

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 799
101ST GENERAL ASSEMBLY

3551H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 217.035, 217.147, 217.650, 217.670, 217.703, 217.710, 217.720, 217.810, 548.241, 558.016, 559.016, 559.036, 559.115, and 575.200, RSMo, and to enact in lieu thereof fifteen new sections relating to custody of offenders, with penalty provisions.

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

Section A. Sections 217.035, 217.147, 217.650, 217.670, 217.703, 217.710, 217.720, 217.810, 548.241, 558.016, 559.016, 559.036, 559.115, and 575.200, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 217.035, 217.147, 217.650, 217.670, 217.710, 217.720, 544.453, 548.241, 558.016, 559.016, 559.036, 559.115, 575.200, 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 official business, vacation, illness or incapacity. The deputy director shall serve as acting director no longer than six months; however, after the deputy director has acted as director 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.

13 longer than thirty days the deputy director shall receive compensation equal to that of the
14 director;

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

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

19 (6) Designate any responsibilities, duties and powers given by sections 217.010,
20 ~~[217.810,]~~ 558.011 and 558.026 to the department or the department director to any division
21 or division director.

217.147. 1. There is hereby created the "Sentencing and Corrections Oversight
2 Commission". The commission shall be composed of thirteen members as follows:

3 (1) A circuit court judge to be appointed by the chief justice of the Missouri supreme
4 court;

5 (2) Three members to be appointed by the governor with the advice and consent of
6 the senate, one of whom shall be a victim's advocate, one of whom shall be a representative
7 from the Missouri Sheriffs' Association, and one of whom shall be a representative of the
8 Missouri Association of Counties;

9 (3) The following shall be ex officio, voting members:

10 (a) The chair of the senate judiciary committee, or any successor committee that
11 reviews legislation involving crime and criminal procedure, who shall serve as co-chair of the
12 commission and the ranking minority member of such senate committee;

13 (b) The chair of the appropriations-public safety and corrections committee of the
14 house of representatives, or any successor committee that reviews similar legislation, who
15 shall serve as co-chair and the ranking minority member of such house committee;

16 (c) The director of the Missouri state public defender system, or his or her designee
17 who is a practicing public defender;

18 (d) The executive director of the Missouri office of prosecution services, or his or her
19 designee who is a practicing prosecutor;

20 (e) The director of the department of corrections, or his or her designee;

21 (f) The chairman of the board of probation and parole, or his or her designee;

22 (g) The chief justice of the Missouri supreme court, or his or her designee.

23 2. Beginning with the appointments made after August 28, 2012, the circuit court
24 judge member shall be appointed for four years, two of the members appointed by the
25 governor shall be appointed for three years, and one member appointed by the governor shall
26 be appointed for two years. Thereafter, the members shall be appointed to serve four-year
27 terms and shall serve until a successor is appointed. A vacancy in the office of a member
28 shall be filled by appointment for the remainder of the unexpired term.

29 3. The co-chairs are responsible for establishing and enforcing attendance and voting
30 rules, bylaws, and the frequency, location, and time of meetings, and distributing meeting
31 notices, except that the commission's first meeting shall occur by February 28, 2013, and the
32 commission shall meet at least twice each calendar year.

33 4. The duties of the commission shall include:

34 (1) Monitoring and assisting the implementation of ~~[sections 217.703,]~~ **section**
35 217.718~~[,]~~ and subsection ~~[4]~~ **6** of section 559.036~~[,]~~ and evaluating recidivism reductions,
36 cost savings, and other effects resulting from the implementation;

37 (2) Determining ways to reinvest any cost savings to pay for the continued
38 implementation of the sections listed in subdivision (1) of this subsection and other evidence-
39 based practices for reducing recidivism; and

40 (3) Examining the issue of restitution for crime victims, including the amount ordered
41 and collected annually, methods and costs of collection, and restitution's order of priority in
42 official procedures and documents.

43 5. The department, board, and office of state courts administrator shall collect and
44 report any data requested by the commission in a timely fashion.

45 6. The commission shall issue a report to the speaker of the house of representatives,
46 senate president pro tempore, chief justice of the Missouri supreme court, and governor on
47 December 31, 2013, and annually thereafter, detailing the effects of the sections listed in
48 subdivision (1) of subsection 4 **of this section** and providing the data and analysis
49 demonstrating those effects. The report may also recommend ways to reinvest any cost
50 savings into evidence-based practices to reduce recidivism and possible changes to sentencing
51 and corrections policies and statutes.

52 7. The department of corrections shall provide administrative support to the
53 commission to carry out the duties of this section.

54 8. No member shall receive any compensation for the performance of official duties,
55 but the members who are not otherwise reimbursed by their agency shall be reimbursed for
56 travel and other expenses actually and necessarily incurred in the performance of their duties.

57 9. The provisions of this section shall automatically expire on August 28, 2018.

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

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

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

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

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

12 (5) "Prerelease program", a program relating to an offender's preparation for, or
13 orientation to, supervision by the division of probation and parole immediately prior to or
14 immediately after assignment of the offender to the division of probation and parole for
15 supervision;

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

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

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

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

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

12 3. The orders of the board shall not be reviewable except as to compliance with the
13 terms of sections 217.650 to ~~[217.810]~~ **217.805** or any rules promulgated pursuant to such
14 section.

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

17 5. Notwithstanding any other provision of law, any meeting, record, or vote, of
18 proceedings involving probation, parole, or pardon, may be a closed meeting, closed record,
19 or closed vote.

20 6. Notwithstanding any other provision of law, when the appearance or presence of an
21 offender before the board or a hearing panel is required for the purpose of deciding whether to

22 grant conditional release or parole, extend the date of conditional release, revoke parole or
23 conditional release, or for any other purpose, such appearance or presence may occur by
24 means of a videoconference at the discretion of the board. Victims having a right to attend
25 parole hearings may testify either at the site where the board is conducting the
26 videoconference or at the institution where the offender is located. The use of
27 videoconferencing in this section shall be at the discretion of the board, and shall not be
28 utilized if either the victim or the victim's family objects to it.

217.710. 1. Probation and parole officers, supervisors and members of the parole
2 board, who are certified pursuant to the requirements of subsection 2 of this section shall have
3 the authority to carry their firearms at all times. The department of corrections shall
4 promulgate policies and operating regulations which govern the use of firearms by probation
5 and parole officers, supervisors and members of the parole board when carrying out the
6 provisions of sections 217.650 to ~~[217.810]~~ **217.805**. Mere possession of a firearm shall not
7 constitute an employment activity for the purpose of calculating compensatory time or
8 overtime.

9 2. The department shall determine the content of the required firearms safety training
10 and provide firearms certification and recertification training for probation and parole
11 officers, supervisors and members of the parole board. A minimum of sixteen hours of
12 firearms safety training shall be required. In no event shall firearms certification or
13 recertification training for probation and parole officers and supervisors exceed the training
14 required for officers of the state highway patrol.

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

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

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

22 6. Any rule or portion of a rule, as that term is defined in section 536.010, that is
23 promulgated under the authority of this chapter, shall become effective only if the agency has
24 fully complied with all of the requirements of chapter 536 including but not limited to, section
25 536.028, if applicable, after August 28, 1998. All rulemaking authority delegated prior to
26 August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however
27 nothing in section 571.030 or this section shall be interpreted to repeal or affect the validity of
28 any rule adopted and promulgated prior to August 28, 1998. If the provisions of section
29 536.028 apply, the provisions of this section are nonseverable and if any of the powers vested
30 with the general assembly pursuant to section 536.028 to review, to delay the effective date,

31 or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the
32 purported grant of rulemaking authority and any rule so proposed and contained in the order
33 of rulemaking shall be invalid and void, except that nothing in section 571.030 or this section
34 shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

217.720. 1. At any time during release on parole or conditional release the division of
2 probation and parole may issue a warrant for the arrest of a released offender for violation of
3 any of the conditions of parole or conditional release. The warrant shall authorize any law
4 enforcement officer to return the offender to the actual custody of the correctional center from
5 which the offender was released, or to any other suitable facility designated by the division.
6 If any parole or probation officer has probable cause to believe that such offender has violated
7 a condition of parole or conditional release, the probation or parole officer may issue a
8 warrant for the arrest of the offender. The probation or parole officer may effect the arrest or
9 may deputize any officer with the power of arrest to do so by giving the officer a copy of the
10 warrant which shall outline the circumstances of the alleged violation and contain the
11 statement that the offender has, in the judgment of the probation or parole officer, violated
12 conditions of parole or conditional release. The warrant delivered with the offender by the
13 arresting officer to the official in charge of any facility designated by the division to which the
14 offender is brought shall be sufficient legal authority for detaining the offender. After the
15 arrest the parole or probation officer shall present to the detaining authorities a similar
16 statement of the circumstances of violation. Pending hearing as hereinafter provided, upon
17 any charge of violation, the offender shall remain in custody or incarcerated without
18 consideration of bail.

19 2. If the offender is arrested under the authority granted in subsection 1 of this
20 section, the offender shall have the right to a preliminary hearing on the violation charged
21 unless the offender waives such hearing. Upon such arrest and detention, the parole or
22 probation officer shall immediately notify the board and shall submit in writing a report
23 showing in what manner the offender has violated the conditions of his parole or conditional
24 release. The board shall order the offender discharged from such facility, require as a
25 condition of parole or conditional release the placement of the offender in a treatment center
26 operated by the department of corrections, or shall cause the offender to be brought before it
27 for a hearing on the violation charged, under such rules and regulations as the board may
28 adopt. If the violation is established and found, the board may continue or revoke the parole
29 or conditional release, or enter such other order as it may see fit. If no violation is established
30 and found, then the parole or conditional release shall continue. If at any time during release
31 on parole or conditional release the offender is arrested for a crime which later leads to
32 conviction, and sentence is then served outside the Missouri department of corrections, the
33 board shall determine what part, if any, of the time from the date of arrest until completion of

34 the sentence imposed is counted as time served under the sentence from which the offender
35 was paroled or conditionally released.

36 3. An offender for whose return a warrant has been issued by the division shall, if it is
37 found that the warrant cannot be served, be deemed to be a fugitive from justice or to have
38 fled from justice. If it shall appear that the offender has violated the provisions and
39 conditions of his parole or conditional release, the board shall determine whether the time
40 from the issuing date of the warrant to the date of his arrest on the warrant, or continuance on
41 parole or conditional release shall be counted as time served under the sentence. In all other
42 cases, time served on parole or conditional release shall be counted as time served under the
43 sentence.

44 4. At any time during parole or probation, the division may issue a warrant for the
45 arrest of any person from another jurisdiction~~], the visitation and supervision of whom the~~
46 ~~division has undertaken pursuant to the provisions of the interstate compact for the~~
47 ~~supervision of parolees and probationers authorized in section 217.810,]~~ for violation of any
48 of the conditions of release~~];~~ or a notice to appear to answer a charge of violation. The notice
49 shall be served personally upon the person. The warrant shall authorize any law enforcement
50 officer to return the offender to any suitable detention facility designated by the division. Any
51 parole or probation officer may arrest such person without a warrant, or may deputize any
52 other officer with power of arrest to do so by issuing a written statement setting forth that the
53 defendant has, in the judgment of the parole or probation officer, violated the conditions of
54 his release. The written statement delivered with the person by the arresting officer to the
55 official in charge of the detention facility to which the person is brought shall be sufficient
56 legal authority for detaining him. After making an arrest the parole or probation officer shall
57 present to the detaining authorities a similar statement of the circumstances of violation.

**544.453. Notwithstanding any provision of the law or court rule to the contrary,
2 a judge or judicial officer, when setting bail or conditions of release in all courts in
3 Missouri for any offense charged, shall consider, in addition to any factor required by
4 law, whether:**

5 (1) A defendant poses a danger to a victim of crime, the community, any witness
6 to the crime, or to any other person;

7 (2) A defendant is a flight risk;

8 (3) A defendant has committed a violent misdemeanor offense, sexual offense, or
9 felony offense in this state or any other state in the last five years; and

10 (4) A defendant has failed to appear in court as a required condition of
11 probation or parole for a violent misdemeanor or felony within the last three years.

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

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

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

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

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

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

(3) A more specific sentencing enhancement provision applies that is based on a prior finding of guilt or a finding of prior criminal conduct.

2. A "prior offender" is one who has been found guilty of one felony.

3. A "persistent offender" is one who has been found guilty of two or more felonies committed at different times.

4. A "dangerous offender" is one who:

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

(2) Has been found guilty of a class A or B felony or a dangerous felony; **or**

(3) Has been found guilty of a dangerous felony as defined by section 556.061.

5. A "persistent misdemeanor offender" is one who has been found guilty of two or more offenses, committed at different times that are classified as A or B misdemeanors under the laws of this state.

6. The findings of guilt shall be prior to the date of commission of the present offense.

7. The court shall sentence a person, who has been found to be a persistent offender or a dangerous offender, and is found guilty of a class B, C, D, or E felony to the authorized term

28 of imprisonment for the offense that is one class higher than the offense for which the person
29 is found guilty.

559.016. 1. Unless terminated ~~[as provided in]~~ **or modified under** section 559.036
2 ~~[or modified under section 217.703]~~, the terms during which each probation shall remain
3 conditional and be subject to revocation are:

- 4 (1) A term of years not less than one year and not to exceed five years for a felony;
- 5 (2) A term not less than six months and not to exceed two years for a misdemeanor;
- 6 (3) A term not less than six months and not to exceed one year for an infraction.

7 2. The court shall designate a specific term of probation at the time of sentencing or at
8 the time of suspension of imposition of sentence. ~~[Such term may be modified by the division
9 of probation and parole under section 217.703.]~~

10 3. The court may extend a period of probation, however, no more than one extension
11 of any probation may be ordered except that the court may extend the total time on probation
12 by one additional year by order of the court if the defendant admits he or she has violated the
13 conditions of his or her probation or is found by the court to have violated the conditions of
14 his or her probation. Total time on any probation term, including any extension, shall not
15 exceed the maximum term as established in subsection 1 of this section plus one additional
16 year if the defendant admits or the court finds that the defendant has violated the conditions of
17 his or her probation.

559.036. 1. A term of probation commences on the day it is imposed. Multiple terms
2 of Missouri probation, whether imposed at the same time or at different times, shall run
3 concurrently. Terms of probation shall also run concurrently with any federal or other state
4 jail, prison, probation or parole term for another offense to which the defendant is or becomes
5 subject during the period~~[, unless otherwise specified by the Missouri court].~~

6 2. The court may terminate a period of probation and discharge the defendant at any
7 time before completion of the specific term fixed under section 559.016 if warranted by the
8 conduct of the defendant and the ends of justice.

9 **3. (1) The division of probation and parole shall file a notification of earned**
10 **discharge from probation with the court for any defendant who has completed at least**
11 **twenty-four months of the probation term and is compliant, as determined by the**
12 **policies of the division, with the terms of supervision as ordered by the court and**
13 **division. The division shall not file a notification of earned discharge for any defendant**
14 **who has not paid ordered restitution in full, is on a term of probation for any class A or**
15 **class B felony, or is subject to lifetime supervision under sections 217.735 and 559.106.**
16 **The division shall notify the prosecuting or circuit attorney when a notification of**
17 **earned discharge is filed.**

18 **(2) The prosecuting or circuit attorney may request a hearing within thirty days**
19 **of the filing on the notification of earned discharge from probation. If the state opposes**
20 **the discharge of the defendant, the prosecuting or circuit attorney shall argue the**
21 **earned discharge is not appropriate and the offender should continue to serve the**
22 **probation term.**

23 **(3) If a hearing is requested, the court shall hold the hearing and issue its order**
24 **no later than sixty days after the filing of the notification of earned discharge from**
25 **probation. If, after a hearing, the court finds by a preponderance of the evidence that**
26 **the earned discharge is not appropriate, the court shall order the probation term**
27 **continue, may modify the conditions of probation as appropriate, and may order the**
28 **continued supervision of the defendant by either the division of probation and parole or**
29 **the court. If, after a hearing, the court finds that the earned discharge is appropriate,**
30 **the court shall order the defendant discharged from probation.**

31 **(4) If the prosecuting or circuit attorney does not request a hearing, and the**
32 **court does not otherwise order a hearing, the court shall order the defendant discharged**
33 **from probation within sixty days of the filing of the notification of earned discharge**
34 **from probation, but no earlier than thirty days after the filing of the notification of**
35 **earned discharge from probation.**

36 **4.** The court may extend the term of the probation, but no more than one extension of
37 any probation may be ordered except that the court may extend the term of probation by one
38 additional year by order of the court if the defendant admits he or she has violated the
39 conditions of probation or is found by the court to have violated the conditions of his or her
40 probation. Total time on any probation term, including any extension shall not exceed the
41 maximum term established in section 559.016. Procedures for termination, discharge and
42 extension may be established by rule of court.

43 ~~[3-]~~ **5.** If the defendant violates a condition of probation at any time prior to the
44 expiration or termination of the probation term, the court may continue him or her on the
45 existing conditions, with or without modifying or enlarging the conditions or extending the
46 term.

47 ~~[4-]~~ **6.** (1) Unless the defendant consents to the revocation of probation, if a
48 continuation, modification, enlargement or extension is not appropriate under this section, the
49 court shall order placement of the offender in one of the department of corrections' one
50 hundred twenty-day programs so long as:

51 (a) The underlying offense for the probation is a class D or E felony or an offense
52 listed in chapter 579 or an offense previously listed in chapter 195; except that, the court may,
53 upon its own motion or a motion of the prosecuting or circuit attorney, make a finding that an
54 offender is not eligible if the underlying offense is involuntary manslaughter in the second

55 degree, stalking in the first degree, assault in the second degree, sexual assault, rape in the
56 second degree, domestic assault in the second degree, assault in the third degree when the
57 victim is a special victim, statutory rape in the second degree, statutory sodomy in the second
58 degree, deviate sexual assault, sodomy in the second degree, sexual misconduct involving a
59 child, incest, endangering the welfare of a child in the first degree under subdivision (1) or (2)
60 of subsection 1 of section 568.045, abuse of a child, invasion of privacy, any case in which
61 the defendant is found guilty of a felony offense under chapter 571, or an offense of
62 aggravated stalking or assault of a law enforcement officer in the second degree as such
63 offenses existed prior to January 1, 2017;

64 (b) The probation violation is not the result of the defendant being an absconder or
65 being found guilty of, pleading guilty to, or being arrested on suspicion of any felony,
66 misdemeanor, or infraction. For purposes of this subsection, "absconder" shall mean an
67 offender under supervision who has left such offender's place of residency without the
68 permission of the offender's supervising officer for the purpose of avoiding supervision;

69 (c) The defendant has not violated any conditions of probation involving the
70 possession or use of weapons, or a stay-away condition prohibiting the defendant from
71 contacting a certain individual; and

72 (d) The defendant has not already been placed in one of the programs by the court for
73 the same underlying offense or during the same probation term.

74 (2) Upon receiving the order, the department of corrections shall conduct an
75 assessment of the offender and place such offender in the appropriate one hundred twenty-day
76 program under subsection 3 of section 559.115.

77 (3) Notwithstanding any of the provisions of subsection 3 of section 559.115 to the
78 contrary, once the defendant has successfully completed the program under this subsection,
79 the court shall release the defendant to continue to serve the term of probation, which shall
80 not be modified, enlarged, or extended based on the same incident of violation. Time served
81 in the program shall be credited as time served on any sentence imposed for the underlying
82 offense.

83 ~~[5-]~~ 7. If the defendant consents to the revocation of probation or if the defendant is
84 not eligible under subsection ~~[4]~~ 6 of this section for placement in a program and a
85 continuation, modification, enlargement, or extension of the term under this section is not
86 appropriate, the court may revoke probation and order that any sentence previously imposed
87 be executed. If imposition of sentence was suspended, the court may revoke probation and
88 impose any sentence available under section 557.011. The court may mitigate any sentence
89 of imprisonment by reducing the prison or jail term by all or part of the time the defendant
90 was on probation. The court may, upon revocation of probation, place an offender on a
91 second term of probation. Such probation shall be for a term of probation as provided by

92 section 559.016, notwithstanding any amount of time served by the offender on the first term
93 of probation.

94 ~~[6-]~~ **8.** Probation shall not be revoked without giving the probationer notice and an
95 opportunity to be heard on the issues of whether such probationer violated a condition of
96 probation and, if a condition was violated, whether revocation is warranted under all the
97 circumstances. Not less than five business days prior to the date set for a hearing on the
98 violation, except for a good cause shown, the judge shall inform the probationer that he or she
99 may have the right to request the appointment of counsel if the probationer is unable to retain
100 counsel. If the probationer requests counsel, the judge shall determine whether counsel is
101 necessary to protect the probationer's due process rights. If the judge determines that counsel
102 is not necessary, the judge shall state the grounds for the decision in the record.

103 ~~[7-]~~ **9.** The prosecuting or circuit attorney may file a motion to revoke probation or at
104 any time during the term of probation, the court may issue a notice to the probationer to
105 appear to answer a charge of a violation, and the court may issue a warrant of arrest for the
106 violation. Such notice shall be personally served upon the probationer. The warrant shall
107 authorize the return of the probationer to the custody of the court or to any suitable detention
108 facility designated by the court. Upon the filing of the prosecutor's or circuit attorney's
109 motion or on the court's own motion, the court may immediately enter an order suspending
110 the period of probation and may order a warrant for the defendant's arrest. The probation
111 shall remain suspended until the court rules on the prosecutor's or circuit attorney's motion, or
112 until the court otherwise orders the probation reinstated.

113 ~~[8-]~~ **10.** The power of the court to revoke probation shall extend for the duration of the
114 term of probation designated by the court and for any further period which is reasonably
115 necessary for the adjudication of matters arising before its expiration, provided that some
116 affirmative manifestation of an intent to conduct a revocation hearing occurs prior to the
117 expiration of the period and that every reasonable effort is made to notify the probationer and
118 to conduct the hearing prior to the expiration of the period.

119 ~~[9-]~~ **11.** A defendant who was sentenced prior to January 1, 2017 to an offense that
120 was eligible at the time of sentencing under paragraph (a) of subdivision (1) of subsection ~~[4]~~
121 **6** of this section for the court ordered detention sanction shall continue to remain eligible for
122 the sanction so long as the defendant meets all the other requirements provided under
123 subsection ~~[4]~~ **6** of this section.

559.115. 1. Neither probation nor parole shall be granted by the circuit court between
2 the time the transcript on appeal from the offender's conviction has been filed in appellate
3 court and the disposition of the appeal by such court.

4 2. Unless otherwise prohibited by subsection 8 of this section, a circuit court only
5 upon its own motion and not that of the state or the offender shall have the power to grant

6 probation to an offender anytime up to one hundred twenty days after such offender has been
7 delivered to the department of corrections but not thereafter. The court may request
8 information and a recommendation from the department concerning the offender and such
9 offender's behavior during the period of incarceration. Except as provided in this section, the
10 court may place the offender on probation in a program created pursuant to section 217.777,
11 or may place the offender on probation with any other conditions authorized by law.

12 3. The court may recommend placement of an offender in a department of corrections
13 one hundred twenty-day program under this subsection or order such placement under
14 subsection [4] 6 of section 559.036. Upon the recommendation or order of the court, the
15 department of corrections shall assess each offender to determine the appropriate one hundred
16 twenty-day program in which to place the offender, which may include placement in the
17 shock incarceration program or institutional treatment program. When the court recommends
18 and receives placement of an offender in a department of corrections one hundred twenty-day
19 program, the offender shall be released on probation if the department of corrections
20 determines that the offender has successfully completed the program except as follows. Upon
21 successful completion of a program under this subsection, the division of probation and
22 parole shall advise the sentencing court of an offender's probationary release date thirty days
23 prior to release. The court shall follow the recommendation of the department unless the
24 court determines that probation is not appropriate. If the court determines that probation is
25 not appropriate, the court may order the execution of the offender's sentence only after
26 conducting a hearing on the matter within ninety to one hundred twenty days from the date
27 the offender was delivered to the department of corrections. If the department determines the
28 offender has not successfully completed a one hundred twenty-day program under this
29 subsection, the offender shall be removed from the program and the court shall be advised of
30 the removal. The department shall report on the offender's participation in the program and
31 may provide recommendations for terms and conditions of an offender's probation. The court
32 shall then have the power to grant probation or order the execution of the offender's sentence.

33 4. If the court is advised that an offender is not eligible for placement in a one
34 hundred twenty-day program under subsection 3 of this section, the court shall consider other
35 authorized dispositions. If the department of corrections one hundred twenty-day program
36 under subsection 3 of this section is full, the court may place the offender in a private program
37 approved by the department of corrections or the court, the expenses of such program to be
38 paid by the offender, or in an available program offered by another organization. If the
39 offender is convicted of a class C, class D, or class E nonviolent felony, the court may order
40 probation while awaiting appointment to treatment.

41 5. Except when the offender has been found to be a predatory sexual offender
42 pursuant to section 566.125, the court shall request the department of corrections to conduct a

43 sexual offender assessment if the defendant has been found guilty of sexual abuse when
44 classified as a class B felony. Upon completion of the assessment, the department shall
45 provide to the court a report on the offender and may provide recommendations for terms and
46 conditions of an offender's probation. The assessment shall not be considered a one hundred
47 twenty-day program as provided under subsection 3 of this section. The process for granting
48 probation to an offender who has completed the assessment shall be as provided under
49 subsections 2 and 6 of this section.

50 6. Unless the offender is being granted probation pursuant to successful completion of
51 a one hundred twenty-day program the circuit court shall notify the state in writing when the
52 court intends to grant probation to the offender pursuant to the provisions of this section. The
53 state may, in writing, request a hearing within ten days of receipt of the court's notification
54 that the court intends to grant probation. Upon the state's request for a hearing, the court shall
55 grant a hearing as soon as reasonably possible. If the state does not respond to the court's
56 notice in writing within ten days, the court may proceed upon its own motion to grant
57 probation.

58 7. An offender's first incarceration under this section prior to release on probation
59 shall not be considered a previous prison commitment for the purpose of determining a
60 minimum prison term under the provisions of section 558.019.

61 8. Notwithstanding any other provision of law, probation may not be granted pursuant
62 to this section to offenders who have been convicted of murder in the second degree pursuant
63 to section 565.021; forcible rape pursuant to section 566.030 as it existed prior to August 28,
64 2013; rape in the first degree under section 566.030; forcible sodomy pursuant to section
65 566.060 as it existed prior to August 28, 2013; sodomy in the first degree under section
66 566.060; statutory rape in the first degree pursuant to section 566.032; statutory sodomy in
67 the first degree pursuant to section 566.062; child molestation in the first degree pursuant to
68 section 566.067 when classified as a class A felony; abuse of a child pursuant to section
69 568.060 when classified as a class A felony; or an offender who has been found to be a
70 predatory sexual offender pursuant to section 566.125; or any offense in which there exists a
71 statutory prohibition against either probation or parole.

575.200. 1. A person commits the offense of escape from custody or attempted
2 escape from custody if, while being held in custody after arrest for any ~~crime~~ **offense or**
3 **violation of probation or parole**, he or she escapes or attempts to escape from custody.

4 2. The offense of escape or attempted escape from custody is a class A misdemeanor
5 unless:

6 (1) The person escaping or attempting to escape is under arrest for a felony, in which
7 case it is a class E felony; or

8 (2) The offense is committed by means of a deadly weapon or dangerous instrument
9 or by holding any person as hostage, in which case it is a class A felony.

10 **589.564. 1. Upon a petition from the state, a circuit court is authorized to add**
11 **any condition to a term of probation for an offender supervised in this state for a term**
12 **of probation ordered by another state, including shock incarceration; however, the**
13 **court shall not reduce, extend, or revoke such a term of probation. The circuit court for**
14 **the jurisdiction in which a probationer is under supervision shall serve as the**
15 **authorizing court for the purposes of this section. The prosecuting attorney or circuit**
16 **attorney for the jurisdiction in which a probationer is under supervision shall serve as**
17 **the authorized person to petition the court to add a condition of probation.**
18 **Notwithstanding any provision of section 549.500 or 559.125, the division of**
19 **probation and parole may submit violation reports to the prosecuting attorney or**
20 **circuit attorney with authority to petition the court to add a condition to a term of**
21 **probation under this section.**

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

27 **589.565. A Missouri probationer or parolee seeking transfer of their supervision**
28 **through this compact shall pay a fee for each transfer application submitted in the**
29 **amount of one hundred seventy-five dollars. The transfer application fee shall be paid**
30 **to the compact commissioner upon submission of the transfer application. The**
31 **commissioner or commissioner's designee may waive the application fee if either the**
32 **commissioner or the commissioner's designee finds that payment of the fee will**
33 **constitute an undue economic burden on the offender. All fees collected pursuant to this**
34 **section shall be paid and deposited to the credit of the "Missouri Interstate Compact**
35 **Fund", which is hereby established in the state treasury. The state treasurer shall be**
36 **custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer**
37 **may approve disbursements. The fund shall be a dedicated fund and, upon**
38 **appropriation, moneys in the fund shall be used for the sole benefit of the**
39 **department of corrections in support of administration of this section; expenses**
40 **related to retaking, assessment, staff development, and training; and implementation of**
41 **evidence-based practices in support of offenders under supervision. Notwithstanding**
42 **the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the**
43 **end of the biennium shall not revert to the credit of the general revenue fund. The state**
44 **treasurer shall invest moneys in the fund in the same manner as other funds are**

19 **invested. Any interest and moneys earned on such investments shall be credited to the**
 20 **fund.**

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

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

7 ~~(2) On probation, parole, or conditional release for an offense listed in~~
 8 ~~chapter 579, or an offense previously listed in chapter 195, or for a class D or~~
 9 ~~E felony, excluding sections 565.225, 565.252, 566.031, 566.061, 566.083,~~
 10 ~~566.093, 568.020, 568.060, offenses defined as sexual assault under section~~
 11 ~~589.015, deviate sexual assault, assault in the second degree under subdivision~~
 12 ~~(2) of subsection 1 of section 565.052, endangering the welfare of a child in~~
 13 ~~the first degree under subdivision (2) of subsection 1 of section 568.045, and~~
 14 ~~any offense of aggravated stalking or assault in the second degree under~~
 15 ~~subdivision (2) of subsection 1 of section 565.060 as such offenses existed~~
 16 ~~prior to January 1, 2017;~~

17 ~~(3) Supervised by the division of probation and parole; and~~

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

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

22 ~~(1) Involuntary manslaughter in the second degree;~~

23 ~~(2) Assault in the second degree except under subdivision (2) of~~
 24 ~~subsection 1 of section 565.052 or section 565.060 as it existed prior to~~
 25 ~~January 1, 2017;~~

26 ~~(3) Domestic assault in the second degree;~~

27 ~~(4) Assault in the third degree when the victim is a special victim or~~
 28 ~~assault of a law enforcement officer in the second degree as it existed prior to~~
 29 ~~January 1, 2017;~~

30 ~~(5) Statutory rape in the second degree;~~

31 ~~(6) Statutory sodomy in the second degree;~~

32 ~~(7) Endangering the welfare of a child in the first degree under~~
 33 ~~subdivision (1) of subsection 1 of section 568.045; or~~

34 ~~(8) Any case in which the defendant is found guilty of a felony offense~~
 35 ~~under chapter 571;~~

36 ~~the sentencing court may, upon its own motion or a motion of the prosecuting~~
 37 ~~or circuit attorney, make a finding that the offender is ineligible to earn~~
 38 ~~compliance credits because the nature and circumstances of the offense or the~~
 39 ~~history and character of the offender indicate that a longer term of probation,~~
 40 ~~parole, or conditional release is necessary for the protection of the public or the~~
 41 ~~guidance of the offender. The motion may be made any time prior to the first~~
 42 ~~month in which the person may earn compliance credits under this section or~~
 43 ~~at a hearing under subsection 5 of this section. The offender's ability to earn~~
 44 ~~credits shall be suspended until the court or board makes its finding. If the~~
 45 ~~court or board finds that the offender is eligible for earned compliance credits,~~

46 the credits shall begin to accrue on the first day of the next calendar month
47 following the issuance of the decision.

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

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

59 5. ~~Credits shall not accrue during any calendar month in which a~~
60 ~~violation report, which may include a report of absconder status, has been~~
61 ~~submitted, the offender is in custody, or a motion to revoke or motion to~~
62 ~~suspend has been filed, and shall be suspended pending the outcome of a~~
63 ~~hearing, if a hearing is held. If no hearing is held, or if a hearing is held and~~
64 ~~the offender is continued under supervision, or the court or board finds that the~~
65 ~~violation did not occur, then the offender shall be deemed to be in compliance~~
66 ~~and shall begin earning credits on the first day of the next calendar month~~
67 ~~following the month in which the report was submitted or the motion was~~
68 ~~filed. If a hearing is held, all earned credits shall be rescinded if:~~

69 (1) ~~The court or board revokes the probation or parole or the court~~
70 ~~places the offender in a department program under subsection 4 of section~~
71 ~~559.036 or under section 217.785; or~~

72 (2) ~~The offender is found by the court or board to be ineligible to earn~~
73 ~~compliance credits because the nature and circumstances of the violation~~
74 ~~indicate that a longer term of probation, parole, or conditional release is~~
75 ~~necessary for the protection of the public or the guidance of the offender.~~

76
77 ~~Earned credits, if not rescinded, shall continue to be suspended for a period of~~
78 ~~time during which the court or board has suspended the term of probation,~~
79 ~~parole, or release, and shall begin to accrue on the first day of the next calendar~~
80 ~~month following the lifting of the suspension.~~

81 6. ~~Offenders who are deemed by the division to be absconders shall~~
82 ~~not earn credits. For purposes of this subsection, "absconder" shall mean an~~
83 ~~offender under supervision whose whereabouts are unknown and who has left~~
84 ~~such offender's place of residency without the permission of the offender's~~
85 ~~supervising officer and without notifying of their whereabouts for the purpose~~
86 ~~of avoiding supervision. An offender shall no longer be deemed an absconder~~
87 ~~when such offender is available for active supervision.~~

88 7. ~~Notwithstanding subsection 2 of section 217.730 to the contrary,~~
89 ~~once the combination of time served in custody, if applicable, time served on~~
90 ~~probation, parole, or conditional release, and earned compliance credits satisfy~~
91 ~~the total term of probation, parole, or conditional release, the board or~~
92 ~~sentencing court shall order final discharge of the offender, so long as the~~
93 ~~offender has completed restitution and at least two years of his or her~~

94 probation, parole, or conditional release, which shall include any time served
 95 ~~in custody under section 217.718 and sections 559.036 and 559.115.~~

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

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

102 ~~10. No less than sixty days before the date of final discharge, the~~
 103 ~~division shall notify the sentencing court, the board, and, for probation cases,~~
 104 ~~the circuit or prosecuting attorney of the impending discharge. If the~~
 105 ~~sentencing court, the board, or the circuit or prosecuting attorney upon~~
 106 ~~receiving such notice does not take any action under subsection 5 of this~~
 107 ~~section, the offender shall be discharged under subsection 7 of this section.~~

108 ~~11. Any offender who was sentenced prior to January 1, 2017, to an~~
 109 ~~offense that was eligible for earned compliance credits under subsection 1 or 2~~
 110 ~~of this section at the time of sentencing shall continue to remain eligible for~~
 111 ~~earned compliance credits so long as the offender meets all the other~~
 112 ~~requirements provided under this section.~~

113 ~~12. The application of earned compliance credits shall be suspended~~
 114 ~~upon entry into a treatment court, as described in sections 478.001 to 478.009,~~
 115 ~~and shall remain suspended until the offender is discharged from such~~
 116 ~~treatment court. Upon successful completion of treatment court, all earned~~
 117 ~~compliance credits accumulated during the suspension period shall be~~
 118 ~~retroactively applied, so long as the other terms and conditions of probation~~
 119 ~~have been successfully completed.]~~

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

21 ~~2. INTERSTATE COMPACT FOR THE SUPERVISION OF~~
~~PAROLEES AND PROBATIONERS~~

22 ~~This compact shall be entered into by and among the contracting states,~~
23 ~~signatories hereto, with the consent of the Congress of the United States of~~
24 ~~America, granted by an act entitled "An act granting the consent of Congress~~
25 ~~to any two or more states to enter into agreements or compacts for cooperative~~
26 ~~effort and mutual assistance in the prevention of crime and for other purposes."~~

27 ~~The contracting states solemnly agree:~~

28 ~~(1) That it shall be competent for the duly constituted judicial and~~
29 ~~administrative authorities of a state party to this compact (herein called~~
30 ~~"sending state") to permit any person convicted of an offense within such state~~
31 ~~and placed on probation or released on parole to reside in any other state party~~
32 ~~to this compact (herein called "receiving state"), while on probation or parole,~~
33 ~~if~~

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

36 ~~(b) Though not a resident of the receiving state and not having his~~
37 ~~family residing there, the receiving state consents to such person being sent~~
38 ~~there.~~

39 ~~Before granting such permission, opportunity shall be granted to the~~
40 ~~receiving state to investigate the home and prospective employment of such~~
41 ~~person.~~

42 ~~A resident of the receiving state, within the meaning of this section, is~~
43 ~~one who has been an actual inhabitant of such state continuously for more than~~
44 ~~one year prior to his coming to the sending state and has not resided within the~~
45 ~~sending state more than six continuous months immediately preceding the~~
46 ~~commission of the offense for which he has been convicted.~~

47 ~~(2) The receiving state shall assume the duties of visitation and~~
48 ~~supervision over probationers or parolees of any sending state transferred~~
49 ~~under the compact and will apply the same standards of supervision that~~
50 ~~prevail for its own probationers and parolees.~~

51 ~~(3) That duly accredited officers of a sending state may at all times~~
52 ~~enter a receiving state and there apprehend and retake any person on probation~~
53 ~~or parole. For that purpose no formalities will be required other than~~
54 ~~establishing the authority of the officer and the identity of the person to be~~
55 ~~retaken. All legal requirements to obtain extradition of fugitives from justice~~
56 ~~are hereby expressly waived on the part of states party hereto, as to such~~
57 ~~persons. The decision of the sending state to retake a person on probation or~~
58 ~~parole shall be conclusive upon and not reviewable within the receiving state.~~
59 ~~Provided, however, that if at the time when a state seeks to retake a~~
60 ~~probationer or parolee there should be pending against him within the~~
61 ~~receiving state any criminal charge, or he should be suspected of having~~
62 ~~committed within such state a criminal offense, he shall not be retaken without~~
63 ~~the consent of the receiving state until discharged from prosecution or from~~
64 ~~imprisonment for such offense.~~

65 ~~(4) That the duly accredited officers of the sending state will be~~
66 ~~permitted to transport prisoners being retaken through any and all states parties~~
67 ~~to this compact, without interference.~~

68 ~~(5) Each state may designate an officer who, acting jointly with like~~
69 ~~officers of other contracting states shall promulgate such rules and regulations~~

70 as may be deemed necessary to more effectively carry out the terms of this
71 ~~compact.~~

72 ~~(6) That this compact shall become operative immediately upon its~~
73 ~~execution by any state as between it and any other state or states so executing.~~
74 ~~When executed it shall have the full force and effect of law within such state,~~
75 ~~the form of execution to be in accordance with the laws of the executing state.~~

76 ~~(7) That this compact shall continue in force and remain binding upon~~
77 ~~each executing state until renounced by it. The duties and obligations~~
78 ~~hereunder of a renouncing state shall continue as to parolees or probationers~~
79 ~~residing therein at the time of withdrawal until retaken or finally discharged by~~
80 ~~the sending state. Renunciation of this compact shall be by the same authority~~
81 ~~which executed it, by sending six months' notice in writing of its intention to~~
82 ~~withdraw from the compact to the other states party hereto.~~

83 ~~3. If any section, sentence, subdivision or clause within subsection 2 of~~
84 ~~this section is for any reason held invalid or to be unconstitutional, such~~
85 ~~decision shall not affect the validity of the remaining provisions of that~~
86 ~~subsection or this section.~~

87 ~~4. All necessary and proper expenses accruing as a result of a person~~
88 ~~being returned to this state by order of a court or the parole board shall be paid~~
89 ~~by the state as provided in section 548.241 or 548.243.]~~

✓