

SENATE BILL NO. 964

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN AND SENATOR ESLINGER.

4480S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 217.541, 217.705, 217.718, 217.730, 558.011, 558.026, 558.046, 570.030, and 571.015, RSMo, and to enact in lieu thereof nine new sections relating to conditional release, with existing penalty provisions.

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

Section A. Sections 217.541, 217.705, 217.718, 217.730, 2 558.011, 558.026, 558.046, 570.030, and 571.015, RSMo, are 3 repealed and nine new sections enacted in lieu thereof, to be 4 known as sections 217.541, 217.705, 217.718, 217.730, 558.011, 5 558.026, 558.046, 570.030, and 571.015, to read as follows:

217.541. 1. The department shall by rule establish a 2 program of house arrest. The director or his or her 3 designee may extend the limits of confinement of offenders 4 serving sentences for class D or E felonies who have one 5 year or less remaining prior to release on parole[, 6 conditional release,] or discharge to participate in the 7 house arrest program.

8 2. The offender referred to the house arrest program 9 shall remain in the custody of the department and shall be 10 subject to rules and regulations of the department 11 pertaining to offenders of the department until released on 12 parole [or conditional release] by the state parole board.

13 3. The department shall require the offender to 14 participate in work or educational or vocational programs

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 and other activities that may be necessary to the
16 supervision and treatment of the offender.

17 4. An offender released to house arrest shall be
18 authorized to leave his or her place of residence only for
19 the purpose and time necessary to participate in the program
20 and activities authorized in subsection 3 of this section.

21 5. The division of probation and parole shall
22 supervise every offender released to the house arrest
23 program and shall verify compliance with the requirements of
24 this section and such other rules and regulations that the
25 department shall promulgate and may do so by remote
26 electronic surveillance. If any probation/parole officer
27 has probable cause to believe that an offender under house
28 arrest has violated a condition of the house arrest
29 agreement, the probation/parole officer may issue a warrant
30 for the arrest of the offender. The probation/parole
31 officer may effect the arrest or may deputize any officer
32 with the power of arrest to do so by giving the officer a
33 copy of the warrant which shall outline the circumstances of
34 the alleged violation. The warrant delivered with the
35 offender by the arresting officer to the official in charge
36 of any jail or other detention facility to which the
37 offender is brought shall be sufficient legal authority for
38 detaining the offender. An offender arrested under this
39 section shall remain in custody or incarcerated without
40 consideration of bail. The director or his or her designee,
41 upon recommendation of the probation and parole officer, may
42 direct the return of any offender from house arrest to a
43 correctional facility of the department for reclassification.
44 6. Each offender who is released to house arrest shall
45 pay a percentage of his or her wages, established by
46 department rules, to a maximum of the per capita cost of the

47 house arrest program. The money received from the offender
48 shall be deposited in the inmate fund and shall be expended
49 to support the house arrest program.

217.705. 1. The director of the division of probation
2 and parole shall appoint probation and parole officers and
3 institutional parole officers as deemed necessary to carry
4 out the purposes of the board.

5 2. Probation and parole officers shall investigate all
6 persons referred to them for investigation by the board or
7 by any court as provided by sections 217.750 and 217.760.
8 They shall furnish to each offender released under their
9 supervision a written statement of the conditions of
10 probation[,] or parole [or conditional release] and shall
11 instruct the offender regarding these conditions. They
12 shall keep informed of the offender's conduct and condition
13 and use all suitable methods to aid and encourage the
14 offender to bring about improvement in the offender's
15 conduct and conditions.

16 3. The probation and parole officer may recommend and,
17 by order duly entered, the court may impose and may at any
18 time modify any conditions of probation. The court shall
19 cause a copy of any such order to be delivered to the
20 probation and parole officer and the offender.

21 4. Probation and parole officers shall keep detailed
22 records of their work and shall make such reports in writing
23 and perform such other duties as may be incidental to those
24 enumerated that the board may require. In the event a
25 parolee is transferred to another probation and parole
26 officer, the written record of the former probation and
27 parole officer shall be given to the new probation and
28 parole officer.

29 5. Institutional parole officers shall investigate all
30 offenders referred to them for investigation by the board
31 and shall provide the board such other reports the board may
32 require. They shall furnish the offender prior to release
33 on parole [or conditional release] a written statement of
34 the conditions of parole [or conditional release] and shall
35 instruct the offender regarding these conditions.

36 6. The department shall furnish probation and parole
37 officers and institutional parole officers, including
38 supervisors, with credentials and a special badge which such
39 officers and supervisors shall carry on their person at all
40 times while on duty.

 217.718. 1. As an alternative to the revocation
2 proceedings provided under sections 217.720, 217.722, and
3 559.036, and if the court has not otherwise required
4 detention to be a condition of probation under section
5 559.026, a probation or parole officer may order an offender
6 to submit to a period of detention in the county jail, or
7 other appropriate institution, upon a determination by a
8 probation or parole officer that the offender has violated a
9 condition of continued probation or parole.

10 2. The period of detention may not exceed forty-eight
11 hours the first time it is imposed against an offender
12 during a term of probation or parole. Subsequent periods
13 may exceed forty-eight hours, but the total number of hours
14 an offender spends in detention under this section shall not
15 exceed three hundred sixty in any calendar year.

16 3. The officer shall present the offender with a
17 written report detailing in what manner the offender has
18 violated the conditions of parole, probation, or conditional
19 release and advise the offender of the right to a hearing
20 before the court or board prior to the period of detention.

21 The division shall file a copy of the violation report with
22 the sentencing court or board after the imposition of the
23 period of detention and within a reasonable period of time
24 that is consistent with existing division procedures.

25 4. Any offender detained under this section in a
26 county of the first class or second class or in any city
27 with a population of five hundred thousand or more and
28 detained as herein provided shall be subject to all the
29 provisions of section 221.170, even though the offender was
30 not convicted and sentenced to a jail or workhouse.

31 5. If parole[,] or probation[, or conditional release]
32 is revoked and a term of imprisonment is served by reason
33 thereof, the time spent in a jail, halfway house, honor
34 center, workhouse, or other institution as a detention
35 condition of parole[,] or probation[, or conditional
36 release] shall be credited against the prison or jail term
37 served for the offense in connection with which the
38 detention was imposed.

39 6. The division shall reimburse the county jail or
40 other institution for the costs of detention under this
41 section at a rate determined by the department of
42 corrections, which shall be at least thirty dollars per day
43 per offender and subject to appropriation of funds by the
44 general assembly. Prior to ordering the offender to submit
45 to the period of detention under subsection 1 of this
46 section, the probation and parole officer shall certify to
47 the county jail or institution that the division has
48 sufficient funds to provide reimbursement for the costs of
49 the period of detention. A jail or other institution may
50 refuse to detain an offender under this section if funds are
51 not available to provide reimbursement or if there is
52 inadequate space in the facility for the offender.

53 7. Upon successful completion of the period of
54 detention under this section, the court or board may not
55 revoke the term of parole, probation, [or conditional
56 release] or impose additional periods of detention for the
57 same incident unless new or additional information is
58 discovered that was unknown to the division when the period
59 of detention was imposed and indicates that the offender was
60 involved in the commission of a crime. If the offender
61 fails to complete the period of detention or new or
62 additional information is discovered that the incident
63 involved a crime, the offender may be arrested under
64 sections 217.720 and 217.722.

 217.730. 1. The period served on parole, except for
2 judicial parole granted or revoked pursuant to section
3 559.100, shall be deemed service of the term of imprisonment
4 and, subject to the provisions of section 217.720 relating
5 to an offender who is or has been a fugitive from justice,
6 the total time served may not exceed the maximum term or
7 sentence.

8 2. When an offender on parole [or conditional
9 release], before the expiration of the term for which the
10 offender was sentenced, has performed the obligation of his
11 parole for such time as satisfies the board that his final
12 release is not incompatible with the best interest of
13 society and the welfare of the individual, the board may
14 make a final order of discharge and issue a certificate of
15 discharge to the offender. No such order of discharge shall
16 be made in any case less than three years after the date on
17 which the offender was paroled [or conditionally released]
18 except where the sentence expires earlier.

19 3. Upon final discharge, persons shall be informed in
20 writing on the process and procedure to register to vote.

558.011. 1. The authorized terms of imprisonment,
2 including both prison and conditional release terms, are:

3 (1) For a class A felony, a term of years not less
4 than ten years and not to exceed thirty years, or life
5 imprisonment;

6 (2) For a class B felony, a term of years not less
7 than five years and not to exceed fifteen years;

8 (3) For a class C felony, a term of years not less
9 than three years and not to exceed ten years;

10 (4) For a class D felony, a term of years not to
11 exceed seven years;

12 (5) For a class E felony, a term of years not to
13 exceed four years;

14 (6) For a class A misdemeanor, a term not to exceed
15 one year;

16 (7) For a class B misdemeanor, a term not to exceed
17 six months;

18 (8) For a class C misdemeanor, a term not to exceed
19 fifteen days.

20 2. In cases of class D and E felonies, the court shall
21 have discretion to imprison for a special term not to exceed
22 one year in the county jail or other authorized penal
23 institution, and the place of confinement shall be fixed by
24 the court. If the court imposes a sentence of imprisonment
25 for a term longer than one year upon a person convicted of a
26 class D or E felony, it shall commit the person to the
27 custody of the department of corrections.

28 3. (1) When a regular sentence of imprisonment for a
29 felony is imposed, the court shall commit the person to the
30 custody of the department of corrections for the term
31 imposed under section 557.036, or until released under
32 procedures established elsewhere by law.

33 (2) A sentence of imprisonment for a misdemeanor shall
34 be for a definite term and the court shall commit the person
35 to the county jail or other authorized penal institution for
36 the term of his or her sentence or until released under
37 procedure established elsewhere by law.

38 4. (1) Except as otherwise provided, a sentence of
39 imprisonment for a term of years for felonies other than
40 dangerous felonies as defined in section 556.061, and other
41 than sentences of imprisonment which involve the
42 individual's fourth or subsequent remand to the department
43 of corrections shall consist of a prison term and a
44 conditional release term **when the offense occurred before**
45 **August 28, 2022**. The conditional release term of any term
46 imposed under section 557.036 shall be:

47 (a) One-third for terms of nine years or less;

48 (b) Three years for terms between nine and fifteen
49 years;

50 (c) Five years for terms more than fifteen years; and
51 the prison term shall be the remainder of such term. The
52 prison term may be extended by the parole board pursuant to
53 subsection 5 of this section.

54 (2) "Conditional release" means the conditional
55 discharge of an offender by the parole board, subject to
56 conditions of release that the parole board deems reasonable
57 to assist the offender to lead a law-abiding life, and
58 subject to the supervision under the division of probation
59 and parole. The conditions of release shall include
60 avoidance by the offender of any other offense, federal or
61 state, and other conditions that the parole board in its
62 discretion deems reasonably necessary to assist the releasee
63 in avoiding further violation of the law.

64 5. The date of conditional release from the prison
65 term may be extended up to a maximum of the entire sentence
66 of imprisonment by the parole board. The director of any
67 division of the department of corrections except the
68 division of probation and parole may file with the parole
69 board a petition to extend the conditional release date when
70 an offender fails to follow the rules and regulations of the
71 division or commits an act in violation of such rules.
72 Within ten working days of receipt of the petition to extend
73 the conditional release date, the parole board shall convene
74 a hearing on the petition. The offender shall be present
75 and may call witnesses in his or her behalf and cross-
76 examine witnesses appearing against the offender. The
77 hearing shall be conducted as provided in section 217.670.
78 If the violation occurs in close proximity to the
79 conditional release date, the conditional release may be
80 held for a maximum of fifteen working days to permit
81 necessary time for the division director to file a petition
82 for an extension with the parole board and for the parole
83 board to conduct a hearing, provided some affirmative
84 manifestation of an intent to extend the conditional release
85 has occurred prior to the conditional release date. If at
86 the end of a fifteen-working-day period a parole board
87 decision has not been reached, the offender shall be
88 released conditionally. The decision of the parole board
89 shall be final.

90 **6. For offenses occurring on or after August 28, 2022,**
91 **a sentence of imprisonment shall consist only of a prison**
92 **term without eligibility for conditional release.**

558.026. 1. Multiple sentences of imprisonment shall
2 run concurrently unless the court specifies that they shall
3 run consecutively; except in the case of multiple sentences

4 of imprisonment imposed for any offense committed during or
5 at the same time as, or multiple offenses of, the following
6 felonies:

7 (1) Rape in the first degree, forcible rape, or rape;

8 (2) Statutory rape in the first degree;

9 (3) Sodomy in the first degree, forcible sodomy, or
10 sodomy;

11 (4) Statutory sodomy in the first degree; or

12 (5) An attempt to commit any of the felonies listed in
13 this subsection. In such case, the sentence of imprisonment
14 imposed for any felony listed in this subsection or an
15 attempt to commit any of the aforesaid shall run
16 consecutively to the other sentences. The sentences imposed
17 for any other offense may run concurrently.

18 2. If a person who is on probation[,] **or** parole [or
19 conditional release] is sentenced to a term of imprisonment
20 for an offense committed after the granting of probation or
21 parole [or after the start of his or her conditional release
22 term], the court shall direct the manner in which the
23 sentence or sentences imposed by the court shall run with
24 respect to any resulting probation[,] **or** parole [or
25 conditional release] revocation term or terms. If the
26 subsequent sentence to imprisonment is in another
27 jurisdiction, the court shall specify how any resulting
28 probation[,] **or** parole [or conditional release] revocation
29 term or terms shall run with respect to the foreign sentence
30 of imprisonment.

31 3. A court may cause any sentence it imposes to run
32 concurrently with a sentence an individual is serving or is
33 to serve in another state or in a federal correctional
34 center. If the Missouri sentence is served in another state
35 or in a federal correctional center, subsection 4 of section

36 558.011 and section 217.690 shall apply as if the individual
37 were serving his or her sentence within the department of
38 corrections of the state of Missouri, except that a personal
39 hearing before the parole board shall not be required for
40 parole consideration.

558.046. The sentencing court may, upon petition,
2 reduce any term of sentence or probation pronounced by the
3 court [or a term of conditional release] or parole
4 pronounced by the parole board if the court determines that:

5 (1) The convicted person was:

6 (a) Convicted of an offense that did not involve
7 violence or the threat of violence; and

8 (b) Convicted of an offense that involved alcohol or
9 illegal drugs; and

10 (2) Since the commission of such offense, the
11 convicted person has successfully completed a detoxification
12 and rehabilitation program; and

13 (3) The convicted person is not:

14 (a) A prior offender, a persistent offender, a
15 dangerous offender or a persistent misdemeanor offender as
16 defined by section 558.016; or

17 (b) A persistent sexual offender as defined in section
18 566.125; or

19 (c) A prior offender, a persistent offender or a class
20 X offender as defined in section 558.019.

570.030. 1. A person commits the offense of stealing
2 if he or she:

3 (1) Appropriates property or services of another with
4 the purpose to deprive him or her thereof, either without
5 his or her consent or by means of deceit or coercion;

6 (2) Attempts to appropriate anhydrous ammonia or
7 liquid nitrogen of another with the purpose to deprive him

8 or her thereof, either without his or her consent or by
9 means of deceit or coercion; or

10 (3) For the purpose of depriving the owner of a lawful
11 interest therein, receives, retains or disposes of property
12 of another knowing that it has been stolen, or believing
13 that it has been stolen.

14 2. The offense of stealing is a class A felony if the
15 property appropriated consists of any of the following
16 containing any amount of anhydrous ammonia: a tank truck,
17 tank trailer, rail tank car, bulk storage tank, field nurse,
18 field tank or field applicator.

19 3. The offense of stealing is a class B felony if:

20 (1) The property appropriated or attempted to be
21 appropriated consists of any amount of anhydrous ammonia or
22 liquid nitrogen;

23 (2) The property consists of any animal considered
24 livestock as the term livestock is defined in section
25 144.010, or any captive wildlife held under permit issued by
26 the conservation commission, and the value of the animal or
27 animals appropriated exceeds three thousand dollars and that
28 person has previously been found guilty of appropriating any
29 animal considered livestock or captive wildlife held under
30 permit issued by the conservation commission.

31 Notwithstanding any provision of law to the contrary, such
32 person shall serve a minimum prison term of not less than
33 eighty percent of his or her sentence before he or she is
34 eligible for probation, parole, [conditional release,] or
35 other early release by the department of corrections;

36 (3) A person appropriates property consisting of a
37 motor vehicle, watercraft, or aircraft, and that person has
38 previously been found guilty of two stealing-related
39 offenses committed on two separate occasions where such

40 offenses occurred within ten years of the date of occurrence
41 of the present offense;

42 (4) The property appropriated or attempted to be
43 appropriated consists of any animal considered livestock as
44 the term is defined in section 144.010 if the value of the
45 livestock exceeds ten thousand dollars; or

46 (5) The property appropriated or attempted to be
47 appropriated is owned by or in the custody of a financial
48 institution and the property is taken or attempted to be
49 taken physically from an individual person to deprive the
50 owner or custodian of the property.

51 4. The offense of stealing is a class C felony if the
52 value of the property or services appropriated is twenty-
53 five thousand dollars or more.

54 5. The offense of stealing is a class D felony if:

55 (1) The value of the property or services appropriated
56 is seven hundred fifty dollars or more;

57 (2) The offender physically takes the property
58 appropriated from the person of the victim; or

59 (3) The property appropriated consists of:

60 (a) Any motor vehicle, watercraft or aircraft;

61 (b) Any will or unrecorded deed affecting real
62 property;

63 (c) Any credit device, debit device or letter of
64 credit;

65 (d) Any firearms;

66 (e) Any explosive weapon as defined in section 571.010;

67 (f) Any United States national flag designed, intended
68 and used for display on buildings or stationary flagstaffs
69 in the open;

70 (g) Any original copy of an act, bill or resolution,
71 introduced or acted upon by the legislature of the state of
72 Missouri;

73 (h) Any pleading, notice, judgment or any other record
74 or entry of any court of this state, any other state or of
75 the United States;

76 (i) Any book of registration or list of voters
77 required by chapter 115;

78 (j) Any animal considered livestock as that term is
79 defined in section 144.010;

80 (k) Any live fish raised for commercial sale with a
81 value of seventy-five dollars or more;

82 (l) Any captive wildlife held under permit issued by
83 the conservation commission;

84 (m) Any controlled substance as defined by section
85 195.010;

86 (n) Ammonium nitrate;

87 (o) Any wire, electrical transformer, or metallic wire
88 associated with transmitting telecommunications, video,
89 internet, or voice over internet protocol service, or any
90 other device or pipe that is associated with conducting
91 electricity or transporting natural gas or other combustible
92 fuels; or

93 (p) Any material appropriated with the intent to use
94 such material to manufacture, compound, produce, prepare,
95 test or analyze amphetamine or methamphetamine or any of
96 their analogues.

97 6. The offense of stealing is a class E felony if:

98 (1) The property appropriated is an animal;

99 (2) The property is a catalytic converter; or

100 (3) A person has previously been found guilty of three
101 stealing-related offenses committed on three separate

102 occasions where such offenses occurred within ten years of
103 the date of occurrence of the present offense.

104 7. The offense of stealing is a class D misdemeanor if
105 the property is not of a type listed in subsection 2, 3, 5,
106 or 6 of this section, the property appropriated has a value
107 of less than one hundred fifty dollars, and the person has
108 no previous findings of guilt for a stealing-related offense.

109 8. The offense of stealing is a class A misdemeanor if
110 no other penalty is specified in this section.

111 9. If a violation of this section is subject to
112 enhanced punishment based on prior findings of guilt, such
113 findings of guilt shall be pleaded and proven in the same
114 manner as required by section 558.021.

115 10. The appropriation of any property or services of a
116 type listed in subsection 2, 3, 5, or 6 of this section or
117 of a value of seven hundred fifty dollars or more may be
118 considered a separate felony and may be charged in separate
119 counts.

120 11. The value of property or services appropriated
121 pursuant to one scheme or course of conduct, whether from
122 the same or several owners and whether at the same or
123 different times, constitutes a single criminal episode and
124 may be aggregated in determining the grade of the offense,
125 except as set forth in subsection 10 of this section.

571.015. 1. Any person who commits any felony under
2 the laws of this state by, with, or through the use,
3 assistance, or aid of a dangerous instrument or deadly
4 weapon is also guilty of the offense of armed criminal
5 action and, upon conviction, shall be punished by
6 imprisonment by the department of corrections for a term of
7 not less than three years and not to exceed fifteen years,
8 unless the person is unlawfully possessing a firearm, in

9 which case the term of imprisonment shall be for a term of
10 not less than five years. The punishment imposed pursuant
11 to this subsection shall be in addition to and consecutive
12 to any punishment provided by law for the crime committed
13 by, with, or through the use, assistance, or aid of a
14 dangerous instrument or deadly weapon. No person convicted
15 under this subsection shall be eligible for parole,
16 probation, [conditional release,] or suspended imposition or
17 execution of sentence for a period of three calendar years.

18 2. Any person convicted of a second offense of armed
19 criminal action under subsection 1 of this section shall be
20 punished by imprisonment by the department of corrections
21 for a term of not less than five years and not to exceed
22 thirty years, unless the person is unlawfully possessing a
23 firearm, in which case the term of imprisonment shall be for
24 a term not less than fifteen years. The punishment imposed
25 pursuant to this subsection shall be in addition to and
26 consecutive to any punishment provided by law for the crime
27 committed by, with, or through the use, assistance, or aid
28 of a dangerous instrument or deadly weapon. No person
29 convicted under this subsection shall be eligible for
30 parole, probation, [conditional release,] or suspended
31 imposition or execution of sentence for a period of five
32 calendar years.

33 3. Any person convicted of a third or subsequent
34 offense of armed criminal action under subsection 1 of this
35 section shall be punished by imprisonment by the department
36 of corrections for a term of not less than ten years, unless
37 the person is unlawfully possessing a firearm, in which case
38 the term of imprisonment shall be no less than fifteen
39 years. The punishment imposed pursuant to this subsection
40 shall be in addition to and consecutive to any punishment

41 provided by law for the crime committed by, with, or through
42 the use, assistance, or aid of a dangerous instrument or
43 deadly weapon. No person convicted under this subsection
44 shall be eligible for parole, probation, [conditional
45 release,] or suspended imposition or execution of sentence
46 for a period of ten calendar years.

✓