

FIRST REGULAR SESSION

HOUSE BILL NO. 607

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SOMMER.

1445H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 217.690 and 557.011, RSMo, and to enact in lieu thereof two new sections relating to sentencing of illegal aliens, with penalty provisions.

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

Section A. Sections 217.690 and 557.011, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 217.690 and 557.011, to read as follows:

217.690. 1. All releases or paroles shall issue upon order of the board, duly adopted.

2. Before ordering the parole of any offender, the board shall conduct a validated risk and needs assessment and evaluate the case under the rules governing parole that are promulgated by the board. The board shall then have the offender appear before a hearing panel and shall conduct a personal interview with him, unless waived by the offender, or if the guidelines indicate the offender may be paroled without need for an interview. The guidelines and rules shall not allow for the waiver of a hearing if a victim requests a hearing. The appearance or presence may occur by means of a videoconference at the discretion of the board. A parole may be ordered for the best interest of society when there is a reasonable probability, based on the risk assessment and indicators of release readiness, that the person can be supervised under parole supervision and successfully reintegrated into the community, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. 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 division of probation and parole has discretionary authority to require the payment of a fee, not to exceed sixty dollars per month, from every offender placed under division supervision on probation, parole, or conditional release, to waive all or part of any fee, to

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.

18 sanction offenders for willful nonpayment of fees, and to contract with a private entity for fee
19 collections services. All fees collected shall be deposited in the inmate fund established in
20 section 217.430. Fees collected may be used to pay the costs of contracted collections services.
21 The fees collected may otherwise be used to provide community corrections and intervention
22 services for offenders. Such services include substance abuse assessment and treatment, mental
23 health assessment and treatment, electronic monitoring services, residential facilities services,
24 employment placement services, and other offender community corrections or intervention
25 services designated by the division of probation and parole to assist offenders to successfully
26 complete probation, parole, or conditional release. The board shall adopt rules not inconsistent
27 with law, in accordance with section 217.040, with respect to sanctioning offenders and with
28 respect to establishing, waiving, collecting, and using fees.

29 4. The board shall adopt rules not inconsistent with law, in accordance with section
30 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or
31 conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall
32 recite the conditions of such parole.

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

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

41 7. A victim who has requested an opportunity to be heard shall receive notice that the
42 board is conducting an assessment of the offender's risk and readiness for release and that the
43 victim's input will be particularly helpful when it pertains to safety concerns and specific
44 protective measures that may be beneficial to the victim should the offender be granted release.

45 8. Parole hearings shall, at a minimum, contain the following procedures:

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

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

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

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

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

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

61 9. The board shall notify any person of the results of a parole eligibility hearing if the
62 person indicates to the board a desire to be notified.

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

67 11. Special parole conditions shall be responsive to the assessed risk and needs of the
68 offender or the need for extraordinary supervision, such as electronic monitoring. The board
69 shall adopt rules to minimize the conditions placed on low-risk cases, to frontload conditions
70 upon release, and to require the modification and reduction of conditions based on the person's
71 continuing stability in the community. Board rules shall permit parole conditions to be modified
72 by parole officers with review and approval by supervisors.

73 12. Nothing contained in this section shall be construed to require the release of an
74 offender on parole nor to reduce the sentence of an offender heretofore committed.

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

81 14. **No illegal alien who has been incarcerated at a correctional center shall be**
82 **ordered to be released from the correctional center on parole until the alien has served his**
83 **or her sentence in its entirety if the offender is unable to serve the parole period in the**
84 **United States.**

85 15. Any rule or portion of a rule, as that term is defined in section 536.010, that is
86 created under the authority delegated in this section shall become effective only if it complies
87 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
88 This section and chapter 536 are nonseverable and if any of the powers vested with the general

89 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
90 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
91 any rule proposed or adopted after August 28, 2005, shall be invalid and void.

557.011. 1. Every person found guilty of an offense shall be dealt with by the court in
2 accordance with the provisions of this chapter, except that for offenses defined outside this code
3 and not repealed, the term of imprisonment or the fine that may be imposed is that provided in
4 the statute defining the offense; however, the conditional release term of any sentence of a term
5 of years shall be determined as provided in subsection 4 of section 558.011.

6 2. Whenever any person has been found guilty of a felony or a misdemeanor the court
7 shall make one or more of the following dispositions of the offender in any appropriate
8 combination. The court may:

- 9 (1) Sentence the person to a term of imprisonment as authorized by chapter 558;
- 10 (2) Sentence the person to pay a fine as authorized by chapter 560;
- 11 (3) Suspend the imposition of sentence, with or without placing the person on probation;
- 12 (4) Pronounce sentence and suspend its execution, placing the person on probation;
- 13 (5) Impose a period of detention as a condition of probation, as authorized by section
14 559.026.

15 3. Whenever any person has been found guilty of an infraction, the court shall make one
16 or more of the following dispositions of the offender in any appropriate combination. The court
17 may:

- 18 (1) Sentence the person to pay a fine as authorized by chapter 560;
- 19 (2) Suspend the imposition of sentence, with or without placing the person on probation;
- 20 (3) Pronounce sentence and suspend its execution, placing the person on probation.

21 4. Whenever any organization has been found guilty of an offense, the court shall make
22 one or more of the following dispositions of the organization in any appropriate combination.
23 The court may:

- 24 (1) Sentence the organization to pay a fine as authorized by chapter 560;
- 25 (2) Suspend the imposition of sentence, with or without placing the organization on
26 probation;
- 27 (3) Pronounce sentence and suspend its execution, placing the organization on probation;
- 28 (4) Impose any special sentence or sanction authorized by law.

29 5. **Notwithstanding subsections 2 and 3 of this section to the contrary, any illegal**
30 **alien who has committed a felony, misdemeanor, or infraction in this state shall be**
31 **sentenced to a term of imprisonment or shall be sentenced to pay a fine but shall not**
32 **receive a suspended imposition of sentence, suspended execution of sentence, conditional**

33 **release, or probation for the offense if the alien is unable to serve the entire sentence,**
34 **release, or probation period within the United States.**

35 **6.** This chapter shall not be construed to deprive the court of any authority conferred by
36 law to decree a forfeiture of property, suspend or cancel a license, remove a person from office,
37 or impose any other civil penalty. An appropriate order exercising such authority may be
38 included as part of any sentence.

39 ~~[6.]~~ **7.** In the event a sentence of confinement is ordered executed, a court may order that
40 an individual serve all or any portion of such sentence on electronic monitoring; except that all
41 costs associated with the electronic monitoring shall be charged to the person on house arrest.
42 If the judge finds the person unable to afford the costs associated with electronic monitoring, the
43 judge may order that the person be placed on house arrest with electronic monitoring if the
44 county commission agrees to pay the costs of such monitoring. If the person on house arrest is
45 unable to afford the costs associated with electronic monitoring and the county commission does
46 not agree to pay from the general revenue of the county the costs of such electronic monitoring,
47 the judge shall not order that the person be placed on house arrest with electronic monitoring.

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