

FIRST REGULAR SESSION

HOUSE BILL NO. 420

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WRIGHT.

1156H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 217.035, 217.650, 217.670, 217.710, 217.720, 217.810, and 548.241, RSMo, and to enact in lieu thereof eight new sections relating to adult offender supervision.

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

Section A. Sections 217.035, 217.650, 217.670, 217.710, 217.720, 217.810, and 548.241, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 217.035, 217.650, 217.670, 217.710, 217.720, 548.241, 589.564, and 589.565, to read as follows:

217.035. The director shall have the authority to:

- 2 (1) Establish, with approval of the governor, the internal organization of the
3 department and file the plan thereof with the secretary of state in the manner in which
4 administrative rules are filed, the commissioner of administration and the revisor of statutes;
- 5 (2) Exclusively prepare the budgets of the department and each division within the
6 department in the form and manner set out by statute or by the commissioner of
7 administration;
- 8 (3) Designate by written order filed with the governor, the president pro tem of the
9 senate, and the chairman of the joint committee on corrections, a deputy director of the
10 department to act for and exercise the powers of the director during the director's absence for
11 official business, vacation, illness or incapacity. The deputy director shall serve as acting
12 director no longer than six months; however, after the deputy director has acted as director for
13 longer than thirty days the deputy director shall receive compensation equal to that of the
14 director;

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.

15 (4) Procure, either through the division of purchasing or by other means authorized
16 by law, supplies, material, equipment or contractual services for the department and each of
17 its divisions;

18 (5) Establish policy for the department and each of its divisions;

19 (6) Designate any responsibilities, duties and powers given by sections 217.010,
20 ~~[217.810,]~~ 558.011 and 558.026 to the department or the department director to any division
21 or division director.

217.650. As used in sections 217.650 to ~~[217.810]~~ **217.805**, unless the context clearly
2 indicates otherwise, the following terms mean:

3 (1) "Chairperson", chairperson of the parole board who shall be appointed by the
4 governor;

5 (2) "Diversionary program", a program designed to utilize alternatives to
6 incarceration undertaken under the supervision of the division of probation and parole after
7 commitment of an offense and prior to arraignment;

8 (3) "Parole", the release of an offender to the community by the court or the state
9 parole board prior to the expiration of his term, subject to conditions imposed by the court or
10 the parole board and to its supervision by the division of probation and parole;

11 (4) "Parole board", the state board of parole;

12 (5) "Prerelease program", a program relating to an offender's preparation for, or
13 orientation to, supervision by the division of probation and parole immediately prior to or
14 immediately after assignment of the offender to the division of probation and parole for
15 supervision;

16 (6) "Pretrial program", a program relating to the investigation or supervision of
17 persons referred or assigned to the division of probation and parole prior to their conviction;

18 (7) "Probation", a procedure under which a defendant found guilty of a crime upon
19 verdict or plea is released by the court without imprisonment, subject to conditions imposed
20 by the court and subject to the supervision of the division of probation and parole;

21 (8) "Recognizance program", a program relating to the release of an individual from
22 detention who is under arrest for an offense for which he or she may be released as provided
23 in section 544.455.

217.670. 1. The board shall adopt an official seal of which the courts shall take
2 official 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
7 the jurisdiction of the hearing panel and refer it to the full board for a decision. Within thirty

8 days of entry of the decision of the hearing panel to deny parole or to revoke a parole or
9 conditional release, the offender may appeal the decision of the hearing panel to the board.
10 The board shall consider the appeal within thirty days of receipt of the appeal. The decision
11 of the board shall be by majority vote of the board members and shall be final.

12 3. The orders of the board shall not be reviewable except as to compliance with the
13 terms of sections 217.650 to ~~[217.810]~~ **217.805** or any rules promulgated pursuant to such
14 section.

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

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

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

217.710. 1. Probation and parole officers, supervisors and members of the parole
2 board, who are certified pursuant to the requirements of subsection 2 of this section shall have
3 the authority to carry their firearms at all times. The department of corrections shall
4 promulgate policies and operating regulations which govern the use of firearms by probation
5 and parole officers, supervisors, and members of the parole board when carrying out the
6 provisions of sections 217.650 to ~~[217.810]~~ **217.805**. Mere possession of a firearm shall not
7 constitute an employment activity for the purpose of calculating compensatory time or
8 overtime.

9 2. The department shall determine the content of the required firearms safety training
10 and provide firearms certification and recertification training for probation and parole
11 officers, supervisors, and members of the parole board. A minimum of sixteen hours of
12 firearms safety training shall be required. In no event shall firearms certification or
13 recertification training for probation and parole officers and supervisors exceed the training
14 required for officers of the state highway patrol.

15 3. The department shall determine the type of firearm to be carried by the officers,
16 supervisors, and members of the parole board.

17 4. Any officer, supervisor, or member of the parole board ~~[that]~~ **who** chooses to carry
18 a firearm in the performance of such officer's, supervisor's, or member's duties shall purchase
19 the firearm and holster.

20 5. The department shall furnish such ammunition as is necessary for the performance
21 of the officer's, supervisor's, and member's duties.

22 6. Any rule or portion of a rule, as that term is defined in section 536.010, that is
23 promulgated under the authority of this chapter, shall become effective only if the agency has
24 fully complied with all of the requirements of chapter 536 including but not limited to, section
25 536.028, if applicable, after August 28, 1998. All rulemaking authority delegated prior to
26 August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however
27 nothing in section 571.030 or this section shall be interpreted to repeal or affect the validity of
28 any rule adopted and promulgated prior to August 28, 1998. If the provisions of section
29 536.028 apply, the provisions of this section are nonseverable and if any of the powers vested
30 with the general assembly pursuant to section 536.028 to review, to delay the effective date,
31 or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the
32 purported grant of rulemaking authority and any rule so proposed and contained in the order
33 of rulemaking shall be invalid and void, except that nothing in section 571.030 or this section
34 shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

217.720. 1. At any time during release on parole or conditional release the division of
2 probation and parole may issue a warrant for the arrest of a released offender for violation of
3 any of the conditions of parole or conditional release. The warrant shall authorize any law
4 enforcement officer to return the offender to the actual custody of the correctional center from
5 which the offender was released, or to any other suitable facility designated by the division.
6 If any parole or probation officer has probable cause to believe that such offender has violated
7 a condition of parole or conditional release, the probation or parole officer may issue a
8 warrant for the arrest of the offender. The probation or parole officer may effect the arrest or
9 may deputize any officer with the power of arrest to do so by giving the officer a copy of the
10 warrant which shall outline the circumstances of the alleged violation and contain the
11 statement that the offender has, in the judgment of the probation or parole officer, violated
12 conditions of parole or conditional release. The warrant delivered with the offender by the
13 arresting officer to the official in charge of any facility designated by the division to which the
14 offender is brought shall be sufficient legal authority for detaining the offender. After the
15 arrest the parole or probation officer shall present to the detaining authorities a similar
16 statement of the circumstances of violation. Pending hearing as hereinafter provided, upon
17 any charge of violation, the offender shall remain in custody or incarcerated without
18 consideration of bail.

19 2. If the offender is arrested under the authority granted in subsection 1 of this
20 section, the offender shall have the right to a preliminary hearing on the violation charged
21 unless the offender waives such hearing. Upon such arrest and detention, the parole or
22 probation officer shall immediately notify the board and shall submit in writing a report
23 showing in what manner the offender has violated the conditions of his parole or conditional
24 release. The board shall order the offender discharged from such facility, require as a
25 condition of parole or conditional release the placement of the offender in a treatment center
26 operated by the department of corrections, or shall cause the offender to be brought before it
27 for a hearing on the violation charged, under such rules and regulations as the board may
28 adopt. If the violation is established and found, the board may continue or revoke the parole
29 or conditional release, or enter such other order as it may see fit. If no violation is established
30 and found, then the parole or conditional release shall continue. If at any time during release
31 on parole or conditional release the offender is arrested for a crime which later leads to
32 conviction, and sentence is then served outside the Missouri department of corrections, the
33 board shall determine what part, if any, of the time from the date of arrest until completion of
34 the sentence imposed is counted as time served under the sentence from which the offender
35 was paroled or conditionally released.

36 3. An offender for whose return a warrant has been issued by the division shall, if it is
37 found that the warrant cannot be served, be deemed to be a fugitive from justice or to have
38 fled from justice. If it shall appear that the offender has violated the provisions and
39 conditions of his parole or conditional release, the board shall determine whether the time
40 from the issuing date of the warrant to the date of his arrest on the warrant, or continuance on
41 parole or conditional release shall be counted as time served under the sentence. In all other
42 cases, time served on parole or conditional release shall be counted as time served under the
43 sentence.

44 4. At any time during parole or probation, the division may issue a warrant for the
45 arrest of any person from another jurisdiction[~~], the visitation and supervision of whom the~~
46 ~~division has undertaken pursuant to the provisions of the interstate compact for the~~
47 ~~supervision of parolees and probationers authorized in section 217.810,] for violation of any
48 of the conditions of release[~~]~~] or a notice to appear to answer a charge of violation. The notice
49 shall be served personally upon the person. The warrant shall authorize any law enforcement
50 officer to return the offender to any suitable detention facility designated by the division. Any
51 parole or probation officer may arrest such person without a warrant, or may deputize any
52 other officer with power of arrest to do so by issuing a written statement setting forth that the
53 defendant has, in the judgment of the parole or probation officer, violated the conditions of
54 his release. The written statement delivered with the person by the arresting officer to the
55 official in charge of the detention facility to which the person is brought shall be sufficient~~

56 legal authority for detaining him. After making an arrest the parole or probation officer shall
57 present to the detaining authorities a similar statement of the circumstances of violation.

548.241. 1. All necessary and proper expenses accruing under section 548.221, upon
2 being ascertained to the satisfaction of the governor, shall be allowed on his certificate and
3 paid out of the state treasury as other demands against the state.

4 2. All necessary and proper expenses accruing as a result of a person being returned
5 to this state pursuant to the provisions of section 548.243 [~~or 217.810~~] shall be allowed and
6 paid out of the state treasury as if the person were being returned to this state pursuant to
7 section 548.221.

8 3. Any necessary and proper expenses accruing as a result of a person being
9 returned to this state under the provisions of chapter 589 may be paid either out of the
10 Missouri interstate compact fund established in chapter 589 or out of the state treasury.

**589.564. 1. Upon a petition from the state, a circuit court is authorized to add
2 any condition to a term of probation for an offender supervised in this state for a term
3 of probation ordered by another state, including shock incarceration; however, the
4 court shall not reduce, extend, or revoke such a term of probation. The circuit court for
5 the jurisdiction in which a probationer is under supervision shall serve as the
6 authorizing court for the purposes of this section. The prosecuting attorney or circuit
7 attorney for the jurisdiction in which a probationer is under supervision shall serve as
8 the authorized person to petition the court to add a condition of probation.
9 Notwithstanding any provision of section 549.500 or 559.125, the division of
10 probation and parole may submit violation reports to the prosecuting attorney or
11 circuit attorney with authority to petition the court to add a condition to a term of
12 probation under this section.**

13 2. If supervision of a parolee in Missouri is administered pursuant to this
14 compact, the division of probation and parole shall have the authority to impose a
15 sanction or additional conditions in response to written violations of supervision;
16 however, the division of probation and parole shall not reduce, extend, or revoke such a
17 term of parole.

**589.565. A Missouri probationer or parolee seeking transfer of their supervision
2 through this compact shall pay a fee in the amount of one hundred seventy-five dollars
3 for each transfer application submitted. The transfer application fee shall be paid to the
4 compact commissioner upon submission of the transfer application. The commissioner
5 or commissioner's designee may waive the application fee if either the commissioner or
6 the commissioner's designee finds that payment of the fee would constitute an undue
7 economic burden on the offender. All fees collected pursuant to this section shall be paid
8 and deposited to the credit of the "Missouri Interstate Compact Fund", which is hereby**

9 established in the state treasury. The state treasurer shall be custodian of the fund. In
 10 accordance with sections 30.170 and 30.180, the state treasurer may approve
 11 disbursements. The fund shall be a dedicated fund and, upon appropriation, moneys
 12 in the fund shall be used for the sole benefit of the department of corrections in support
 13 of administration of this section; expenses related to assessment, retaking, staff
 14 development, and training; and implementation of evidence-based practices in support
 15 of offenders under supervision. Notwithstanding the provisions of section 33.080 to the
 16 contrary, any moneys remaining in the fund at the end of the biennium shall not revert
 17 to the credit of the general revenue fund. The state treasurer shall invest moneys in the
 18 fund in the same manner as other funds are invested. Any interest and moneys earned
 19 on such investments shall be credited to the fund.

2 ~~[217.810. 1. The governor is hereby authorized and directed to enter~~
 3 ~~into the interstate compact for the supervision of parolees and probationers on~~
 4 ~~behalf of the state of Missouri with the commonwealth of Puerto Rico, the~~
 5 ~~Virgin Islands, the District of Columbia and any and all other states of the~~
 6 ~~United States legally joining therein and pursuant to the provisions of an act of~~
 7 ~~the Congress of the United States of America granting the consent of Congress~~
 8 ~~to the commonwealth of Puerto Rico, the Virgin Islands, the District of~~
 9 ~~Columbia and any two or more states to enter into agreements or compacts for~~
 10 ~~cooperative effort and mutual assistance in the prevention of crime and for~~
 11 ~~other purposes, which compact shall have as its objective the permitting of~~
 12 ~~persons placed on probation or released on parole to reside in any other state~~
 13 ~~signatory to the compact assuming the duties of visitation and supervision over~~
 14 ~~such probationers and parolees; permitting the extradition and transportation~~
 15 ~~without interference of prisoners, being retaken, through any and all states~~
 16 ~~signatory to the compact under such terms, conditions, rules and regulations,~~
 17 ~~and for such duration as in the opinion of the governor of this state shall be~~
 18 ~~necessary and proper and in a form substantially as contained in subsection 2~~
 19 ~~of this section. The chairman of the board shall administer the compact for the~~
 20 ~~state.~~

21 ~~2. INTERSTATE COMPACT FOR THE SUPERVISION OF~~
 22 ~~PAROLEES AND PROBATIONERS~~

23 ~~This compact shall be entered into by and among the contracting states,~~
 24 ~~signatories hereto, with the consent of the Congress of the United States of~~
 25 ~~America, granted by an act entitled "An act granting the consent of Congress~~
 26 ~~to any two or more states to enter into agreements or compacts for cooperative~~
 27 ~~effort and mutual assistance in the prevention of crime and for other purposes."~~

28 ~~The contracting states solemnly agree:~~

29 ~~(1) That it shall be competent for the duly constituted judicial and~~
 30 ~~administrative authorities of a state party to this compact (herein called~~
 31 ~~"sending state") to permit any person convicted of an offense within such state~~
 32 ~~and placed on probation or released on parole to reside in any other state party~~
 33 ~~to this compact (herein called "receiving state"), while on probation or parole,~~
 if

34 ~~(a) Such a person is in fact a resident of or has his family residing~~
35 ~~within the receiving state and can obtain employment there;~~

36 ~~(b) Though not a resident of the receiving state and not having his~~
37 ~~family residing there, the receiving state consents to such person being sent~~
38 ~~there.~~

39 ~~Before granting such permission, opportunity shall be granted to the~~
40 ~~receiving state to investigate the home and prospective employment of such~~
41 ~~person.~~

42 ~~A resident of the receiving state, within the meaning of this section, is~~
43 ~~one who has been an actual inhabitant of such state continuously for more than~~
44 ~~one year prior to his coming to the sending state and has not resided within the~~
45 ~~sending state more than six continuous months immediately preceding the~~
46 ~~commission of the offense for which he has been convicted.~~

47 ~~(2) The receiving state shall assume the duties of visitation and~~
48 ~~supervision over probationers or parolees of any sending state transferred~~
49 ~~under the compact and will apply the same standards of supervision that~~
50 ~~prevail for its own probationers and parolees.~~

51 ~~(3) That duly accredited officers of a sending state may at all times~~
52 ~~enter a receiving state and there apprehend and retake any person on probation~~
53 ~~or parole. For that purpose no formalities will be required other than~~
54 ~~establishing the authority of the officer and the identity of the person to be~~
55 ~~retaken. All legal requirements to obtain extradition of fugitives from justice~~
56 ~~are hereby expressly waived on the part of states party hereto, as to such~~
57 ~~persons. The decision of the sending state to retake a person on probation or~~
58 ~~parole shall be conclusive upon and not reviewable within the receiving state.~~
59 ~~Provided, however, that if at the time when a state seeks to retake a~~
60 ~~probationer or parolee there should be pending against him within the~~
61 ~~receiving state any criminal charge, or he should be suspected of having~~
62 ~~committed within such state a criminal offense, he shall not be retaken without~~
63 ~~the consent of the receiving state until discharged from prosecution or from~~
64 ~~imprisonment for such offense.~~

65 ~~(4) That the duly accredited officers of the sending state will be~~
66 ~~permitted to transport prisoners being retaken through any and all states parties~~
67 ~~to this compact, without interference.~~

68 ~~(5) Each state may designate an officer who, acting jointly with like~~
69 ~~officers of other contracting states shall promulgate such rules and regulations~~
70 ~~as may be deemed necessary to more effectively carry out the terms of this~~
71 ~~compact.~~

72 ~~(6) That this compact shall become operative immediately upon its~~
73 ~~execution by any state as between it and any other state or states so executing.~~
74 ~~When executed it shall have the full force and effect of law within such state,~~
75 ~~the form of execution to be in accordance with the laws of the executing state.~~

76 ~~(7) That this compact shall continue in force and remain binding upon~~
77 ~~each executing state until renounced by it. The duties and obligations~~
78 ~~hereunder of a renouncing state shall continue as to parolees or probationers~~
79 ~~residing therein at the time of withdrawal until retaken or finally discharged by~~
80 ~~the sending state. Renunciation of this compact shall be by the same authority~~

81 ~~which executed it, by sending six months' notice in writing of its intention to~~
82 ~~withdraw from the compact to the other states party hereto.~~

83 ~~3. If any section, sentence, subdivision or clause within subsection 2 of~~
84 ~~this section is for any reason held invalid or to be unconstitutional, such~~
85 ~~decision shall not affect the validity of the remaining provisions of that~~
86 ~~subsection or this section.~~

87 ~~4. All necessary and proper expenses accruing as a result of a person~~
88 ~~being returned to this state by order of a court or the parole board shall be paid~~
89 ~~by the state as provided in section 548.241 or 548.243.]~~

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