

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 978
98TH GENERAL ASSEMBLY

1738H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 217.690, RSMo, and to enact in lieu thereof one new section relating to the release of certain offenders from prison, with an emergency clause.

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Section A. Section 217.690, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 217.690, to read as follows: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. When in its opinion there is reasonable probability that an offender of a correctional center can be released without detriment to the community or to himself, the board may in its discretion release or parole such person except as otherwise prohibited by law. All paroles shall issue upon order of the board, duly adopted.

2. Before ordering the parole of any offender, the board shall have the offender appear before a hearing panel and shall conduct a personal interview with him, unless waived by the offender. A parole shall be ordered only for the best interest of society, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. An offender shall be placed on parole only when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. 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 board has discretionary authority to require the payment of a fee, not to exceed sixty dollars per month, from every offender placed under board supervision on probation, parole, or conditional release, to waive all or part of any fee, to sanction offenders for willful nonpayment of fees, and to contract with a private entity for fee collections services. All fees collected shall be deposited in the inmate fund established in section 217.430. Fees collected may be used to pay the costs of contracted collections services. The fees collected may otherwise be used to provide community corrections and intervention services for offenders. Such services

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.

19 include substance abuse assessment and treatment, mental health assessment and treatment,
20 electronic monitoring services, residential facilities services, employment placement services,
21 and other offender community corrections or intervention services designated by the board to
22 assist offenders to successfully complete probation, parole, or conditional release.

23 The board shall adopt rules not inconsistent with law, in accordance with section 217.040, with
24 respect to sanctioning offenders and with respect to establishing, waiving, collecting, and using
25 fees.

26 4. The board shall adopt rules not inconsistent with law, in accordance with section
27 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or
28 conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall
29 recite the conditions of such parole.

30 5. When considering parole for an offender with consecutive sentences, the minimum
31 term for eligibility for parole shall be calculated by adding the minimum terms for parole
32 eligibility for each of the consecutive sentences, except the minimum term for parole eligibility
33 shall not exceed the minimum term for parole eligibility for an ordinary life sentence.

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

38 7. Parole hearings shall, at a minimum, contain the following procedures:

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

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

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

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

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

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

54 8. The board shall notify any person of the results of a parole eligibility hearing if the
55 person indicates to the board a desire to be notified.

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

60 10. Nothing contained in this section shall be construed to require the release of an
61 offender on parole nor to reduce the sentence of an offender heretofore committed, **except as**
62 **provided in subsection 12 of this section.**

63 11. Beginning January 1, 2001, the board shall not order a parole unless the offender has
64 obtained a high school diploma or its equivalent, or unless the board is satisfied that the offender,
65 while committed to the custody of the department, has made an honest good-faith effort to obtain
66 a high school diploma or its equivalent; provided that the director may waive this requirement
67 by certifying in writing to the board that the offender has actively participated in mandatory
68 education programs or is academically unable to obtain a high school diploma or its equivalent.

69 **12. Notwithstanding the provisions of this section to the contrary, any offender who**
70 **is incarcerated and is serving a sentence of life without parole, and has only been convicted**
71 **of a marijuana offense or multiple marijuana offenses shall be eligible for parole. The**
72 **board shall review any material pertinent to such offender's parole and, if appropriate,**
73 **order the release and parole of the offender. No later than fifteen days after the effective**
74 **date of this section, the board shall schedule and hold a parole hearing for any offender**
75 **incarcerated under the provisions of this subsection. For the purposes of this section, the**
76 **term "marijuana" shall be as that term is defined under section 195.010.**

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

Section B. Because immediate action is necessary to ensure justice has been served to
2 all incarcerated individuals, the repeal and reenactment of section 217.690 of section A of this
3 act is deemed necessary for the immediate preservation of the public health, welfare, peace, and
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and
5 the repeal and reenactment of section 217.690 of section A of this act shall be in full force and
6 effect upon its passage and approval.

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