

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 192

AN ACT

To repeal sections 386.510, 386.515, 543.270, 558.006, and 558.019, RSMo, and to enact in lieu thereof five new sections relating to court procedures, with penalty provisions.

---

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 386.510, 386.515, 543.270, 558.006, and  
2 558.019, RSMo, are repealed and five new sections enacted in lieu  
3 thereof, to be known as sections 386.510, 386.515, 543.270,  
4 558.006, and 558.019, to read as follows:

5 386.510. With respect to commission orders or decisions  
6 issued on and after July 1, 2011, within thirty days after the  
7 application for a rehearing is denied, or, if the application is  
8 granted, then within thirty days after the rendition of the  
9 decision on rehearing, the applicant may file a notice of appeal  
10 with [the commission, which shall also be served on the parties  
11 to the commission proceeding in accordance with section 386.515,  
12 and which the commission shall forward to] the appellate court  
13 with the territorial jurisdiction over the county where the  
14 hearing was held or in which the commission has its principal

1 office for the purpose of having the reasonableness or lawfulness  
2 of the original order or decision or the order or decision on  
3 rehearing inquired into or determined, which shall also be served  
4 on the commission and the parties to the commission proceeding in  
5 accordance with section 386.515. Except with respect to a stay  
6 or suspension pursuant to subsection 1 of section 386.520, no new  
7 or additional evidence may be introduced in the appellate court  
8 but the cause shall be heard by the court without the  
9 intervention of a jury on the evidence and exhibits introduced  
10 before the commission and certified to by it. The notice of  
11 appeal shall include the appellant's application for rehearing, a  
12 copy of the reconciliation required by subsection 4 of section  
13 386.420, a concise statement of the issues being appealed, a full  
14 and complete list of the parties to the commission proceeding,  
15 all necessary filing fees, and any other information specified by  
16 the rules of the court. Unless otherwise ordered by the court of  
17 appeals, the commission shall, within thirty days of the filing  
18 of the notice of appeal, certify its record in the case to the  
19 court of appeals. The commission and each party to the action or  
20 proceeding before the commission shall have the right to  
21 intervene and participate fully in the review proceedings. Upon  
22 the submission of the case to the court of appeals, the court of  
23 appeals shall render its opinion either affirming or setting  
24 aside, in whole or in part, the order or decision of the  
25 commission under review. In case the order or decision is  
26 reversed by reason of the commission failing to receive testimony  
27 properly proffered, the court shall remand the cause to the  
28 commission, with instructions to receive the testimony so

1 proffered and rejected, and enter a new order or render a new  
2 decision based upon the evidence theretofore taken, and such as  
3 it is directed to receive. The court may, in its discretion,  
4 remand any cause which is reversed by it to the commission for  
5 further action. No court in this state, except the supreme court  
6 or the court of appeals, shall have jurisdiction or authority to  
7 review, reverse, correct or annul any order or decision of the  
8 commission or to suspend or delay the executing or operation  
9 thereof, or to enjoin, restrain or interfere with the commission  
10 in the performance of its official duties. The appellate courts  
11 of this state shall always be deemed open for the trial of suits  
12 brought to review the orders and decisions of the commission as  
13 provided in the public service commission law and the same shall  
14 where necessary be tried and determined as suits in equity.

15 386.515. With respect to commission orders or decisions  
16 issued on and after July 1, 2011, an application for rehearing is  
17 required to be served on all parties and is a prerequisite to the  
18 filing of an appeal under section 386.510. The application for  
19 rehearing puts the parties to the proceeding before the  
20 commission on notice that an appeal can follow and any such  
21 review under the appeal may proceed provided that a copy of the  
22 notice of appeal is served on said parties. With respect to  
23 commission orders or decisions issued on and after July 1, 2011,  
24 the review procedure provided for in section 386.510 continues to  
25 be exclusive except that a copy of the notice of appeal required  
26 by section 386.510 shall be served on the commission and each  
27 party to the proceeding before the commission by the appellant  
28 according to the rules established by the court in which the

1 appeal is filed.

2 543.270. [1. When any person shall be unable to pay any  
3 fine and costs assessed against him, the associate circuit judge  
4 shall have power, at the request of the defendant, to commute  
5 such fine and costs to imprisonment in the county jail, which  
6 shall be credited at the rate of ten dollars of such fine and  
7 costs for each day's imprisonment.

8 2.] When a fine is assessed by [an] a municipal judge,  
9 associate circuit judge, or circuit judge, it shall be within his  
10 or her discretion to provide for the payment of the fine on an  
11 installment basis under such terms and conditions as he or she  
12 may deem appropriate. In no event shall the recovery of costs  
13 incurred by a municipality or county for the detention,  
14 imprisonment, or holding of any person be the subject of any  
15 condition of probation, nor shall the failure to pay such costs  
16 be the sole basis for the issuance of a warrant.

17 558.006. [1.] When an offender sentenced to pay a fine  
18 defaults in the payment of the fine or in any installment, [the  
19 court upon motion of the prosecuting attorney or upon its own  
20 motion may require him or her to show cause why he or she should  
21 not be imprisoned for nonpayment. The court may issue a warrant  
22 of arrest or a summons for his or her appearance.

23 2. Following an order to show cause under subsection 1 of  
24 this section, unless the offender shows that his or her default  
25 was not attributable to an intentional refusal to obey the  
26 sentence of the court, or not attributable to a failure on his or  
27 her part to make a good faith effort to obtain the necessary  
28 funds for payment, the court may order the defendant imprisoned

1 for a term not to exceed one hundred eighty days if the fine was  
2 imposed for conviction of a felony or thirty days if the fine was  
3 imposed for conviction of a misdemeanor or infraction. The court  
4 may provide in its order that payment or satisfaction of the fine  
5 at any time will entitle the offender to his or her release from  
6 such imprisonment or, after entering the order, may at any time  
7 reduce the sentence for good cause shown, including payment or  
8 satisfaction of the fine.

9 3. If it appears that the default in the payment of a fine  
10 is excusable under the standards set forth in subsection 2 of  
11 this section, the court may enter an order allowing the offender  
12 additional time for payment, reducing the amount of the fine or  
13 of each installment, or revoking the fine or the unpaid portion  
14 in whole or in part.

15 4. When a fine is imposed on a corporation it is the duty  
16 of the person or persons authorized to make disbursement of the  
17 assets of the corporation and their superiors to pay the fine  
18 from the assets of the corporation. The failure of such persons  
19 to do so shall render them subject to imprisonment under  
20 subsections 1 and 2 of this section.

21 5. Upon default in the payment of a] the fine or [any]  
22 installment [thereof, the fine may] shall be collected by any  
23 means authorized for the [enforcement] collection of money  
24 judgments, other than a lien against real estate, or may be  
25 waived at the discretion of the sentencing judge.

26 558.019. 1. This section shall not be construed to affect  
27 the powers of the governor under Article IV, Section 7, of the  
28 Missouri Constitution. This statute shall not affect those

1 provisions of section 565.020, section 566.125, or section  
2 571.015, which set minimum terms of sentences, or the provisions  
3 of section 559.115, relating to probation.

4         2. The provisions of subsections 2 to 5 of this section  
5 shall only be applicable to [all classes of felonies except those  
6 set forth in chapter 579, or in chapter 195 prior to January 1,  
7 2017, and those otherwise excluded in subsection 1 of this  
8 section] the offenses contained in sections 565.021, 565.023,  
9 565.024, 565.027, 565.050, 565.052, 565.054, 565.072, 565.073,  
10 565.074, 565.090, 565.110, 565.115, 565.120, 565.153, 565.156,  
11 565.225, 565.300, 566.030, 566.031, 566.032, 566.034, 566.060,  
12 566.061, 566.062, 566.064, 566.067, 566.068, 566.069, 566.071,  
13 566.083, 566.086, 566.100, 566.101, 566.103, 566.111, 566.115,  
14 566.145, 566.151, 566.153, 566.203, 566.206, 566.209, 566.210,  
15 566.211, 566.215, 568.030, 568.045, 568.060, 568.065, 568.175,  
16 569.040, 569.160, 570.023, 570.025, 570.030 when punished as a  
17 class A, B, or C felony, 570.145 when punished as a class A or B  
18 felony, 570.223 when punished as a class B or C felony, 571.020,  
19 571.030, 571.070, 573.023, 573.025, 573.035, 573.037, 573.200,  
20 573.205, 574.070, 574.080, 574.115, 575.030, 575.150, 575.153,  
21 575.155, 575.157, 575.200 when punished as a class A felony,  
22 575.210, 575.230 when punished as a class B felony, 575.240 when  
23 punished as a class B felony, 576.070, 576.080, 577.010, 577.013,  
24 577.078, 577.703, 577.706, 579.065, and 579.068 when punished as  
25 a class A or B felony. For the purposes of this section, "prison  
26 commitment" means and is the receipt by the department of  
27 corrections of an offender after sentencing. For purposes of  
28 this section, prior prison commitments to the department of

1 corrections shall not include an offender's first incarceration  
2 prior to release on probation under section 217.362 or 559.115.  
3 Other provisions of the law to the contrary notwithstanding, any  
4 offender who has been found guilty of a felony other than a  
5 dangerous felony as defined in section 556.061 and is committed  
6 to the department of corrections shall be required to serve the  
7 following minimum prison terms:

8 (1) If the offender has one previous prison commitment to  
9 the department of corrections for a felony offense, the minimum  
10 prison term which the offender must serve shall be forty percent  
11 of his or her sentence or until the offender attains seventy  
12 years of age, and has served at least thirty percent of the  
13 sentence imposed, whichever occurs first;

14 (2) If the offender has two previous prison commitments to  
15 the department of corrections for felonies unrelated to the  
16 present offense, the minimum prison term which the offender must  
17 serve shall be fifty percent of his or her sentence or until the  
18 offender attains seventy years of age, and has served at least  
19 forty percent of the sentence imposed, whichever occurs first;

20 (3) If the offender has three or more previous prison  
21 commitments to the department of corrections for felonies  
22 unrelated to the present offense, the minimum prison term which  
23 the offender must serve shall be eighty percent of his or her  
24 sentence or until the offender attains seventy years of age, and  
25 has served at least forty percent of the sentence imposed,  
26 whichever occurs first.

27 3. Other provisions of the law to the contrary  
28 notwithstanding, any offender who has been found guilty of a

1 dangerous felony as defined in section 556.061 and is committed  
2 to the department of corrections shall be required to serve a  
3 minimum prison term of eighty-five percent of the sentence  
4 imposed by the court or until the offender attains seventy years  
5 of age, and has served at least forty percent of the sentence  
6 imposed, whichever occurs first.

7 4. For the purpose of determining the minimum prison term  
8 to be served, the following calculations shall apply:

9 (1) A sentence of life shall be calculated to be thirty  
10 years;

11 (2) Any sentence either alone or in the aggregate with  
12 other consecutive sentences for offenses committed at or near the  
13 same time which is over seventy-five years shall be calculated to  
14 be seventy-five years.

15 5. For purposes of this section, the term "minimum prison  
16 term" shall mean time required to be served by the offender  
17 before he or she is eligible for parole, conditional release or  
18 other early release by the department of corrections.

19 6. An offender who was convicted of, or pled guilty to, a  
20 felony offense other than those offenses listed in subsection 2  
21 of this section prior to August 28, 2019, shall no longer be  
22 subject to the minimum prison term provisions under subsection 2  
23 of this section, and shall be eligible for parole, conditional  
24 release, or other early release by the department of corrections  
25 according to the rules and regulations of the department.

26 7. (1) A sentencing advisory commission is hereby created  
27 to consist of eleven members. One member shall be appointed by  
28 the speaker of the house. One member shall be appointed by the



1 president pro tem of the senate. One member shall be the  
2 director of the department of corrections. Six members shall be  
3 appointed by and serve at the pleasure of the governor from among  
4 the following: the public defender commission; private citizens;  
5 a private member of the Missouri Bar; the board of probation and  
6 parole; and a prosecutor. Two members shall be appointed by the  
7 supreme court, one from a metropolitan area and one from a rural  
8 area. All members shall be appointed to a four-year term. All  
9 members of the sentencing commission appointed prior to August  
10 28, 1994, shall continue to serve on the sentencing advisory  
11 commission at the pleasure of the governor.

12 (2) The commission shall study sentencing practices in the  
13 circuit courts throughout the state for the purpose of  
14 determining whether and to what extent disparities exist among  
15 the various circuit courts with respect to the length of  
16 sentences imposed and the use of probation for offenders  
17 convicted of the same or similar offenses and with similar  
18 criminal histories. The commission shall also study and examine  
19 whether and to what extent sentencing disparity among economic  
20 and social classes exists in relation to the sentence of death  
21 and if so, the reasons therefor, if sentences are comparable to  
22 other states, if the length of the sentence is appropriate, and  
23 the rate of rehabilitation based on sentence. It shall compile  
24 statistics, examine cases, draw conclusions, and perform other  
25 duties relevant to the research and investigation of disparities  
26 in death penalty sentencing among economic and social classes.

27 (3) The commission shall study alternative sentences,  
28 prison work programs, work release, home-based incarceration,

1 probation and parole options, and any other programs and report  
2 the feasibility of these options in Missouri.

3 (4) The governor shall select a chairperson who shall call  
4 meetings of the commission as required or permitted pursuant to  
5 the purpose of the sentencing commission.

6 (5) The members of the commission shall not receive  
7 compensation for their duties on the commission, but shall be  
8 reimbursed for actual and necessary expenses incurred in the  
9 performance of these duties and for which they are not reimbursed  
10 by reason of their other paid positions.

11 (6) The circuit and associate circuit courts of this state,  
12 the office of the state courts administrator, the department of  
13 public safety, and the department of corrections shall cooperate  
14 with the commission by providing information or access to  
15 information needed by the commission. The office of the state  
16 courts administrator will provide needed staffing resources.

17 **[7.] 8.** Courts shall retain discretion to lower or exceed  
18 the sentence recommended by the commission as otherwise allowable  
19 by law, and to order restorative justice methods, when  
20 applicable.

21 **[8.] 9.** If the imposition or execution of a sentence is  
22 suspended, the court may order any or all of the following  
23 restorative justice methods, or any other method that the court  
24 finds just or appropriate:

25 (1) Restitution to any victim or a statutorily created fund  
26 for costs incurred as a result of the offender's actions;

27 (2) Offender treatment programs;

28 (3) Mandatory community service;

- 1           (4) Work release programs in local facilities; and  
2           (5) Community-based residential and nonresidential  
3 programs.

4           [9. The provisions of this section shall apply only to  
5 offenses occurring on or after August 28, 2003.]

6           10. Pursuant to subdivision (1) of subsection [8] 9 of this  
7 section, the court may order the assessment and payment of a  
8 designated amount of restitution to a county law enforcement  
9 restitution fund established by the county commission pursuant to  
10 section 50.565. Such contribution shall not exceed three hundred  
11 dollars for any charged offense. Any restitution moneys  
12 deposited into the county law enforcement restitution fund  
13 pursuant to this section shall only be expended pursuant to the  
14 provisions of section 50.565.

15          11. A judge may order payment to a restitution fund only if  
16 such fund had been created by ordinance or resolution of a county  
17 of the state of Missouri prior to sentencing. A judge shall not  
18 have any direct supervisory authority or administrative control  
19 over any fund to which the judge is ordering a person to make  
20 payment.

21          12. A person who fails to make a payment to a county law  
22 enforcement restitution fund may not have his or her probation  
23 revoked solely for failing to make such payment unless the judge,  
24 after evidentiary hearing, makes a finding supported by a  
25 preponderance of the evidence that the person either willfully  
26 refused to make the payment or that the person willfully,  
27 intentionally, and purposefully failed to make sufficient bona  
28 fide efforts to acquire the resources to pay.

1           13. Nothing in this section shall be construed to allow the  
2           sentencing advisory commission to issue recommended sentences in  
3           specific cases pending in the courts of this state.