

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 196, Page 1, Section A, Line 2, by inserting after all of said section and
2 line the following:

3
4 "217.147. 1. There is hereby created the "Sentencing and Corrections Oversight
5 Commission". The commission shall be composed of thirteen members as follows:

6 (1) A circuit court judge to be appointed by the chief justice of the Missouri supreme court;

7 (2) Three members to be appointed by the governor with the advice and consent of the
8 senate, one of whom shall be a victim's advocate, one of whom shall be a representative from the
9 Missouri Sheriffs' Association, and one of whom shall be a representative of the Missouri
10 Association of Counties;

11 (3) The following shall be ex officio, voting members:

12 (a) The chair of the senate judiciary committee, or any successor committee that reviews
13 legislation involving crime and criminal procedure, who shall serve as co-chair of the commission
14 and the ranking minority member of such senate committee;

15 (b) The chair of the appropriations-public safety and corrections committee of the house of
16 representatives, or any successor committee that reviews similar legislation, who shall serve as co-
17 chair and the ranking minority member of such house committee;

18 (c) The director of the Missouri state public defender system, or his or her designee who is a
19 practicing public defender;

20 (d) The executive director of the Missouri office of prosecution services, or his or her
21 designee who is a practicing prosecutor;

22 (e) The director of the department of corrections, or his or her designee;

23 (f) The chairman of the board of probation and parole, or his or her designee;

24 (g) The chief justice of the Missouri supreme court, or his or her designee.

25 2. Beginning with the appointments made after August 28, 2012, the circuit court judge
26 member shall be appointed for four years, two of the members appointed by the governor shall be
27 appointed for three years, and one member appointed by the governor shall be appointed for two
28 years. Thereafter, the members shall be appointed to serve four-year terms and shall serve until a
29 successor is appointed. A vacancy in the office of a member shall be filled by appointment for the
30 remainder of the unexpired term.

Action Taken _____ Date _____

1 3. The co-chairs are responsible for establishing and enforcing attendance and voting rules,
2 bylaws, and the frequency, location, and time of meetings, and distributing meeting notices, except
3 that the commission's first meeting shall occur by February 28, 2013, and the commission shall meet
4 at least twice each calendar year.

5 4. The duties of the commission shall include:

6 (1) Monitoring and assisting the implementation of [~~sections 217.703,~~ section 217.718],
7 and subsection 4 of section 559.036, and evaluating recidivism reductions, cost savings, and other
8 effects resulting from the implementation;

9 (2) Determining ways to reinvest any cost savings to pay for the continued implementation
10 of the sections listed in subdivision (1) of this subsection and other evidence-based practices for
11 reducing recidivism; and

12 (3) Examining the issue of restitution for crime victims, including the amount ordered and
13 collected annually, methods and costs of collection, and restitution's order of priority in official
14 procedures and documents.

15 5. The department, board, and office of state courts administrator shall collect and report
16 any data requested by the commission in a timely fashion.

17 6. The commission shall issue a report to the speaker of the house of representatives, senate
18 president pro tempore, chief justice of the Missouri supreme court, and governor on December 31,
19 2013, and annually thereafter, detailing the effects of the sections listed in subdivision (1) of
20 subsection 4 of this section and providing the data and analysis demonstrating those effects. The
21 report may also recommend ways to reinvest any cost savings into evidence-based practices to
22 reduce recidivism and possible changes to sentencing and corrections policies and statutes.

23 7. The department of corrections shall provide administrative support to the commission to
24 carry out the duties of this section.

25 8. No member shall receive any compensation for the performance of official duties, but the
26 members who are not otherwise reimbursed by their agency shall be reimbursed for travel and other
27 expenses actually and necessarily incurred in the performance of their duties.

28 9. The provisions of this section shall automatically expire on August 28, 2018.

29 559.016. 1. Unless terminated as provided in section 559.036 [~~or modified under section~~
30 ~~217.703~~], the terms during which each probation shall remain conditional and be subject to
31 revocation are:

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

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

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

35 2. The court shall designate a specific term of probation at the time of sentencing or at the
36 time of suspension of imposition of sentence. [~~Such term may be modified by the division of~~
37 ~~probation and parole under section 217.703.~~]

38 3. The court may extend a period of probation, however, no more than one extension of any
39 probation may be ordered except that the court may extend the total time on probation by one

1 additional year by order of the court if the defendant admits he or she has violated the conditions of
2 his or her probation or is found by the court to have violated the conditions of his or her probation.
3 Total time on any probation term, including any extension, shall not exceed the maximum term as
4 established in subsection 1 of this section plus one additional year if the defendant admits or the
5 court finds that the defendant has violated the conditions of his or her probation.

6 559.036. 1. A term of probation commences on the day it is imposed. Multiple terms of
7 Missouri probation, whether imposed at the same time or at different times, shall run concurrently.
8 Terms of probation shall also run concurrently with any federal or other state jail, prison, probation
9 or parole term for another offense to which the defendant is or becomes subject during the period.

10 2. (1) The court may terminate a period of probation and discharge the defendant at any
11 time before completion of the specific term fixed under section 559.016 if warranted by the conduct
12 of the defendant and the ends of justice. The court may extend the term of the probation, but no
13 more than one extension of any probation may be ordered except that the court may extend the term
14 of probation by one additional year by order of the court if the defendant admits he or she has
15 violated the conditions of probation or is found by the court to have violated the conditions of his or
16 her probation. Total time on any probation term, including any extension shall not exceed the
17 maximum term established in section 559.016. Total time on any probation term shall not include
18 time when the probation term is suspended under this section. Procedures for termination, discharge
19 and extension may be established by rule of court.

20 (2) The division of probation and parole shall file a notification of earned discharge from
21 probation with the court for any defendant who has completed at least twenty-four months of the
22 probation term and is compliant as determined by the policies of the division of probation and
23 parole with the terms of supervision as ordered by the court and division. The division shall not file
24 a notification of earned discharge for any defendant who has not paid ordered restitution in full, is
25 on a term of probation for any class A or class B felony, or is subject to lifetime supervision under
26 sections 217.735 and 559.106. The division shall notify the prosecuting or circuit attorney when a
27 notification of earned discharge is filed.

28 (3) The prosecuting or circuit attorney may request a hearing within thirty days of the filing
29 of the notification of earned discharge from probation. If the state opposes the discharge of the
30 defendant, the prosecuting or circuit attorney shall argue the earned discharge is not appropriate and
31 the offender should continue to serve the probation term.

32 (4) If a hearing is requested, the court shall hold the hearing and issue its order no later than
33 sixty days after the filing of the notification of earned discharge from probation. If, after a hearing,
34 the court finds by a preponderance of the evidence that the earned discharge is not appropriate, the
35 court shall order the probation term continue, may modify the conditions of probation as
36 appropriate, and may order the continued supervision of the defendant by either the division of
37 probation and parole or the court. If, after a hearing, the court finds that the earned discharge is
38 appropriate, the court shall order the defendant discharged from probation.

1 (5) If the prosecuting or circuit attorney does not request a hearing, and the court does not
2 otherwise order a hearing, the court shall order the defendant discharged from probation within sixty
3 days of the filing of the notification of earned discharge from probation but no earlier than thirty
4 days from the filing of notification of earned discharge from probation.

5 3. If the defendant violates a condition of probation at any time prior to the expiration or
6 termination of the probation term, the court may continue him or her on the existing conditions, with
7 or without modifying or enlarging the conditions or extending the term.

8 4. (1) Unless the defendant consents to the revocation of probation, if a continuation,
9 modification, enlargement or extension is not appropriate under this section, the court shall order
10 placement of the offender in a department of corrections' one hundred twenty-day program so long
11 as:

12 (a) The underlying offense for the probation is a class D or E felony or an offense listed in
13 chapter 579 or an offense previously listed in chapter 195; except that, the court may, upon its own
14 motion or a motion of the prosecuting or circuit attorney, make a finding that an offender is not
15 eligible if the underlying offense is involuntary manslaughter in the second degree, stalking in the
16 first degree, assault in the second degree, sexual assault, rape in the second degree, domestic assault
17 in the second degree, assault in the third degree when the victim is a special victim, statutory rape in
18 the second degree, statutory sodomy in the second degree, deviate sexual assault, sodomy in the
19 second degree, sexual misconduct involving a child, incest, endangering the welfare of a child in the
20 first degree under subdivision (1) or (2) of subsection 1 of section 568.045, abuse of a child,
21 invasion of privacy, any case in which the defendant is found guilty of a felony offense under
22 chapter 571, or an offense of aggravated stalking or assault of a law enforcement officer in the
23 second degree as such offenses existed prior to January 1, 2017;

24 (b) The probation violation is not the result of the defendant being an absconder or being
25 found guilty of, pleading guilty to, or being arrested on suspicion of any felony, misdemeanor, or
26 infraction. For purposes of this subsection, "absconder" shall mean an offender under supervision
27 who has left such offender's place of residency without the permission of the offender's supervising
28 officer for the purpose of avoiding supervision;

29 (c) The defendant has not violated any conditions of probation involving the possession or
30 use of weapons, or a stay-away condition prohibiting the defendant from contacting a certain
31 individual; and

32 (d) The defendant has not already been placed in one of the programs by the court for the
33 same underlying offense or during the same probation term.

34 (2) Upon receiving the order, the department of corrections shall conduct an assessment of
35 the offender and place such offender in either the one hundred twenty-day structured cognitive
36 behavioral intervention program or the one hundred twenty-day institutional treatment program.
37 The placement of the offender in the structured cognitive behavioral intervention program or
38 institutional treatment program shall be at the sole discretion of the department based on the
39 assessment of the offender. The program shall begin upon receipt of the offender by the department.

1 The time between the court's order and receipt of the offender by the department shall not apply
2 toward the program.

3 (3) Upon successful completion of a program under this subsection, as determined by the
4 department, the division of probation and parole shall advise the sentencing court of the defendant's
5 probationary release date thirty days prior to release. Once the defendant has successfully
6 completed a program under this subsection, the court shall release the defendant to continue to serve
7 the term of probation, which shall not be modified, enlarged, or extended based on the same incident
8 of violation.

9 (4) If the department determines the defendant has not successfully completed a one
10 hundred twenty-day program under this section, the division of probation and parole shall advise the
11 prosecuting attorney and the sentencing court of the defendant's unsuccessful program exit and the
12 defendant shall be removed from the program. The defendant shall be released from the department
13 within fifteen working days after the court is notified of the unsuccessful program exit, unless the
14 court has issued a warrant in response to the unsuccessful program exit to facilitate the return of the
15 defendant to the county of jurisdiction for further court proceedings. If a defendant is discharged as
16 unsuccessful from a one hundred twenty-day program, the sentencing court may modify, enlarge, or
17 revoke the defendant's probation based on the same incident of the violation.

18 (5) Time served in the program shall be credited as time served on any sentence imposed for
19 the underlying offense.

20 5. If the defendant consents to the revocation of probation or if the defendant is not eligible
21 under subsection 4 of this section for placement in a program and a continuation, modification,
22 enlargement, or extension of the term under this section is not appropriate, the court may revoke
23 probation and order that any sentence previously imposed be executed. If imposition of sentence
24 was suspended, the court may revoke probation and impose any sentence available under section
25 557.011. The court may mitigate any sentence of imprisonment by reducing the prison or jail term
26 by all or part of the time the defendant was on probation. The court may, upon revocation of
27 probation, place an offender on a second term of probation. Such probation shall be for a term of
28 probation as provided by section 559.016, notwithstanding any amount of time served by the
29 offender on the first term of probation.

30 6. Probation shall not be revoked without giving the probationer notice and an opportunity
31 to be heard on the issues of whether such probationer violated a condition of probation and, if a
32 condition was violated, whether revocation is warranted under all the circumstances. Not less than
33 five business days prior to the date set for a hearing on the violation, except for a good cause shown,
34 the judge shall inform the probationer that he or she may have the right to request the appointment
35 of counsel if the probationer is unable to retain counsel. If the probationer requests counsel, the
36 judge shall determine whether counsel is necessary to protect the probationer's due process rights. If
37 the judge determines that counsel is not necessary, the judge shall state the grounds for the decision
38 in the record.

1 7. The prosecuting or circuit attorney may file a motion to revoke probation or at any time
 2 during the term of probation, the court may issue a notice to the probationer to appear to answer a
 3 charge of a violation, and the court may issue a warrant of arrest for the violation. Such notice shall
 4 be personally served upon the probationer. The warrant shall authorize the return of the probationer
 5 to the custody of the court or to any suitable detention facility designated by the court. Upon the
 6 filing of the prosecutor's or circuit attorney's motion or on the court's own motion, the court may
 7 immediately enter an order suspending the period of probation and may order a warrant for the
 8 defendant's arrest. The probation shall remain suspended until the court rules on the prosecutor's or
 9 circuit attorney's motion, or until the court otherwise orders the probation reinstated.

10 Notwithstanding any other provision of the law to the contrary, the probation term shall be tolled
 11 during the time period when the probation is suspended under this section. The court may grant the
 12 probationer credit on the probation term for any of the tolled period when reinstating the probation
 13 term.

14 8. The power of the court to revoke probation shall extend for the duration of the term of
 15 probation designated by the court and for any further period which is reasonably necessary for the
 16 adjudication of matters arising before its expiration, provided that some affirmative manifestation of
 17 an intent to conduct a revocation hearing occurs prior to the expiration of the period and that every
 18 reasonable effort is made to notify the probationer and to conduct the hearing prior to the expiration
 19 of the period. If the delay of the hearing is attributable to the probationer's actions or the
 20 probationer otherwise consents or acquiesces to the delay, the court shall have been found to have
 21 made every reasonable effort to conduct the hearing within the probation term.

22 9. A defendant who was sentenced prior to January 1, 2017 to an offense that was eligible at
 23 the time of sentencing under paragraph (a) of subdivision (1) of subsection 4 of this section for the
 24 court ordered detention sanction shall continue to remain eligible for the sanction so long as the
 25 defendant meets all the other requirements provided under subsection 4 of this section."; and
 26

27 Further amend said bill, Page 5, Section 595.209, Line 146, by inserting after all of said section and
 28 line the following:
 29

30 "~~217.703. 1. The division of probation and parole shall award earned~~
 31 ~~compliance credits to any offender who is:~~

32 ~~(1) Not subject to lifetime supervision under sections 217.735 and 559.106~~
 33 ~~or otherwise found to be ineligible to earn credits by a court pursuant to subsection~~
 34 ~~2 of this section;~~

35 ~~(2) On probation, parole, or conditional release for an offense listed in~~
 36 ~~chapter 579, or an offense previously listed in chapter 195, or for a class D or E~~
 37 ~~felony, excluding sections 565.225, 565.252, 566.031, 566.061, 566.083, 566.093,~~
 38 ~~568.020, 568.060, offenses defined as sexual assault under section 589.015,~~
 39 ~~deviate sexual assault, assault in the second degree under subdivision (2) of~~
 40 ~~subsection 1 of section 565.052, endangering the welfare of a child in the first~~
 41 ~~degree under subdivision (2) of subsection 1 of section 568.045, and any offense~~

1 of aggravated stalking or assault in the second degree under subdivision (2) of
 2 subsection 1 of section 565.060 as such offenses existed prior to January 1, 2017;

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

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

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

8 (1) Involuntary manslaughter in the second degree;

9 (2) Assault in the second degree except under subdivision (2) of
 10 subsection 1 of section 565.052 or section 565.060 as it existed prior to January 1,
 11 2017;

12 (3) Domestic assault in the second degree;

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

16 (5) Statutory rape in the second degree;

17 (6) Statutory sodomy in the second degree;

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

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

22
 23 the sentencing court may, upon its own motion or a motion of the prosecuting or
 24 circuit attorney, make a finding that the offender is ineligible to earn compliance
 25 credits because the nature and circumstances of the offense or the history and
 26 character of the offender indicate that a longer term of probation, parole, or
 27 conditional release is necessary for the protection of the public or the guidance of
 28 the offender. The motion may be made any time prior to the first month in which
 29 the person may earn compliance credits under this section or at a hearing under
 30 subsection 5 of this section. The offender's ability to earn credits shall be
 31 suspended until the court or board makes its finding. If the court or board finds
 32 that the offender is eligible for earned compliance credits, the credits shall begin to
 33 accrue on the first day of the next calendar month following the issuance of the
 34 decision.

35 3. Earned compliance credits shall reduce the term of probation, parole, or
 36 conditional release by thirty days for each full calendar month of compliance with
 37 the terms of supervision. Credits shall begin to accrue for eligible offenders after
 38 the first full calendar month of supervision or on October 1, 2012, if the offender
 39 began a term of probation, parole, or conditional release before September 1,
 40 2012.

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

45 5. Credits shall not accrue during any calendar month in which a violation
 46 report, which may include a report of absconder status, has been submitted, the
 47 offender is in custody, or a motion to revoke or motion to suspend has been filed,
 48 and shall be suspended pending the outcome of a hearing, if a hearing is held. If

1 no hearing is held, or if a hearing is held and the offender is continued under
 2 supervision, or the court or board finds that the violation did not occur, then the
 3 offender shall be deemed to be in compliance and shall begin earning credits on
 4 the first day of the next calendar month following the month in which the report
 5 was submitted or the motion was filed. If a hearing is held, all earned credits shall
 6 be rescinded if:

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

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

13
 14 Earned credits, if not rescinded, shall continue to be suspended for a period of time
 15 during which the court or board has suspended the term of probation, parole, or
 16 release, and shall begin to accrue on the first day of the next calendar month
 17 following the lifting of the suspension.

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

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

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

35 9. At least twice a year, the division shall calculate the number of months
 36 the offender has remaining on his or her term of probation, parole, or conditional
 37 release, taking into consideration any earned compliance credits, and notify the
 38 offender of the length of the remaining term.

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

45 11. Any offender who was sentenced prior to January 1, 2017, to an
 46 offense that was eligible for earned compliance credits under subsection 1 or 2 of
 47 this section at the time of sentencing shall continue to remain eligible for earned

1 compliance credits so long as the offender meets all the other requirements
2 provided under this section.

3 ~~12. The application of earned compliance credits shall be suspended upon~~
4 ~~entry into a treatment court, as described in sections 478.001 to 478.009, and shall~~
5 ~~remain suspended until the offender is discharged from such treatment court.~~
6 ~~Upon successful completion of treatment court, all earned compliance credits~~
7 ~~accumulated during the suspension period shall be retroactively applied, so long as~~
8 ~~the other terms and conditions of probation have been successfully completed.]"~~;
9 and

10
11 Further amend said bill by amending the title, enacting clause, and intersectional references
12 accordingly.