

# SENATE BILL NO. 1023

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR GANNON.

4898S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 217.035, 217.650, 217.670, 217.710, 217.720, 217.810, and 548.241, RSMo, and to enact in lieu thereof eight new sections relating to the supervision of adult offenders on probation or parole from other states.

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

Section A. Sections 217.035, 217.650, 217.670, 217.710, 217.720, 217.810, and 548.241, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 217.035, 217.650, 217.670, 217.710, 217.720, 548.241, 589.564, and 589.565, to read as follows:

217.035. The director shall have the authority to:

- (1) Establish, with approval of the governor, the internal organization of the department and file the plan thereof with the secretary of state in the manner in which administrative rules are filed, the commissioner of administration and the revisor of statutes;
- (2) Exclusively prepare the budgets of the department and each division within the department in the form and manner set out by statute or by the commissioner of administration;
- (3) Designate by written order filed with the governor, the president pro tem of the senate, and the chairman of the joint committee on corrections, a deputy director of the department to act for and exercise the powers of the director during the director's absence for

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

16 official business, vacation, illness or incapacity. The  
17 deputy director shall serve as acting director no longer  
18 than six months; however, after the deputy director has  
19 acted as director for longer than thirty days the deputy  
20 director shall receive compensation equal to that of the  
21 director;

22 (4) Procure, either through the division of purchasing  
23 or by other means authorized by law, supplies, material,  
24 equipment or contractual services for the department and  
25 each of its divisions;

26 (5) Establish policy for the department and each of  
27 its divisions;

28 (6) Designate any responsibilities, duties and powers  
29 given by sections 217.010, [217.810,] 558.011 and 558.026 to  
30 the department or the department director to any division or  
31 division director.

217.650. As used in sections 217.650 to [217.810]  
2 **217.805**, unless the context clearly indicates otherwise, the  
3 following terms mean:

4 (1) "Chairperson", chairperson of the parole board who  
5 shall be appointed by the governor;

6 (2) "Diversionary program", a program designed to  
7 utilize alternatives to incarceration undertaken under the  
8 supervision of the division of probation and parole after  
9 commitment of an offense and prior to arraignment;

10 (3) "Parole", the release of an offender to the  
11 community by the court or the state parole board prior to  
12 the expiration of his term, subject to conditions imposed by  
13 the court or the parole board and to its supervision by the  
14 division of probation and parole;

15 (4) "Parole board", the state board of parole;

16           (5) "Prerelease program", a program relating to an  
17 offender's preparation for, or orientation to, supervision  
18 by the division of probation and parole immediately prior to  
19 or immediately after assignment of the offender to the  
20 division of probation and parole for supervision;

21           (6) "Pretrial program", a program relating to the  
22 investigation or supervision of persons referred or assigned  
23 to the division of probation and parole prior to their  
24 conviction;

25           (7) "Probation", a procedure under which a defendant  
26 found guilty of a crime upon verdict or plea is released by  
27 the court without imprisonment, subject to conditions  
28 imposed by the court and subject to the supervision of the  
29 division of probation and parole;

30           (8) "Recognizance program", a program relating to the  
31 release of an individual from detention who is under arrest  
32 for an offense for which he or she may be released as  
33 provided in section 544.455.

217.670. 1. The board shall adopt an official seal of  
2 which the courts shall take official notice.

3           2. Decisions of the board regarding granting of  
4 paroles, extensions of a conditional release date or  
5 revocations of a parole or conditional release shall be by a  
6 majority vote of the hearing panel members. The hearing  
7 panel shall consist of one member of the board and two  
8 hearing officers appointed by the board. A member of the  
9 board may remove the case from the jurisdiction of the  
10 hearing panel and refer it to the full board for a  
11 decision. Within thirty days of entry of the decision of  
12 the hearing panel to deny parole or to revoke a parole or  
13 conditional release, the offender may appeal the decision of  
14 the hearing panel to the board. The board shall consider

15 the appeal within thirty days of receipt of the appeal. The  
16 decision of the board shall be by majority vote of the board  
17 members and shall be final.

18 3. The orders of the board shall not be reviewable  
19 except as to compliance with the terms of sections 217.650  
20 to [217.810] **217.805** or any rules promulgated pursuant to  
21 such section.

22 4. The board shall keep a record of its acts and shall  
23 notify each correctional center of its decisions relating to  
24 persons who are or have been confined in such correctional  
25 center.

26 5. Notwithstanding any other provision of law, any  
27 meeting, record, or vote, of proceedings involving  
28 probation, parole, or pardon, may be a closed meeting,  
29 closed record, or closed vote.

30 6. Notwithstanding any other provision of law, when  
31 the appearance or presence of an offender before the board  
32 or a hearing panel is required for the purpose of deciding  
33 whether to grant conditional release or parole, extend the  
34 date of conditional release, revoke parole or conditional  
35 release, or for any other purpose, such appearance or  
36 presence may occur by means of a videoconference at the  
37 discretion of the board. Victims having a right to attend  
38 parole hearings may testify either at the site where the  
39 board is conducting the videoconference or at the  
40 institution where the offender is located. The use of  
41 videoconferencing in this section shall be at the discretion  
42 of the board, and shall not be utilized if either the victim  
43 or the victim's family objects to it.

217.710. 1. Probation and parole officers,  
2 supervisors and members of the parole board, who are  
3 certified pursuant to the requirements of subsection 2 of

4 this section shall have the authority to carry their  
5 firearms at all times. The department of corrections shall  
6 promulgate policies and operating regulations which govern  
7 the use of firearms by probation and parole officers,  
8 supervisors and members of the parole board when carrying  
9 out the provisions of sections 217.650 to [217.810]

10 **217.805.** Mere possession of a firearm shall not constitute  
11 an employment activity for the purpose of calculating  
12 compensatory time or overtime.

13 2. The department shall determine the content of the  
14 required firearms safety training and provide firearms  
15 certification and recertification training for probation and  
16 parole officers, supervisors and members of the parole  
17 board. A minimum of sixteen hours of firearms safety  
18 training shall be required. In no event shall firearms  
19 certification or recertification training for probation and  
20 parole officers and supervisors exceed the training required  
21 for officers of the state highway patrol.

22 3. The department shall determine the type of firearm  
23 to be carried by the officers, supervisors and members of  
24 the parole board.

25 4. Any officer, supervisor or member of the parole  
26 board that chooses to carry a firearm in the performance of  
27 such officer's, supervisor's or member's duties shall  
28 purchase the firearm and holster.

29 5. The department shall furnish such ammunition as is  
30 necessary for the performance of the officer's, supervisor's  
31 and member's duties.

32 6. Any rule or portion of a rule, as that term is  
33 defined in section 536.010, that is promulgated under the  
34 authority of this chapter, shall become effective only if  
35 the agency has fully complied with all of the requirements

36 of chapter 536 including but not limited to, section  
37 536.028, if applicable, after August 28, 1998. All  
38 rulemaking authority delegated prior to August 28, 1998, is  
39 of no force and effect and repealed as of August 28, 1998,  
40 however nothing in section 571.030 or this section shall be  
41 interpreted to repeal or affect the validity of any rule  
42 adopted and promulgated prior to August 28, 1998. If the  
43 provisions of section 536.028 apply, the provisions of this  
44 section are nonseverable and if any of the powers vested  
45 with the general assembly pursuant to section 536.028 to  
46 review, to delay the effective date, or to disapprove and  
47 annul a rule or portion of a rule are held unconstitutional  
48 or invalid, the purported grant of rulemaking authority and  
49 any rule so proposed and contained in the order of  
50 rulemaking shall be invalid and void, except that nothing in  
51 section 571.030 or this section shall affect the validity of  
52 any rule adopted and promulgated prior to August 28, 1998.

217.720. 1. At any time during release on parole or  
2 conditional release the division of probation and parole may  
3 issue a warrant for the arrest of a released offender for  
4 violation of any of the conditions of parole or conditional  
5 release. The warrant shall authorize any law enforcement  
6 officer to return the offender to the actual custody of the  
7 correctional center from which the offender was released, or  
8 to any other suitable facility designated by the division.  
9 If any parole or probation officer has probable cause to  
10 believe that such offender has violated a condition of  
11 parole or conditional release, the probation or parole  
12 officer may issue a warrant for the arrest of the offender.  
13 The probation or parole officer may effect the arrest or may  
14 deputize any officer with the power of arrest to do so by  
15 giving the officer a copy of the warrant which shall outline

16 the circumstances of the alleged violation and contain the  
17 statement that the offender has, in the judgment of the  
18 probation or parole officer, violated conditions of parole  
19 or conditional release. The warrant delivered with the  
20 offender by the arresting officer to the official in charge  
21 of any facility designated by the division to which the  
22 offender is brought shall be sufficient legal authority for  
23 detaining the offender. After the arrest the parole or  
24 probation officer shall present to the detaining authorities  
25 a similar statement of the circumstances of violation.  
26 Pending hearing as hereinafter provided, upon any charge of  
27 violation, the offender shall remain in custody or  
28 incarcerated without consideration of bail.

29       2. If the offender is arrested under the authority  
30 granted in subsection 1 of this section, the offender shall  
31 have the right to a preliminary hearing on the violation  
32 charged unless the offender waives such hearing. Upon such  
33 arrest and detention, the parole or probation officer shall  
34 immediately notify the board and shall submit in writing a  
35 report showing in what manner the offender has violated the  
36 conditions of his parole or conditional release. The board  
37 shall order the offender discharged from such facility,  
38 require as a condition of parole or conditional release the  
39 placement of the offender in a treatment center operated by  
40 the department of corrections, or shall cause the offender  
41 to be brought before it for a hearing on the violation  
42 charged, under such rules and regulations as the board may  
43 adopt. If the violation is established and found, the board  
44 may continue or revoke the parole or conditional release, or  
45 enter such other order as it may see fit. If no violation  
46 is established and found, then the parole or conditional  
47 release shall continue. If at any time during release on

48 parole or conditional release the offender is arrested for a  
49 crime which later leads to conviction, and sentence is then  
50 served outside the Missouri department of corrections, the  
51 board shall determine what part, if any, of the time from  
52 the date of arrest until completion of the sentence imposed  
53 is counted as time served under the sentence from which the  
54 offender was paroled or conditionally released.

55 3. An offender for whose return a warrant has been  
56 issued by the division shall, if it is found that the  
57 warrant cannot be served, be deemed to be a fugitive from  
58 justice or to have fled from justice. If it shall appear  
59 that the offender has violated the provisions and conditions  
60 of his parole or conditional release, the board shall  
61 determine whether the time from the issuing date of the  
62 warrant to the date of his arrest on the warrant, or  
63 continuance on parole or conditional release shall be  
64 counted as time served under the sentence. In all other  
65 cases, time served on parole or conditional release shall be  
66 counted as time served under the sentence.

67 4. At any time during parole or probation, the  
68 division may issue a warrant for the arrest of any person  
69 from another jurisdiction[, the visitation and supervision  
70 of whom the division has undertaken pursuant to the  
71 provisions of the interstate compact for the supervision of  
72 parolees and probationers authorized in section 217.810,]  
73 for violation of any of the conditions of release[, ] or a  
74 notice to appear to answer a charge of violation. The  
75 notice shall be served personally upon the person. The  
76 warrant shall authorize any law enforcement officer to  
77 return the offender to any suitable detention facility  
78 designated by the division. Any parole or probation officer  
79 may arrest such person without a warrant, or may deputize



80 any other officer with power of arrest to do so by issuing a  
81 written statement setting forth that the defendant has, in  
82 the judgment of the parole or probation officer, violated  
83 the conditions of his release. The written statement  
84 delivered with the person by the arresting officer to the  
85 official in charge of the detention facility to which the  
86 person is brought shall be sufficient legal authority for  
87 detaining him. After making an arrest the parole or  
88 probation officer shall present to the detaining authorities  
89 a similar statement of the circumstances of violation.

548.241. 1. All necessary and proper expenses  
2 accruing under section 548.221, upon being ascertained to  
3 the satisfaction of the governor, shall be allowed on his  
4 certificate and paid out of the state treasury as other  
5 demands against the state.

6 2. All necessary and proper expenses accruing as a  
7 result of a person being returned to this state pursuant to  
8 the provisions of section 548.243 [or 217.810] shall be  
9 allowed and paid out of the state treasury as if the person  
10 were being returned to this state pursuant to section  
11 548.221.

12 **3. Any necessary and proper expenses accruing as a**  
13 **result of a person being returned to this state under the**  
14 **provisions of chapter 589 may be paid either out of the**  
15 **Missouri interstate compact fund established in chapter 589**  
16 **or out of the state treasury.**

589.564. 1. Upon a petition from the state, a circuit  
2 court is authorized to add any condition to a term of  
3 probation for an offender supervised in this state for a  
4 term of probation ordered by another state, including shock  
5 incarceration; however, the court shall not reduce, extend,  
6 or revoke such a term of probation. The circuit court for

7 the jurisdiction in which a probationer is under supervision  
8 shall serve as the authorizing court for the purposes of  
9 this section. The prosecuting attorney or circuit attorney  
10 for the jurisdiction in which a probationer is under  
11 supervision shall serve as the authorized person to petition  
12 the court to add a condition of probation. Notwithstanding  
13 any provision of section 549.500 or 559.125, the division of  
14 probation and parole may submit violation reports to the  
15 prosecuting attorney or circuit attorney with authority to  
16 petition the court to add a condition to a term of probation  
17 under this section.

18 2. Where supervision of a parolee in Missouri is  
19 administered pursuant to this compact, the division of  
20 probation and parole shall have the authority to impose a  
21 sanction or additional conditions in response to written  
22 violations of supervision; however, the division of  
23 probation and parole shall not reduce, extend, or revoke  
24 such a term of parole.

589.565. A Missouri probationer or parolee seeking  
2 transfer of their supervision through this compact shall pay  
3 a fee for each transfer application submitted in the amount  
4 of one hundred seventy-five dollars. The transfer  
5 application fee shall be paid to the compact commissioner  
6 upon submission of the transfer application. The  
7 commissioner or commissioner's designee may waive the  
8 application fee if either the commissioner or the  
9 commissioner's designee finds that payment of the fee will  
10 constitute an undue economic burden on the offender. All  
11 fees collected pursuant to this section shall be paid and  
12 deposited to the credit of the "Missouri Interstate Compact  
13 Fund", which is hereby established in the state treasury.  
14 The state treasurer shall be custodian of the fund. In

15 accordance with sections 30.170 and 30.180, the state  
16 treasurer may approve disbursements. The fund shall be a  
17 dedicated fund and, upon appropriation, moneys in the fund  
18 shall be used for the sole benefit of the department of  
19 corrections in support of administration of this section;  
20 expenses related to retaking, assessment, staff development,  
21 and training; and implementation of evidence-based practices  
22 in support of offenders under supervision. Notwithstanding  
23 the provisions of section 33.080 to the contrary, any moneys  
24 remaining in the fund at the end of the biennium shall not  
25 revert to the credit of the general revenue fund. The state  
26 treasurer shall invest moneys in the fund in the same manner  
27 as other funds are invested. Any interest and moneys earned  
28 on such investments shall be credited to the fund.

2 [217.810. 1. The governor is hereby  
3 authorized and directed to enter into the  
4 interstate compact for the supervision of  
5 parolees and probationers on behalf of the state  
6 of Missouri with the commonwealth of Puerto  
7 Rico, the Virgin Islands, the District of  
8 Columbia and any and all other states of the  
9 United States legally joining therein and  
10 pursuant to the provisions of an act of the  
11 Congress of the United States of America  
12 granting the consent of Congress to the  
13 commonwealth of Puerto Rico, the Virgin Islands,  
14 the District of Columbia and any two or more  
15 states to enter into agreements or compacts for  
16 cooperative effort and mutual assistance in the  
17 prevention of crime and for other purposes,  
18 which compact shall have as its objective the  
19 permitting of persons placed on probation or  
20 released on parole to reside in any other state  
21 signatory to the compact assuming the duties of  
22 visitation and supervision over such  
23 probationers and parolees; permitting the  
24 extradition and transportation without  
25 interference of prisoners, being retaken,  
26 through any and all states signatory to the  
27 compact under such terms, conditions, rules and  
28 regulations, and for such duration as in the  
29 opinion of the governor of this state shall be  
30 necessary and proper and in a form substantially  
31 as contained in subsection 2 of this section.  
32 The chairman of the board shall administer the  
compact for the state.

33           2. INTERSTATE COMPACT FOR THE SUPERVISION  
34 OF PAROLEES AND PROBATIONERS

35           This compact shall be entered into by and  
36 among the contracting states, signatories  
37 hereto, with the consent of the Congress of the  
38 United States of America, granted by an act  
39 entitled "An act granting the consent of  
40 Congress to any two or more states to enter into  
41 agreements or compacts for cooperative effort  
42 and mutual assistance in the prevention of crime  
43 and for other purposes."

44           The contracting states solemnly agree:

45           (1) That it shall be competent for the  
46 duly constituted judicial and administrative  
47 authorities of a state party to this compact  
48 (herein called "sending state") to permit any  
49 person convicted of an offense within such state  
50 and placed on probation or released on parole to  
51 reside in any other state party to this compact  
52 (herein called "receiving state"), while on  
53 probation or parole, if

54           (a) Such a person is in fact a resident of  
55 or has his family residing within the receiving  
56 state and can obtain employment there;

57           (b) Though not a resident of the receiving  
58 state and not having his family residing there,  
59 the receiving state consents to such person  
60 being sent there.

61           Before granting such permission,  
62 opportunity shall be granted to the receiving  
63 state to investigate the home and prospective  
64 employment of such person.

65           A resident of the receiving state, within  
66 the meaning of this section, is one who has been  
67 an actual inhabitant of such state continuously  
68 for more than one year prior to his coming to  
69 the sending state and has not resided within the  
70 sending state more than six continuous months  
71 immediately preceding the commission of the  
72 offense for which he has been convicted.

73           (2) The receiving state shall assume the  
74 duties of visitation and supervision over  
75 probationers or parolees of any sending state  
76 transferred under the compact and will apply the  
77 same standards of supervision that prevail for  
78 its own probationers and parolees.

79           (3) That duly accredited officers of a  
80 sending state may at all times enter a receiving  
81 state and there apprehend and retake any person  
82 on probation or parole. For that purpose no  
83 formalities will be required other than  
84 establishing the authority of the officer and  
85 the identity of the person to be retaken. All  
86 legal requirements to obtain extradition of  
87 fugitives from justice are hereby expressly  
88 waived on the part of states party hereto, as to  
89 such persons. The decision of the sending state

90 to retake a person on probation or parole shall  
91 be conclusive upon and not reviewable within the  
92 receiving state. Provided, however, that if at  
93 the time when a state seeks to retake a  
94 probationer or parolee there should be pending  
95 against him within the receiving state any  
96 criminal charge, or he should be suspected of  
97 having committed within such state a criminal  
98 offense, he shall not be retaken without the  
99 consent of the receiving state until discharged  
100 from prosecution or from imprisonment for such  
101 offense.

102 (4) That the duly accredited officers of  
103 the sending state will be permitted to transport  
104 prisoners being retaken through any and all  
105 states parties to this compact, without  
106 interference.

107 (5) Each state may designate an officer  
108 who, acting jointly with like officers of other  
109 contracting states shall promulgate such rules  
110 and regulations as may be deemed necessary to  
111 more effectively carry out the terms of this  
112 compact.

113 (6) That this compact shall become  
114 operative immediately upon its execution by any  
115 state as between it and any other state or  
116 states so executing. When executed it shall  
117 have the full force and effect of law within  
118 such state, the form of execution to be in  
119 accordance with the laws of the executing state.

120 (7) That this compact shall continue in  
121 force and remain binding upon each executing  
122 state until renounced by it. The duties and  
123 obligations hereunder of a renouncing state  
124 shall continue as to parolees or probationers  
125 residing therein at the time of withdrawal until  
126 retaken or finally discharged by the sending  
127 state. Renunciation of this compact shall be by  
128 the same authority which executed it, by sending  
129 six months' notice in writing of its intention  
130 to withdraw from the compact to the other states  
131 party hereto.

132 3. If any section, sentence, subdivision  
133 or clause within subsection 2 of this section is  
134 for any reason held invalid or to be  
135 unconstitutional, such decision shall not affect  
136 the validity of the remaining provisions of that  
137 subsection or this section.

138 4. All necessary and proper expenses  
139 accruing as a result of a person being returned  
140 to this state by order of a court or the parole  
141 board shall be paid by the state as provided in  
142 section 548.241 or 548.243.]

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