

FIRST REGULAR SESSION

HOUSE BILL NO. 353

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LIPKE (Sponsor), PAGE,
BROWN (30) AND NIEVES (Co-sponsors).

Read 1st time January 26, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0830L.011

AN ACT

To repeal sections 559.016 and 559.036, RSMo, and to enact in lieu thereof two new sections relating to probation.

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

Section A. Sections 559.016 and 559.036, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 559.016 and 559.036, to read as follows:

559.016. 1. Unless terminated as provided in section 559.036, the terms during which
2 each probation shall remain conditional and be subject to revocation are:

3 (1) A term of years not less than one year and not to exceed five years for a felony;

4 (2) A term not less than six months and not to exceed two years for a misdemeanor;

5 (3) A term not less than six months and not to exceed one year for an infraction.

6 2. The court shall designate a specific term of probation at the time of sentencing or at
7 the time of suspension of imposition of sentence.

8 3. The court may extend a period of probation, however, no more than one extension of
9 any probation may be ordered **except that the court may extend the total time on probation**
10 **by one additional year by order of the court if the defendant admits he or she has violated**
11 **the conditions of his or her probation or is found by the court to have violated the**
12 **conditions of his or her probation.** Total time on any probation term, including any extension,
13 shall not exceed the maximum term as established in subsection 1 of this section **plus one**
14 **additional year if the defendant admits or the court finds that the defendant has violated**
15 **the conditions of his or her probation.**

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.

559.036. 1. A term of probation commences on the day it is imposed. Multiple terms of Missouri probation, whether imposed at the same time or at different times, shall run concurrently. Terms of probation shall also run concurrently with any federal or other state jail, prison, probation or parole term for another offense to which the defendant is or becomes subject during the period, unless otherwise specified by the Missouri court.

2. The court may terminate a period of probation and discharge the defendant at any time before completion of the specific term fixed under section 559.016 if warranted by the conduct of the defendant and the ends of justice. The court may extend the term of the probation, but no more than one extension of any probation may be ordered **except that the court may extend the term of probation by one additional year by order of the court if the defendant admits he or she has violated the conditions of probation or is found by the court to have violated the conditions of his or her probation.** Total time on any probation term, including any extension shall not exceed the maximum term established in section 559.016. Procedures for termination, discharge and extension may be established by rule of court.

3. If the defendant violates a condition of probation at any time prior to the expiration or termination of the probation term, the court may continue him on the existing conditions, with or without modifying or enlarging the conditions or extending the term, or, if such continuation, modification, enlargement or extension is not appropriate, may revoke probation and order that any sentence previously imposed be executed. If imposition of sentence was suspended, the court may revoke probation and impose any sentence available under section 557.011, RSMo. The court may mitigate any sentence of imprisonment by reducing the prison or jail term by all or part of the time the defendant was on probation. The court may, upon revocation of probation, place an offender on a second term of probation. Such probation shall be for a term of probation as provided by section 559.016, notwithstanding any amount of time served by the offender on the first term of probation.

4. Probation shall not be revoked without giving the probationer notice and an opportunity to be heard on the issues of whether he violated a condition of probation and, if he did, whether revocation is warranted under all the circumstances.

5. **The prosecuting or circuit attorney may file a motion to revoke probation or at any time during the term of probation, the court may issue a notice to the probationer to appear to answer a charge of a violation, and the court may issue a warrant of arrest for the violation. Such notice shall be personally served upon the probationer. The warrant shall authorize the return of the probationer to the custody of the court or to any suitable detention facility designated by the court. Upon issuance of the warrant for arrest the court shall immediately enter an order suspending the period of probation until such date as the warrant is served.**

36 **On the date the warrant for arrest is served the defendant's period of probation shall begin**
37 **to run again.**

38 6. The power of the court to revoke probation shall extend for the duration of the term
39 of probation designated by the court and for any further period which is reasonably necessary for
40 the adjudication of matters arising before its expiration, provided that some affirmative
41 manifestation of an intent to conduct a revocation hearing occurs prior to the expiration of the
42 period and that every reasonable effort is made to notify the probationer and to conduct the
43 hearing prior to the expiration of the period.