

SECOND REGULAR SESSION

HOUSE BILL NO. 2546

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HURST.

6455H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 217.125, 217.197, and 565.032, RSMo, and to enact in lieu thereof three new sections relating to labor for offenders.

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

Section A. Sections 217.125, 217.197, and 565.032, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 217.125, 217.197, and 565.032, to read as follows:

217.125. **1.** No offender labor may be used for the profit, betterment, or personal gain of any employee of the department.

2. Notwithstanding any other provision of law, the director has the authority to require that each able-bodied offender under commitment to the department engage in hard labor for not less than forty hours per week; except that, not more than twenty hours per week of participation in an educational, training, or treatment program, including interactive restorative justice counseling services made available to interested surviving family members of murder victims and other victims of violent crimes, may be substituted for an equivalent number of hours of hard labor as prescribed by the director. The director may require retention of earnings for payment of restitution to victims of violent crimes.

3. The director shall establish an offender labor classification system to ensure that:

(1) An offender receives work assignments commensurate and compatible with the conditions and limitations of his or her physical and mental health;

(2) No offender participates in a work assignment that threatens the safety or security of the public, the correctional center, or the offender;

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.

17 **(3) Each offender is generally assessed for skills related to the construction and**
18 **maintenance of correctional centers; and**

19 **(4) Each offender who does not present a risk to the public and who is not limited**
20 **by his or her physical or mental health may be assigned to a work crew.**

21 **4. Each offender committed to the department shall be classified under the offender**
22 **labor classification system established by the director. The director or his or her designee**
23 **shall review and approve each classification of an offender that results in exempting the**
24 **offender from engaging in the hard labor requirements under this section.**

25 **5. For purposes of this section, "hard labor" means compulsory physical activity**
26 **for the attainment of some object other than recreation or amusement but does not include**
27 **physical activity that is not within the ability of an individual offender.**

28 **6. Notwithstanding any other law, no offender given a work assignment or required**
29 **to perform any labor by the department shall be considered an employee or to be employed**
30 **by the state or the department, regardless of whether the offender is compensated, nor**
31 **shall an employee-employer relationship exist between the offender and the department**
32 **or the state for any purpose. None of the rights or privileges otherwise accorded to**
33 **employees by law shall accrue to such offenders.**

217.197. 1. **Except as otherwise prohibited in subsection 3 of this section, the**
2 **amount and type of personal property an offender housed in a correctional center may possess**
3 **shall be established by policy. Control and disposition of offender property as related to value**
4 **and volume shall be set by policy.**

5 **2. Unauthorized personal property found in the possession of an offender housed in a**
6 **correctional center may be impounded and disposed of per policy directives.**

7 **3. Notwithstanding any other provision of law, the following items and services**
8 **shall not be provided to or permitted for offenders in a correctional center who do not**
9 **engage in hard labor under section 217.125:**

10 **(1) A laptop, tablet, or any other form of computer, or any electronic device that**
11 **can compute or perform programmed instructions;**

12 **(2) A television in an offender cell;**

13 **(3) Cable or satellite television;**

14 **(4) Video games;**

15 **(5) Movies other than movies with a PG rating;**

16 **(6) Music or other entertainment with cursing or other immoral language or**
17 **images; and**

18 **(7) Exercise and weight equipment and rooms.**

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20 **Nothing in this subsection shall be deemed as inhumane treatment of an offender.**

20565.032. 1. In all cases of murder in the first degree for which the death penalty is
2 authorized, the judge in a jury-waived trial shall consider, or shall include in his or her
3 instructions to the jury for it to consider:

4 (1) Whether a statutory aggravating circumstance or circumstances enumerated in
5 subsection 2 of this section is established by the evidence beyond a reasonable doubt; and

6 (2) If a statutory aggravating circumstance or circumstances is proven beyond a
7 reasonable doubt, whether the evidence as a whole justifies a sentence of death or a sentence of
8 life imprisonment without eligibility for probation, parole, or release except by act of the
9 governor.

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11 In determining the issues enumerated in subdivisions (1) and (2) of this subsection, the trier shall
12 consider all evidence which it finds to be in aggravation or mitigation of punishment, including
13 evidence received during the first stage of the trial and evidence supporting any of the statutory
14 aggravating or mitigating circumstances set out in subsections 2 and 3 of this section. If the trier
15 is a jury, it shall not be instructed upon any specific evidence which may be in aggravation or
16 mitigation of punishment, but shall be instructed that each juror shall consider any evidence
17 which he or she considers to be aggravating or mitigating.

18 2. Statutory aggravating circumstances for a murder in the first degree offense shall be
19 limited to the following:

20 (1) The offense was committed by a person with a prior record of conviction for murder
21 in the first degree, or the offense was committed by a person who has one or more serious
22 assaultive criminal convictions;

23 (2) The murder in the first degree offense was committed while the offender was
24 engaged in the commission or attempted commission of another unlawful homicide;

25 (3) The offender by his or her act of murder in the first degree knowingly created a great
26 risk of death to more than one person by means of a weapon or device which would normally be
27 hazardous to the lives of more than one person;

28 (4) The offender committed the offense of murder in the first degree for himself or
29 herself or another, for the purpose of receiving money or any other thing of monetary value from
30 the victim of the murder or another;

31 (5) The murder in the first degree was committed against a judicial officer, former
32 judicial officer, prosecuting attorney or former prosecuting attorney, circuit attorney or former
33 circuit attorney, assistant prosecuting attorney or former assistant prosecuting attorney, assistant
34 circuit attorney or former assistant circuit attorney, peace officer or former peace officer, elected
35 official or former elected official during or because of the exercise of his official duty;

36 (6) The offender caused or directed another to commit murder in the first degree or
37 committed murder in the first degree as an agent or employee of another person;

38 (7) The murder in the first degree was outrageously or wantonly vile, horrible or
39 inhuman in that it involved torture, or depravity of mind;

40 (8) The murder in the first degree was committed against any peace officer, or fireman
41 while engaged in the performance of his or her official duty;

42 (9) The murder in the first degree was committed by a person in, or who has escaped
43 from, the lawful custody of a peace officer or place of lawful confinement;

44 (10) The murder in the first degree was committed for the purpose of avoiding,
45 interfering with, or preventing a lawful arrest or custody in a place of lawful confinement, of
46 himself or herself or another;

47 (11) The murder in the first degree was committed while the defendant was engaged in
48 the perpetration or was aiding or encouraging another person to perpetrate or attempt to
49 perpetrate a felony of any degree of rape, sodomy, burglary, robbery, kidnapping, or any felony
50 offense in chapter 195 or 579;

51 (12) The murdered individual was a witness or potential witness in any past or pending
52 investigation or past or pending prosecution, and was killed as a result of his or her status as a
53 witness or potential witness;

54 (13) The murdered individual was an employee of an institution or facility of the
55 department of corrections of this state or local correction agency and was killed in the course of
56 performing his or her official duties, or the murdered individual was an inmate of such institution
57 or facility;

58 (14) The murdered individual was killed as a result of the hijacking of an airplane, train,
59 ship, bus or other public conveyance;

60 (15) The murder was committed for the purpose of concealing or attempting to conceal
61 any felony offense defined in chapter 195 or 579;

62 (16) The murder was committed for the purpose of causing or attempting to cause a
63 person to refrain from initiating or aiding in the prosecution of a felony offense defined in
64 chapter 195 or 579;

65 (17) The murder was committed during the commission of an offense which is part of
66 a pattern of criminal street gang activity as defined in section 578.421.

67 3. Statutory mitigating circumstances shall include the following:

68 (1) The defendant has no significant history of prior criminal activity;

69 (2) The murder in the first degree was committed while the defendant was under the
70 influence of extreme mental or emotional disturbance;

71 (3) The victim was a participant in the defendant's conduct or consented to the act;

72 (4) The defendant was an accomplice in the murder in the first degree committed by
73 another person and his or her participation was relatively minor;

74 (5) The defendant acted under extreme duress or under the substantial domination of
75 another person;

76 (6) The capacity of the defendant to appreciate the criminality of his or her conduct or
77 to conform his or her conduct to the requirements of law was substantially impaired;

78 (7) The age of the defendant at the time of the offense.

79 **4. (1) If the evidence as a whole justifies a sentence of death under the provisions**
80 **of this section, the judge, in a jury-waived trial, or the jury shall consider whether the**
81 **defendant's continued life may result in the defendant receiving hard labor assignments**
82 **under section 217.125. If such defendant's continued life would not result in the defendant**
83 **receiving hard labor assignments, the court may sentence the defendant to death. If,**
84 **however, the judge or the jury determines that the defendant's continued life may result**
85 **in the defendant receiving hard labor assignments, the defendant shall not be sentenced**
86 **to death.**

87 **(2) In determining if a defendant's continued life would result in the defendant**
88 **receiving hard labor assignments, the judge or the jury may consider any evidence,**
89 **including evidence received during the first stage of the trial.**

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