

SECOND REGULAR SESSION

HOUSE BILL NO. 1783

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WINDHAM.

3380H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 217.690 and 217.692, RSMo, and to enact in lieu thereof four new sections relating to incarceration.

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

Section A. Sections 217.690 and 217.692, RSMo, are repealed and four new sections
2 enacted in lieu thereof, to be known as sections 217.182, 217.690, 217.692, and 557.055, to
3 read as follows:

**217.182. The director shall annually notify each prosecuting and circuit attorney
2 in the state of an estimate of the average cost per day to incarcerate an offender. Such
3 estimate shall also be posted on the official department website.**

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

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

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.

14 considered a reduction of sentence or a pardon. Every offender while on parole shall remain
15 in the legal custody of the department but shall be subject to the orders of the parole board.

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

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

35 5. When considering parole for an offender with consecutive sentences, the minimum
36 term for eligibility for parole shall be calculated by adding the minimum terms for parole
37 eligibility for each of the consecutive sentences, except the minimum term for parole
38 eligibility shall not exceed the minimum term for parole eligibility for an ordinary life
39 sentence.

40 6. Any offender sentenced to a term of imprisonment amounting to fifteen years or
41 more or multiple terms of imprisonment that, taken together, amount to fifteen or more years
42 who was under eighteen years of age at the time of the commission of the offense or offenses
43 may be eligible for parole after serving fifteen years of incarceration, regardless of whether
44 the case is final for the purposes of appeal, and may be eligible for reconsideration hearings in
45 accordance with regulations promulgated by the parole board.

46 7. The provisions of subsection 6 of this section shall not apply to an offender found
47 guilty of murder in the first degree or capital murder who was under eighteen years of age
48 when the offender committed the offense or offenses who may be found ineligible for parole
49 or whose parole eligibility may be controlled by section 558.047 or 565.033.

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

54 9. A victim who has requested an opportunity to be heard shall receive notice that the
55 parole board is conducting an assessment of the offender's risk and readiness for release and
56 that the victim's input will be particularly helpful when it pertains to safety concerns and
57 specific protective measures that may be beneficial to the victim should the offender be
58 granted release.

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

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

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

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

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

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

72 (6) The parole board ~~shall evaluate~~ **evaluating** information listed in the juvenile sex
73 offender registry pursuant to section 211.425, provided the offender is between the ages of
74 seventeen and twenty-one, as it impacts the safety of the community; **and**

75 (7) **The board estimating the expected cost to the state of the offender serving the**
76 **remainder of his or her sentence.**

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

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

83 13. Special parole conditions shall be responsive to the assessed risk and needs of the
84 offender or the need for extraordinary supervision, such as electronic monitoring. The parole
85 board shall adopt rules to minimize the conditions placed on low-risk cases, to frontload
86 conditions upon release, and to require the modification and reduction of conditions based on

87 the person's continuing stability in the community. Parole board rules shall permit parole
88 conditions to be modified by parole officers with review and approval by supervisors.

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

91 15. Beginning January 1, 2001, the parole board shall not order a parole unless the
92 offender has obtained a high school diploma or its equivalent, or unless the parole board is
93 satisfied that the offender, while committed to the custody of the department, has made an
94 honest good-faith effort to obtain a high school diploma or its equivalent; provided that the
95 director may waive this requirement by certifying in writing to the parole board that the
96 offender has actively participated in mandatory education programs or is academically unable
97 to obtain a high school diploma or its equivalent.

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

217.692. 1. Notwithstanding any other provision of law to the contrary, any offender
2 incarcerated in a correctional institution serving any sentence of life with no parole for fifty
3 years or life without parole, whose plea of guilt was entered or whose trial commenced prior
4 to December 31, 1990, and who:

5 (1) Pleaded guilty to or was found guilty of a homicide of a spouse or domestic
6 partner;

7 (2) Has no prior violent felony convictions;

8 (3) No longer has a cognizable legal claim or legal recourse; and

9 (4) Has a history of being a victim of continual and substantial physical or sexual
10 domestic violence that was not presented as an affirmative defense at trial or sentencing and
11 such history can be corroborated with evidence of facts or circumstances which existed at the
12 time of the alleged physical or sexual domestic violence of the offender, including but not
13 limited to witness statements, hospital records, social services records, and law enforcement
14 records[;]

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16 shall be eligible for parole after having served fifteen years of such sentence when the parole
17 board determines by using the guidelines established by this section that there is a strong and
18 reasonable probability that the person will not thereafter violate the law.

19 2. The parole board shall give a thorough review of the case history and prison record
20 of any offender described in subsection 1 of this section. At the end of the parole board's
21 review, the parole board shall provide the offender with a copy of a statement of reasons for
22 its parole decision.

23 3. Any offender released under the provisions of this section shall be under the
24 supervision of the division of probation and parole for an amount of time to be determined by
25 the parole board.

26 4. The parole board shall consider, but not be limited to the following criteria when
27 making its parole decision:

28 (1) Length of time served;

29 (2) Prison record and self-rehabilitation efforts;

30 (3) Whether the history of the case included corroborative material of physical,
31 sexual, mental, or emotional abuse of the offender, including but not limited to witness
32 statements, hospital records, social service records, and law enforcement records;

33 (4) If an offer of a plea bargain was made and if so, why the offender rejected or
34 accepted the offer;

35 (5) Any victim information outlined in subsection 10 of section 217.690 and section
36 595.209;

37 (6) The offender's continued claim of innocence;

38 (7) The age and maturity of the offender at the time of the parole board's decision;

39 (8) The age and maturity of the offender at the time of the crime and any contributing
40 influence affecting the offender's judgment;

41 (9) The presence of a workable parole plan; ~~and~~

42 (10) Community and family support; **and**

43 **(11) The expected cost to the state of the offender serving the remainder of his or**
44 **her sentence.**

45 5. Nothing in this section shall limit the review of any offender's case who is eligible
46 for parole prior to fifteen years, nor shall it limit in any way the parole board's power to grant
47 parole prior to fifteen years.

48 6. Nothing in this section shall limit the review of any offender's case who has applied
49 for executive clemency, nor shall it limit in any way the governor's power to grant clemency.

50 7. It shall be the responsibility of the offender to petition the parole board for a
51 hearing under this section.

52 8. A person commits the crime of perjury if he or she, with the purpose to deceive,
53 knowingly makes a false witness statement to the parole board. Perjury under this section
54 shall be a class D felony.

55 9. In cases where witness statements alleging physical or sexual domestic violence
56 are in conflict as to whether such violence occurred or was continual and substantial in nature,
57 the history of such alleged violence shall be established by other corroborative evidence in
58 addition to witness statements, as provided by subsection 1 of this section. A contradictory
59 statement of the victim shall not be deemed a conflicting statement for purposes of this
60 section.

**557.055. 1. If a prosecutor requests or recommends an authorized disposition
2 under section 557.011 and the request or recommendation includes a term of
3 incarceration in a jail or prison, the prosecutor shall include the expected cost of the
4 incarceration as part of the request or recommendation. The expected cost shall state
5 the cost per day and the total cost if the entire sentence is served.**

**6 2. If an offender is likely to be incarcerated in a jail, the prosecutor shall be
7 responsible for obtaining an estimate of the average cost per day to incarcerate an
8 offender from the local jail. If an offender is likely to be incarcerated in a prison, the
9 prosecutor shall rely on the department of corrections' estimate under section 217.182.**

**10 3. Upon sentencing, the court shall enter a finding of the expected cost of
11 incarceration into the docket. Such finding shall be included in the docket entries that
12 are made available on the court's public website that allows the public to access the
13 court's automated case management system, known at the time of the enactment of this
14 section as Case.net.**

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