

# SENATE BILL NO. 746

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BERNSKOETTER.

4282S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 217.690, RSMo, and to enact in lieu thereof one new section relating to eligibility for parole.

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

Section A. Section 217.690, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 217.690,  
3 to read as follows:

217.690. 1. All releases or paroles shall issue upon  
2 order of the parole board, duly adopted.

3 2. Before ordering the parole of any offender, the  
4 parole board shall conduct a validated risk and needs  
5 assessment and evaluate the case under the rules governing  
6 parole that are promulgated by the parole board. The parole  
7 board shall then have the offender appear before a hearing  
8 panel and shall conduct a personal interview with him or  
9 her, unless waived by the offender, or if the guidelines  
10 indicate the offender may be paroled without need for an  
11 interview. The guidelines and rules shall not allow for the  
12 waiver of a hearing if a victim requests a hearing. The  
13 appearance or presence may occur by means of a  
14 videoconference at the discretion of the parole board. A  
15 parole may be ordered for the best interest of society when  
16 there is a reasonable probability, based on the risk  
17 assessment and indicators of release readiness, that the  
18 person can be supervised under parole supervision and

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

19 successfully reintegrated into the community, not as an  
20 award of clemency; it shall not be considered a reduction of  
21 sentence or a pardon. Every offender while on parole shall  
22 remain in the legal custody of the department but shall be  
23 subject to the orders of the parole board.

24 3. The division of probation and parole has  
25 discretionary authority to require the payment of a fee, not  
26 to exceed sixty dollars per month, from every offender  
27 placed under division supervision on probation, parole, or  
28 conditional release, to waive all or part of any fee, to  
29 sanction offenders for willful nonpayment of fees, and to  
30 contract with a private entity for fee collections  
31 services. All fees collected shall be deposited in the  
32 inmate fund established in section 217.430. Fees collected  
33 may be used to pay the costs of contracted collections  
34 services. The fees collected may otherwise be used to  
35 provide community corrections and intervention services for  
36 offenders. Such services include substance abuse assessment  
37 and treatment, mental health assessment and treatment,  
38 electronic monitoring services, residential facilities  
39 services, employment placement services, and other offender  
40 community corrections or intervention services designated by  
41 the division of probation and parole to assist offenders to  
42 successfully complete probation, parole, or conditional  
43 release. The division of probation and parole shall adopt  
44 rules not inconsistent with law, in accordance with section  
45 217.040, with respect to sanctioning offenders and with  
46 respect to establishing, waiving, collecting, and using fees.

47 4. The parole board shall adopt rules not inconsistent  
48 with law, in accordance with section 217.040, with respect  
49 to the eligibility of offenders for parole, the conduct of  
50 parole hearings or conditions to be imposed upon paroled

51 offenders. Whenever an order for parole is issued it shall  
52 recite the conditions of such parole.

53 5. When considering parole for an offender with  
54 consecutive sentences, the minimum term for eligibility for  
55 parole shall be calculated by adding the minimum terms for  
56 parole eligibility for each of the consecutive sentences,  
57 except the minimum term for parole eligibility shall not  
58 exceed the minimum term for parole eligibility for an  
59 ordinary life sentence.

60 6. Any offender sentenced to a term of imprisonment  
61 amounting to fifteen years or more or multiple terms of  
62 imprisonment that, taken together, amount to fifteen or more  
63 years who was under eighteen years of age at the time of the  
64 commission of the offense or offenses may be eligible for  
65 parole after serving fifteen years of incarceration,  
66 regardless of whether the case is final for the purposes of  
67 appeal, and may be eligible for reconsideration hearings in  
68 accordance with regulations promulgated by the parole board.

69 7. The provisions of subsection 6 of this section  
70 shall not apply to an offender found guilty of [murder in  
71 the first degree or] capital murder, **murder in the first**  
72 **degree or murder in the second degree, when murder in the**  
73 **second degree is committed pursuant to subdivision (1) of**  
74 **subsection 1 of section 565.021,** who was under eighteen  
75 years of age when the offender committed the offense or  
76 offenses who may be found ineligible for parole or whose  
77 parole eligibility may be controlled by section 558.047 or  
78 565.033.

79 8. Any offender under a sentence for first degree  
80 murder who has been denied release on parole after a parole  
81 hearing shall not be eligible for another parole hearing  
82 until at least three years from the month of the parole

83 denial; however, this subsection shall not prevent a release  
84 pursuant to subsection 4 of section 558.011.

85 9. A victim who has requested an opportunity to be  
86 heard shall receive notice that the parole board is  
87 conducting an assessment of the offender's risk and  
88 readiness for release and that the victim's input will be  
89 particularly helpful when it pertains to safety concerns and  
90 specific protective measures that may be beneficial to the  
91 victim should the offender be granted release.

92 10. Parole hearings shall, at a minimum, contain the  
93 following procedures:

94 (1) The victim or person representing the victim who  
95 attends a hearing may be accompanied by one other person;

96 (2) The victim or person representing the victim who  
97 attends a hearing shall have the option of giving testimony  
98 in the presence of the inmate or to the hearing panel  
99 without the inmate being present;

100 (3) The victim or person representing the victim may  
101 call or write the parole board rather than attend the  
102 hearing;

103 (4) The victim or person representing the victim may  
104 have a personal meeting with a parole board member at the  
105 parole board's central office;

106 (5) The judge, prosecuting attorney or circuit  
107 attorney and a representative of the local law enforcement  
108 agency investigating the crime shall be allowed to attend  
109 the hearing or provide information to the hearing panel in  
110 regard to the parole consideration; and

111 (6) The parole board shall evaluate information listed  
112 in the juvenile sex offender registry pursuant to section  
113 211.425, provided the offender is between the ages of

114 seventeen and twenty-one, as it impacts the safety of the  
115 community.

116         11. The parole board shall notify any person of the  
117 results of a parole eligibility hearing if the person  
118 indicates to the parole board a desire to be notified.

119         12. The parole board may, at its discretion, require  
120 any offender seeking parole to meet certain conditions  
121 during the term of that parole so long as said conditions  
122 are not illegal or impossible for the offender to perform.  
123 These conditions may include an amount of restitution to the  
124 state for the cost of that offender's incarceration.

125         13. Special parole conditions shall be responsive to  
126 the assessed risk and needs of the offender or the need for  
127 extraordinary supervision, such as electronic monitoring.  
128 The parole board shall adopt rules to minimize the  
129 conditions placed on low-risk cases, to frontload conditions  
130 upon release, and to require the modification and reduction  
131 of conditions based on the person's continuing stability in  
132 the community. Parole board rules shall permit parole  
133 conditions to be modified by parole officers with review and  
134 approval by supervisors.

135         14. Nothing contained in this section shall be  
136 construed to require the release of an offender on parole  
137 nor to reduce the sentence of an offender heretofore  
138 committed.

139         15. Beginning January 1, 2001, the parole board shall  
140 not order a parole unless the offender has obtained a high  
141 school diploma or its equivalent, or unless the parole board  
142 is satisfied that the offender, while committed to the  
143 custody of the department, has made an honest good-faith  
144 effort to obtain a high school diploma or its equivalent;  
145 provided that the director may waive this requirement by

146 certifying in writing to the parole board that the offender  
147 has actively participated in mandatory education programs or  
148 is academically unable to obtain a high school diploma or  
149 its equivalent.

150 16. Any rule or portion of a rule, as that term is  
151 defined in section 536.010, that is created under the  
152 authority delegated in this section shall become effective  
153 only if it complies with and is subject to all of the  
154 provisions of chapter 536 and, if applicable, section  
155 536.028. This section and chapter 536 are nonseverable and  
156 if any of the powers vested with the general assembly  
157 pursuant to chapter 536 to review, to delay the effective  
158 date, or to disapprove and annul a rule are subsequently  
159 held unconstitutional, then the grant of rulemaking  
160 authority and any rule proposed or adopted after August 28,  
161 2005, shall be invalid and void.

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