

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 177
99TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, February 16, 2017, with recommendation that the Senate Committee Substitute do pass.

0662S.02C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal section 217.703, RSMo, and to enact in lieu thereof one new section relating to earned compliance credits.

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

Section A. Section 217.703, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 217.703, to read as follows:

217.703. 1. The division of probation and parole shall award earned
2 compliance credits to any offender who is:

3 (1) Not subject to lifetime supervision under sections 217.735 and 559.106
4 or otherwise found to be ineligible to earn credits by a court pursuant to
5 subsection 2 of this section;

6 (2) On probation, parole, or conditional release for an offense listed in
7 chapter 579, or an offense previously listed in chapter 195, or for a class D or E
8 felony, excluding the offenses of stalking in the first degree, rape in the second
9 degree, sexual assault, sodomy in the second degree, deviate sexual assault,
10 assault in the second degree under subdivision (2) of subsection 1 of section
11 565.052, sexual misconduct involving a child, endangering the welfare of a child
12 in the first degree under subdivision (2) of subsection 1 of section 568.045, incest,
13 invasion of privacy, abuse of a child, and any offense of aggravated stalking or
14 assault in the second degree under subdivision (2) of subsection 1 of section
15 565.060 as such offenses existed prior to January 1, 2017;

16 (3) Supervised by the board; and

17 (4) In compliance with the conditions of supervision imposed by the
18 sentencing court or board.

19 2. If an offender was placed on probation, parole, or conditional release
20 for an offense of:

- 21 (1) Involuntary manslaughter in the second degree;
- 22 (2) Assault in the second degree except under subdivision (2) of subsection
23 1 of section 565.052 or section 565.060 as it existed prior to January 1, 2017;
- 24 (3) Domestic assault in the second degree;
- 25 (4) Assault in the third degree when the victim is a special victim or
26 assault of a law enforcement officer in the second degree as it existed prior to
27 January 1, 2017;
- 28 (5) Statutory rape in the second degree;
- 29 (6) Statutory sodomy in the second degree;
- 30 (7) Endangering the welfare of a child in the first degree under
31 subdivision (1) of subsection 1 of section 568.045; or
- 32 (8) Any case in which the defendant is found guilty of a felony offense
33 under chapter 571;

34 the sentencing court may, upon its own motion or a motion of the prosecuting or
35 circuit attorney, make a finding that the offender is ineligible to earn compliance
36 credits because the nature and circumstances of the offense or the history and
37 character of the offender indicate that a longer term of probation, parole, or
38 conditional release is necessary for the protection of the public or the guidance
39 of the offender. The motion may be made any time prior to the first month in
40 which the person may earn compliance credits under this section. The offender's
41 ability to earn credits shall be suspended until the court or board makes its
42 finding. If the court or board finds that the offender is eligible for earned
43 compliance credits, the credits shall begin to accrue on the first day of the next
44 calendar month following the issuance of the decision.

45 3. Earned compliance credits shall reduce the term of probation, parole,
46 or conditional release by thirty days for each full calendar month of compliance
47 with the terms of supervision. Credits shall begin to accrue for eligible offenders
48 after the first full calendar month of supervision or on October 1, 2012, if the
49 offender began a term of probation, parole, or conditional release before
50 September 1, 2012.

51 4. For the purposes of this section, the term "compliance" shall mean the
52 absence of an initial violation report submitted by a probation or parole officer
53 during a calendar month, or a motion to revoke or motion to suspend filed by a
54 prosecuting or circuit attorney, against the offender.

55 5. Credits shall not accrue during any calendar month in which a
56 violation report has been submitted or a motion to revoke or motion to suspend

57 has been filed, and shall be suspended pending the outcome of a hearing, if a
58 hearing is held. If no hearing is held or the court or board finds that the
59 violation did not occur, then the offender shall be deemed to be in compliance and
60 shall begin earning credits on the first day of the next calendar month following
61 the month in which the report was submitted or the motion was filed. All earned
62 credits shall be rescinded if the court or board revokes the probation or parole or
63 the court places the offender in a department program under subsection 4 of
64 section 559.036. Earned credits shall continue to be suspended for a period of
65 time during which the court or board has suspended the term of probation, parole,
66 or release, and shall begin to accrue on the first day of the next calendar month
67 following the lifting of the suspension.

68 6. Offenders who are deemed by the division to be absconders shall not
69 earn credits. For purposes of this subsection, "absconder" shall mean an offender
70 under supervision who has left such offender's place of residency without the
71 permission of the offender's supervising officer for the purpose of avoiding
72 supervision. An offender shall no longer be deemed an absconder when such
73 offender is available for active supervision.

74 7. Notwithstanding subsection 2 of section 217.730 to the contrary, once
75 the combination of time served in custody, if applicable, time served on probation,
76 parole, or conditional release, and earned compliance credits satisfy the total
77 term of probation, parole, or conditional release, the board or sentencing court
78 shall order final discharge of the offender, so long as the offender has completed
79 at least two years of his or her probation or parole, which shall include any time
80 served in custody under section 217.718 and sections 559.036 and 559.115.

81 8. The award or rescission of any credits earned under this section shall
82 not be subject to appeal or any motion for postconviction relief.

83 9. At least twice a year, the division shall calculate the number of months
84 the offender has remaining on his or her term of probation, parole, or conditional
85 release, taking into consideration any earned compliance credits, and notify the
86 offender of the length of the remaining term.

87 10. No less than sixty days before the date of final discharge, the division
88 shall notify the sentencing court, the board, and, for probation cases, the circuit
89 or prosecuting attorney of the impending discharge. If the sentencing court, the
90 board, or the circuit or prosecuting attorney upon receiving such notice does not
91 take any action under subsection 5 of this section, the offender shall be
92 discharged under subsection 7 of this section.

93 11. Any offender who was sentenced prior to January 1, 2017, to an
94 offense that was eligible for earned compliance credits under subsection 1 or 2 of
95 this section at the time of sentencing shall continue to remain eligible for earned
96 compliance credits so long as the offender meets all the other requirements
97 provided under this section.

98 **12. No person shall be discharged from probation, parole, or**
99 **conditional release under the provisions of this section if at the final**
100 **discharge date there remains any unpaid court costs, or other**
101 **unfulfilled condition of probation, parole, or conditional release, unless**
102 **specifically authorized by the sentencing court. However, no person**
103 **ordered by the court to pay restitution shall be released from**
104 **probation, parole, or conditional release until such restitution is**
105 **complete.**

106 **13. The application of credits shall be suspended upon entry into**
107 **a drug court, DWI court, veteran's court, or other treatment court, and**
108 **shall remain suspended until the offender is discharged from such drug**
109 **court, DWI court, veteran's court, or other treatment court.**

Bill ✓

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