section shall
122 only be expended pursuant to the provisions of section 50.565.

123 11. A judge may order payment to a restitution fund only if such fund had been created
124 by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall

125 not have any direct supervisory authority or administrative control over any fund to which the
126 judge is ordering a person to make payment.

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

133 13. Nothing in this section shall be construed to allow the sentencing advisory
134 commission to issue recommended sentences in specific cases pending in the courts of this state.

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