

FIRST REGULAR SESSION

# HOUSE BILL NO. 1040

## 100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ELLINGTON.

2154H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 217.690, RSMo, and to enact in lieu thereof one new section relating to minimum terms of imprisonment.

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Section A. Section 217.690, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 217.690, to read as follows:

- 217.690. 1. All releases or paroles shall issue upon order of the board, duly adopted.
2. Before ordering the parole of any offender, the board shall conduct a validated risk and needs assessment and evaluate the case under the rules governing parole that are promulgated by the board. The board shall then have the offender appear before a hearing panel and shall conduct a personal interview with him, unless waived by the offender, or if the guidelines indicate the offender may be paroled without need for an interview. The guidelines and rules shall not allow for the waiver of a hearing if a victim requests a hearing. The appearance or presence may occur by means of a videoconference at the discretion of the board. A parole may be ordered for the best interest of society when there is a reasonable probability, based on the risk assessment and indicators of release readiness, that the person can be supervised under parole supervision and successfully reintegrated into the community, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. Every offender while on parole shall remain in the legal custody of the department but shall be subject to the orders of the board.
3. The division of probation and parole has discretionary authority to require the payment of a fee, not to exceed sixty dollars per month, from every offender placed under division supervision on probation, parole, or conditional release, to waive all or part of any fee, to

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

18 sanction offenders for willful nonpayment of fees, and to contract with a private entity for fee  
19 collections services. All fees collected shall be deposited in the inmate fund established in  
20 section 217.430. Fees collected may be used to pay the costs of contracted collections services.  
21 The fees collected may otherwise be used to provide community corrections and intervention  
22 services for offenders. Such services include substance abuse assessment and treatment, mental  
23 health assessment and treatment, electronic monitoring services, residential facilities services,  
24 employment placement services, and other offender community corrections or intervention  
25 services designated by the division of probation and parole to assist offenders to successfully  
26 complete probation, parole, or conditional release. The board shall adopt rules not inconsistent  
27 with law, in accordance with section 217.040, with respect to sanctioning offenders and with  
28 respect to establishing, waiving, collecting, and using fees.

29 4. The board shall adopt rules not inconsistent with law, in accordance with section  
30 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or  
31 conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall  
32 recite the conditions of such parole.

33 5. When considering parole for an offender with consecutive sentences, the minimum  
34 term for eligibility for parole shall be calculated by adding the minimum terms for parole  
35 eligibility for each of the consecutive sentences, except:

36 (1) The minimum term for parole eligibility shall not exceed the minimum term for  
37 parole eligibility for an ordinary life sentence; and

38 (2) **Notwithstanding any other provision of law and at the discretion of the board,**  
39 **the minimum terms for parole eligibility of consecutive sentences may be calculated as the**  
40 **minimum terms for parole eligibility of concurrent sentences. Before making a calculation**  
41 **under this subdivision, either upon its own motion or upon petition by the offender, the**  
42 **board shall conduct a hearing, give notice of such hearing to the prosecutor or circuit**  
43 **attorney that had jurisdiction of the offender's crimes, and determine whether the sum of**  
44 **the minimum terms is an unreasonably excessive total term. The board shall consider the**  
45 **crime or crimes of the offender, the sentences received by other offenders similarly**  
46 **situated, the offender's institutional record, any rehabilitation efforts by the offender, and**  
47 **whether the offender would successfully reintegrate into his or her community.**

48 6. Any offender under a sentence for first degree murder who has been denied release  
49 on parole after a parole hearing shall not be eligible for another parole hearing until at least three  
50 years from the month of the parole denial; however, this subsection shall not prevent a release  
51 pursuant to subsection 4 of section 558.011.

52 7. A victim who has requested an opportunity to be heard shall receive notice that the  
53 board is conducting an assessment of the offender's risk and readiness for release and that the

54 victim's input will be particularly helpful when it pertains to safety concerns and specific  
55 protective measures that may be beneficial to the victim should the offender be granted release.

56 8. Parole hearings shall, at a minimum, contain the following procedures:

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

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

62 (3) The victim or person representing the victim may call or write the parole board rather  
63 than attend the hearing;

64 (4) The victim or person representing the victim may have a personal meeting with a  
65 board member at the board's central office;

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

69 (6) The board shall evaluate information listed in the juvenile sex offender registry  
70 pursuant to section 211.425, provided the offender is between the ages of seventeen and  
71 twenty-one, as it impacts the safety of the community.

72 9. The board shall notify any person of the results of a parole eligibility hearing if the  
73 person indicates to the board a desire to be notified.

74 10. The board may, at its discretion, require any offender seeking parole to meet certain  
75 conditions during the term of that parole so long as said conditions are not illegal or impossible  
76 for the offender to perform. These conditions may include an amount of restitution to the state  
77 for the cost of that offender's incarceration.

78 11. Special parole conditions shall be responsive to the assessed risk and needs of the  
79 offender or the need for extraordinary supervision, such as electronic monitoring. The board  
80 shall adopt rules to minimize the conditions placed on low-risk cases, to frontload conditions  
81 upon release, and to require the modification and reduction of conditions based on the person's  
82 continuing stability in the community. Board rules shall permit parole conditions to be modified  
83 by parole officers with review and approval by supervisors.

84 12. Nothing contained in this section shall be construed to require the release of an  
85 offender on parole nor to reduce the sentence of an offender heretofore committed.

86 13. Beginning January 1, 2001, the board shall not order a parole unless the offender has  
87 obtained a high school diploma or its equivalent, or unless the board is satisfied that the offender,  
88 while committed to the custody of the department, has made an honest good-faith effort to obtain  
89 a high school diploma or its equivalent; provided that the director may waive this requirement

90 by certifying in writing to the board that the offender has actively participated in mandatory  
91 education programs or is academically unable to obtain a high school diploma or its equivalent.

92         14. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
93 created under the authority delegated in this section shall become effective only if it complies  
94 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.  
95 This section and chapter 536 are nonseverable and if any of the powers vested with the general  
96 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and  
97 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
98 any rule proposed or adopted after August 28, 2005, shall be invalid and void.

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