

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 681
98TH GENERAL ASSEMBLY

4492H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 217.670, 217.690, and 217.722, RSMo, section 559.600 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 559.600 as enacted by house bill no. 1550, ninety-fourth general assembly, second regular session, and to enact in lieu thereof four new sections relating to corrections proceedings.

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

Section A. Sections 217.670, 217.690, and 217.722, RSMo, section 559.600 as enacted
2 by senate bill no. 491, ninety-seventh general assembly, second regular session, and section
3 559.600 as enacted by house bill no. 1550, ninety-fourth general assembly, second regular
4 session, are repealed and four new sections enacted in lieu thereof, to be known as sections
5 217.670, 217.690, 217.722, and 559.600, to read as follows:

217.670. 1. The board shall adopt an official seal of which the courts shall take official
2 notice.

3 2. Decisions of the board regarding granting of paroles, extensions of a conditional
4 release date or revocations of a parole or conditional release shall be by a majority vote of the
5 hearing panel members. The hearing panel shall consist of one member of the board and two
6 hearing officers appointed by the board. A member of the board may remove the case from the
7 jurisdiction of the hearing panel and refer it to the full board for a decision. Within thirty days
8 of entry of the decision of the hearing panel to deny parole or to revoke a parole or conditional
9 release, the offender may appeal the decision of the hearing panel to the board. The board shall
10 consider the appeal within thirty days of receipt of the appeal. The decision of the board shall
11 be by majority vote of the board members and shall be final.

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.

12 3. The orders of the board shall not be reviewable except as to compliance with the terms
13 of sections 217.650 to 217.810 or any rules promulgated pursuant to such section.

14 4. The board shall keep a record of its acts and shall notify each correctional center of
15 its decisions relating to persons who are or have been confined in such correctional center.

16 5. Notwithstanding any other provision of law, any meeting, record, or vote, of
17 proceedings involving probation, parole, or pardon, may be a closed meeting, closed record, or
18 closed vote.

19 6. Notwithstanding any other provision of law, when the appearance or presence of an
20 offender before the board or a hearing panel is required for the purpose of deciding whether to
21 grant conditional release or parole, extend the date of conditional release, revoke parole or
22 conditional release, or for any other purpose, such appearance or presence may occur by means
23 of a videoconference at the discretion of the board. Victims having a right to attend parole
24 hearings may testify either at the site where the board is conducting the videoconference or at
25 the institution where the offender is located. The use of videoconferencing in this section shall
26 be at the discretion of the board, and shall not be utilized if [either the offender,] the victim or
27 the victim's family objects to it.

 217.690. 1. When in its opinion there is reasonable probability that an offender of a
2 correctional center can be released without detriment to the community or to [himself] **the**
3 **offender**, the board may in its discretion release or parole such person except as otherwise
4 prohibited by law. All paroles shall issue upon order of the board, duly adopted.

5 2. Before ordering the parole of any offender, the board shall have the offender appear
6 before a hearing panel and shall conduct [a personal] **an** interview with [him] the offender,
7 unless waived by the offender. A parole shall be ordered only for the best interest of society, not
8 as an award of clemency; it shall not be considered a reduction of sentence or a pardon. An
9 offender shall be placed on parole only when the board believes that [he] **the offender** is able
10 and willing to fulfill the obligations of a law-abiding citizen. Every offender while on parole
11 shall remain in the legal custody of the department but shall be subject to the orders of the board.

12 3. The board has discretionary authority to require the payment of a fee, not to exceed
13 sixty dollars per month, from every offender placed under board supervision on probation,
14 parole, or conditional release, to waive all or part of any fee, to sanction offenders for willful
15 nonpayment of fees, and to contract with a private entity for fee collections services. All fees
16 collected shall be deposited in the inmate fund established in section 217.430. Fees collected
17 may be used to pay the costs of contracted collections services. The fees collected may otherwise
18 be used to provide community corrections and intervention services for offenders. Such services
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 twenty-
53 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.

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

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

217.722. 1. If any probation officer has probable cause to believe that the person on
2 probation has violated a condition of probation, the probation officer may issue a warrant for the
3 arrest of the person on probation, **and if the person is on probation for a felony offense and**
4 **the probation officer has probable cause to believe that the person on probation has**
5 **substantially violated a material condition of probation, the probation officer shall**
6 **immediately notify the prosecuting or circuit attorney.** The officer may effect the arrest or
7 may deputize any other officer with the power of arrest to do so by giving the officer a copy of
8 the warrant which will outline the circumstances of the alleged violation and contain the
9 statement that the person on probation has, in the judgment of the probation officer, violated the
10 conditions of probation. The warrant delivered with the offender by the arresting officer to the
11 official in charge of any jail or other detention facility shall be sufficient authority for detaining
12 the person on probation pending a preliminary hearing on the alleged violation. Other provisions
13 of law relating to release on bail of persons charged with criminal offenses shall be applicable
14 to persons detained on alleged probation violations.

15 2. Any person on probation arrested under the authority granted in subsection 1 of this
16 section shall have the right to a preliminary hearing on the violation charged as long as the
17 person on probation remains in custody or unless the offender waives such hearing. The person

18 on probation shall be notified immediately in writing of the alleged probation violation. If
19 arrested in the jurisdiction of the sentencing court, and the court which placed the person on
20 probation is immediately available, the preliminary hearing shall be heard by the sentencing
21 court. Otherwise, the person on probation shall be taken before a judge or associate circuit judge
22 in the county of the alleged violation or arrest having original jurisdiction to try criminal offenses
23 or before an impartial member of the staff of the Missouri board of probation and parole, and the
24 preliminary hearing shall be held as soon as possible after the arrest. Such preliminary hearings
25 shall be conducted as provided by rule of court or by rules of the Missouri board of probation and
26 parole. If it appears that there is probable cause to believe that the person on probation has
27 violated a condition of probation, or if the person on probation waives the preliminary hearing,
28 the judge or associate circuit judge, or member of the staff of the Missouri board of probation
29 and parole shall order the person on probation held for further proceedings in the sentencing
30 court. If probable cause is not found, the court shall not be barred from holding a hearing on the
31 question of the alleged violation of a condition of probation nor from ordering the person on
32 probation to be present at such a hearing.

33 3. Upon such arrest and detention, the probation officer shall immediately notify the
34 sentencing court and shall submit to the court a written report showing in what manner the
35 person on probation has violated the conditions of probation. Thereupon, or upon arrest by
36 warrant, the court shall cause the person on probation to be brought before it without unnecessary
37 delay for a hearing on the violation charged. Revocation hearings shall be conducted as provided
38 by rule of court.

559.600. 1. In cases where the board of probation and parole is not required under
2 section 217.750 to provide probation supervision and rehabilitation services for misdemeanor
3 offenders, the circuit and associate circuit judges in a circuit may contract with one or more
4 private entities or other court-approved entity to provide such services. The court-approved
5 entity, including private or other entities, shall act as a misdemeanor probation office in that
6 circuit and shall, pursuant to the terms of the contract, supervise persons placed on probation by
7 the judges for class A, B, C, and D misdemeanor offenses, specifically including persons placed
8 on probation for violations of section 577.023. Nothing in sections 559.600 to 559.615 shall be
9 construed to prohibit the board of probation and parole, or the court, from supervising
10 misdemeanor offenders in a circuit where the judges have entered into a contract with a
11 probation entity.

12 **2. In all cases, the entity providing such private probation service shall utilize the**
13 **department of corrections' standards and procedures with regard to drug and alcohol**
14 **screening for clients assigned to such entity.**

15 **3. In all cases, the entity providing such private probation service shall not require**
16 **the clients assigned to such entity to travel in excess of fifty miles in order to attend their**
17 **regular parole meetings.**

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