

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 2088

101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GRIER.

3895H.02P

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal section 217.703, RSMo, and to enact in lieu thereof two new sections relating to sentence credits, with a delayed effective date.

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

Section A. Section 217.703, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 217.703 and 217.704, to read as follows:

217.703. 1. The division of probation and parole shall award earned compliance credits to any offender who is:

(1) Not subject to lifetime supervision under sections 217.735 and 559.106 or otherwise found to be ineligible to earn credits by a court pursuant to subsection 2 of this section;

(2) On probation, parole, or conditional release for an offense listed in chapter 579, or an offense previously listed in chapter 195, or for a class D or E felony, excluding sections 565.225, 565.252, 566.031, 566.061, 566.083, 566.093, 568.020, 568.060, offenses defined as sexual assault under section 589.015, deviate sexual assault, assault in the second degree under subdivision (2) of subsection 1 of section 565.052, endangering the welfare of a child in the first degree under subdivision (2) of subsection 1 of section 568.045, and any offense of aggravated stalking or assault in the second degree under subdivision (2) of subsection 1 of section 565.060 as such offenses existed prior to January 1, 2017;

(3) Supervised by the division of probation and parole; and

(4) In compliance with the conditions of supervision imposed by the sentencing court or board.

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.

17           2. If an offender was placed on probation, parole, or conditional release for an offense  
18 of:

19           (1) Involuntary manslaughter in the second degree;

20           (2) Assault in the second degree except under subdivision (2) of subsection 1 of  
21 section 565.052 or section 565.060 as it existed prior to January 1, 2017;

22           (3) Domestic assault in the second degree;

23           (4) Assault in the third degree when the victim is a special victim or assault of a law  
24 enforcement officer in the second degree as it existed prior to January 1, 2017;

25           (5) Statutory rape in the second degree;

26           (6) Statutory sodomy in the second degree;

27           (7) Endangering the welfare of a child in the first degree under subdivision (1) of  
28 subsection 1 of section 568.045; or

29           (8) Any case in which the defendant is found guilty of a felony offense under chapter  
30 571;

31

32 the sentencing court may, upon its own motion or a motion of the prosecuting or circuit  
33 attorney, make a finding that the offender is ineligible to earn compliance credits because the  
34 nature and circumstances of the offense or the history and character of the offender indicate  
35 that a longer term of probation, parole, or conditional release is necessary for the protection of  
36 the public or the guidance of the offender. The motion may be made any time prior to the first  
37 month in which the person may earn compliance credits under this section or at a hearing  
38 under subsection 5 of this section. The offender's ability to earn credits shall be suspended  
39 until the court or board makes its finding. If the court or board finds that the offender is  
40 eligible for earned compliance credits, the credits shall begin to accrue on the first day of the  
41 next calendar month following the issuance of the decision.

42           3. Earned compliance credits shall reduce the term of probation, parole, or conditional  
43 release by ~~thirty~~ **twenty** days for each full calendar month of compliance with the terms of  
44 supervision. Credits shall begin to accrue for eligible offenders after the first full calendar  
45 month of supervision or on October 1, 2012, if the offender began a term of probation, parole,  
46 or conditional release before September 1, 2012.

47           4. For the purposes of this section, the term "compliance" shall mean the absence of  
48 an initial violation report or notice of citation submitted by a probation or parole officer  
49 during a calendar month, or a motion to revoke or motion to suspend filed by a prosecuting or  
50 circuit attorney, against the offender.

51           5. Credits shall not accrue during any calendar month in which a violation report,  
52 which may include a report of absconder status, has been submitted, the offender is in  
53 custody, or a motion to revoke or motion to suspend has been filed, and shall be suspended

54 pending the outcome of a hearing, if a hearing is held. If no hearing is held, or if a hearing is  
55 held and the offender is continued under supervision, or the court or board finds that the  
56 violation did not occur, then the offender shall be deemed to be in compliance and shall begin  
57 earning credits on the first day of the next calendar month following the month in which the  
58 report was submitted or the motion was filed. If a hearing is held, all earned credits shall be  
59 rescinded if:

60 (1) The court or board revokes the probation or parole or the court places the offender  
61 in a department program under subsection 4 of section 559.036 or under section 217.785; or

62 (2) The offender is found by the court or board to be ineligible to earn compliance  
63 credits because the nature and circumstances of the violation indicate that a longer term of  
64 probation, parole, or conditional release is necessary for the protection of the public or the  
65 guidance of the offender.

66

67 Earned credits, if not rescinded, shall continue to be suspended for a period of time during  
68 which the court or board has suspended the term of probation, parole, or release, and shall  
69 begin to accrue on the first day of the next calendar month following the lifting of the  
70 suspension.

71 6. Offenders who are deemed by the division to be absconders shall not earn credits.  
72 For purposes of this subsection, "absconder" shall mean an offender under supervision whose  
73 whereabouts are unknown and who has left such offender's place of residency without the  
74 permission of the offender's supervising officer and without notifying of their whereabouts  
75 for the purpose of avoiding supervision. An offender shall no longer be deemed an absconder  
76 when such offender is available for active supervision.

77 7. Notwithstanding subsection 2 of section 217.730 to the contrary, once the  
78 combination of time served in custody, if applicable, time served on probation, parole, or  
79 conditional release, and earned compliance credits satisfy the total term of probation, parole,  
80 or conditional release, the board or sentencing court shall order final discharge of the  
81 offender, so long as the offender has completed restitution and at least two years of his or her  
82 probation, parole, or conditional release, which shall include any time served in custody under  
83 section 217.718 and sections 559.036 and 559.115.

84 8. The award or rescission of any credits earned under this section shall not be subject  
85 to appeal or any motion for postconviction relief.

86 9. At least twice a year, the division shall calculate the number of months the offender  
87 has remaining on his or her term of probation, parole, or conditional release, taking into  
88 consideration any earned compliance credits **or work-for-time credits under section**  
89 **217.704**, and notify the offender of the length of the remaining term.

90 10. No less than sixty days before the date of final discharge, the division shall notify  
91 the sentencing court, the board, and, for probation cases, the circuit or prosecuting attorney of  
92 the impending discharge. If the sentencing court, the board, or the circuit or prosecuting  
93 attorney upon receiving such notice does not take any action under subsection 5 of this  
94 section, the offender shall be discharged under subsection 7 of this section.

95 11. Any offender who was sentenced prior to January 1, 2017, to an offense that was  
96 eligible for earned compliance credits under subsection 1 or 2 of this section at the time of  
97 sentencing shall continue to remain eligible for earned compliance credits so long as the  
98 offender meets all the other requirements provided under this section.

99 12. The application of earned compliance credits shall be suspended upon entry into a  
100 treatment court, as described in sections 478.001 to 478.009, and shall remain suspended until  
101 the offender is discharged from such treatment court. Upon successful completion of  
102 treatment court, all earned compliance credits accumulated during the suspension period shall  
103 be retroactively applied, so long as the other terms and conditions of probation have been  
104 successfully completed.

**217.704. 1. This section shall be known and may be cited as the "Earning Safe  
2 Reentry Through Work Act of 2021".**

3 **2. As used in this section, the following terms mean:**

4 **(1) "Eligible employment", any occupation or combination of occupations for**  
5 **which an offender may provide documentation of verifiable wage-earning hours in the**  
6 **amount of at least one hundred thirty hours per thirty-day period;**

7 **(2) "Supporting documentation", employment records, pay stubs, employment**  
8 **letters, contracts, or similarly reliable methods of employment verification, as**  
9 **determined by the division of probation and parole;**

10 **(3) "Work-for-time credit", a credit that is equal to a one-day reduction in an**  
11 **offender's sentence that can be accrued for maintaining eligible employment;**

12 **(4) "Working day", a business day that is not Saturday, Sunday, or a state or**  
13 **federal holiday.**

14 **3. The division of probation and parole shall award work-for-time credits to any**  
15 **offender who is:**

16 **(1) Not subject to lifetime supervision under sections 217.735 and 559.106 or**  
17 **otherwise found to be ineligible to earn credits by a court pursuant to subsection 4 of**  
18 **this section;**

19 **(2) On probation, parole, or conditional release for:**

20 **(a) An offense listed in chapter 579;**

21 **(b) An offense previously listed in chapter 195; or**

22           (c) Any class D felony or class E felony excluding the offenses of stalking in the  
23 first degree, rape in the second degree, sexual assault, sodomy in the second degree,  
24 deviate sexual assault, assault in the second degree under subdivision (2) of subsection 1  
25 of section 565.052, sexual misconduct involving a child, endangering the welfare of a  
26 child in the first degree under subdivision (2) of subsection 1 of section 568.045, incest,  
27 invasion of privacy, abuse of a child, or any offense of aggravated stalking or assault in  
28 the second degree under subdivision (2) of subsection 1 of section 565.060, as such  
29 offenses existed prior to January 1, 2017;

30           (3) Supervised by a court or the board; and

31           (4) In compliance with the conditions of supervision imposed by the sentencing  
32 court or board.

33           4. A sentencing court or the board may, upon its own motion or a motion of the  
34 prosecuting or circuit attorney, make a finding that the offender placed on probation,  
35 parole, or conditional release for an offense listed below is ineligible to earn compliance  
36 credits because the nature and circumstances of the offense or the history and character  
37 of the offender indicate that a longer term of probation, parole, or conditional release is  
38 necessary for the protection of the public or the guidance of the offender. The motion  
39 may be made any time prior to the first month in which the offender may earn  
40 compliance credits under this section. An offender's ability to earn credits shall be  
41 suspended until the court or board makes its finding. If the court or board finds that  
42 the offender is eligible for earned compliance credits, the credits shall begin to accrue on  
43 the first day of the next calendar month following the issuance of the decision. This  
44 subsection applies to the offenses of:

45           (1) Involuntary manslaughter in the second degree;

46           (2) Assault in the second degree except under subdivision (2) of subsection 1 of  
47 section 565.052 or section 565.060 as it existed prior to January 1, 2017;

48           (3) Domestic assault in the second degree;

49           (4) Assault in the third degree when the victim is a special victim or assault of a  
50 law enforcement officer in the second degree as it existed prior to January 1, 2017;

51           (5) Statutory rape in the second degree;

52           (6) Statutory sodomy in the second degree;

53           (7) Endangering the welfare of a child in the first degree under subdivision (1) of  
54 subsection 1 of section 568.045; or

55           (8) Any case in which the defendant is found guilty of a felony offense under  
56 chapter 571.

57           5. Each supervised offender who maintains eligible employment shall accrue  
58 work-for-time credits under the following conditions:

59           **(1) The offender shall provide supporting documentation of eligible employment**  
60 **to the officer responsible for the offender's supervision within five working days of the**  
61 **conclusion of each thirty-day period in which the offender maintains eligible**  
62 **employment;**

63           **(2) The officer shall verify the offender's eligible employment through the**  
64 **offender's supporting documentation and any other means that the division of**  
65 **probation and parole determines necessary. The officer shall record the supporting**  
66 **documentation and the offender's accrual of all work-for-time credits within five**  
67 **working days of verifying the offender's eligible employment;**

68           **(3) An offender, including an offender who is being supervised in another state,**  
69 **shall accrue twenty work-for-time credits for every thirty-day period in which the**  
70 **offender maintains eligible employment, except for the sixty-day period immediately**  
71 **prior to the supervised offender's adjusted sentence end date during which no work-for-**  
72 **time credits shall accrue;**

73           **(4) On the revocation of probation, parole, or conditional release or on a new**  
74 **criminal conviction, an offender forfeits all work-for-time credit previously accrued;**  
75 **and**

76           **(5) An offender shall not receive work-for-time credits if the offender's**  
77 **supporting documentation is unverifiable, inaccurate, or absent. If a request for work-**  
78 **for-time credits is denied, the officer shall record the reason for the denial of work-for-**  
79 **time credits and make that information available to the offender.**

80           **6. Any offender who is deemed by the division to be an absconder shall not earn**  
81 **credits. For purposes of this subsection, "absconder" means an offender under**  
82 **supervision who has left such offender's place of residency without the permission of the**  
83 **offender's supervising officer for the purpose of avoiding supervision. An offender shall**  
84 **no longer be deemed an absconder when such offender is available for active**  
85 **supervision.**

86           **7. The award or rescission of any credits earned under this section shall not be**  
87 **subject to appeal or any motion for postconviction relief.**

88           **8. The officer responsible for supervising an offender who accrues work-for-time**  
89 **credits shall notify the sentencing court of the offender's accrual of work-for-time**  
90 **credits not less than sixty days before the date of final discharge, which includes the**  
91 **accrual of work-for-time credits up to the date of the notification.**

Section B. The repeal and reenactment of section 217.703 of Section A of this act and  
2 the enactment of section 217.704 of Section A of this act shall become effective on January 1,  
3 2023.