

HOUSE _____ **AMENDMENT NO.** _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 1515, Page 4, Section 513.653, Line 18,
2 by inserting after all of said line the following:

3 “558.019. 1. This section shall not be construed to affect the powers of the governor
4 under article IV, section 7, of the Missouri Constitution. This statute shall not affect those
5 provisions of section 565.020, section 558.018 or section 571.015, which set minimum terms of
6 sentences, or the provisions of section 559.115, relating to probation.

7 2. The provisions of subsections 2 to 5 of this section shall be applicable to all classes of
8 felonies except those set forth in chapter 195, and those otherwise excluded in subsection 1 of this
9 section. For the purposes of this section, "prison commitment" means and is the receipt by the
10 department of corrections of an offender after sentencing. For purposes of this section, prior
11 prison commitments to the department of corrections shall not include commitment to a
12 regimented discipline program established pursuant to section 217.378. Other provisions of the
13 law to the contrary notwithstanding, any offender who has pleaded guilty to or has been found
14 guilty of a felony other than a dangerous felony as defined in section 556.061 and is committed to
15 the department of corrections shall be required to serve the following minimum prison terms:

16 (1) If the offender has one previous prison commitment to the department of corrections
17 for a felony offense, the minimum prison term which the offender must serve shall be forty
18 percent of his or her sentence or until the offender attains seventy years of age, and has served at
19 least thirty percent of the sentence imposed, whichever occurs first;

20 (2) If the offender has two previous prison commitments to the department of corrections
21 for felonies unrelated to the present offense, the minimum prison term which the offender must

1 serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age,
2 and has served at least forty percent of the sentence imposed, whichever occurs first;

3 (3) If the offender has three or more previous prison commitments to the department of
4 corrections for felonies unrelated to the present offense, the minimum prison term which the
5 offender must serve shall be eighty percent of his or her sentence or until the offender attains
6 seventy years of age, and has served at least forty percent of the sentence imposed, whichever
7 occurs first.

8 3. Other provisions of the law to the contrary notwithstanding, any offender who has
9 pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061 and
10 is committed to the department of corrections shall be required to serve a minimum prison term of
11 eighty-five percent of the sentence imposed by the court or until the offender attains seventy years
12 of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

13 4. For the purpose of determining the minimum prison term to be served, the following
14 calculations shall apply:

15 (1) A sentence of life shall be calculated to be thirty years;

16 (2) Any sentence either alone or in the aggregate with other consecutive sentences for
17 crimes committed at or near the same time which is over seventy-five years shall be calculated to
18 be seventy-five years.

19 5. For purposes of this section, the term "minimum prison term" shall mean time required
20 to be served by the offender before he or she is eligible for parole, conditional release or other
21 early release by the department of corrections.

22 6. (1) A sentencing advisory commission is hereby created to consist of eleven members.
23 One member shall be appointed by the speaker of the house. One member shall be appointed by
24 the president pro tem of the senate. One member shall be the director of the department of
25 corrections. Six members shall be appointed by and serve at the pleasure of the governor from
26 among the following: the public defender commission; private citizens; a private member of the

1 Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be
2 appointed by the supreme court, one from a metropolitan area and one from a rural area. All
3 members shall be appointed to a four-year term. All members of the sentencing commission
4 appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory
5 commission at the pleasure of the governor.

6 (2) The commission shall study sentencing practices in the circuit courts throughout the
7 state for the purpose of determining whether and to what extent disparities exist among the
8 various circuit courts with respect to the length of sentences imposed and the use of probation for
9 offenders convicted of the same or similar crimes and with similar criminal histories. The
10 commission shall also study and examine whether and to what extent sentencing disparity among
11 economic and social classes exists in relation to the sentence of death and if so, the reasons
12 therefor sentences are comparable to other states, if the length of the sentence is appropriate, and
13 the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw
14 conclusions, and perform other duties relevant to the research and investigation of disparities in
15 death penalty sentencing among economic and social classes.

16 (3) [The commission shall establish a system of recommended sentences, within the
17 statutory minimum and maximum sentences provided by law for each felony committed under the
18 laws of this state. This system of recommended sentences shall be distributed to all sentencing
19 courts within the state of Missouri. The recommended sentence for each crime shall take into
20 account, but not be limited to, the following factors:

- 21 (a) The nature and severity of each offense;
- 22 (b) The record of prior offenses by the offender;
- 23 (c) The data gathered by the commission showing the duration and nature of sentences
24 imposed for each crime; and
- 25 (d) The resources of the department of corrections and other authorities to carry out the
26 punishments that are imposed.

1 (4)] The commission shall study alternative sentences, prison work programs, work
2 release, home-based incarceration, probation and parole options, and any other programs and
3 report the feasibility of these options in Missouri.

4 [(5) The commission shall publish and distribute its recommendations on or before July 1,
5 2004. The commission shall study the implementation and use of the recommendations until July
6 1, 2005, and return a report to the governor, the speaker of the house of representatives, and the
7 president pro tem of the senate. Following the July 1, 2005, report, the commission shall revise
8 the recommended sentences every two years.

9 (6)] (4) The governor shall select a chairperson who shall call meetings of the commission
10 as required or permitted pursuant to the purpose of the sentencing commission.

11 [(7)] (5) The members of the commission shall not receive compensation for their duties
12 on the commission, but shall be reimbursed for actual and necessary expenses incurred in the
13 performance of these duties and for which they are not reimbursed by reason of their other paid
14 positions.

15 [(8)] (6) The circuit and associate circuit courts of this state, the office of the state courts
16 administrator, the department of public safety, and the department of corrections shall cooperate
17 with the commission by providing information or access to information needed by the
18 commission. The office of the state courts administrator will provide needed staffing resources.

19 7. Courts shall retain discretion to lower or exceed the sentence recommended by the
20 commission as otherwise allowable by law, and to order restorative justice methods, when
21 applicable.

22 8. If the imposition or execution of a sentence is suspended, the court may order any or all
23 of the following restorative justice methods, or any other method that the court finds just or
24 appropriate:

25 (1) Restitution to any victim or a statutorily created fund for costs incurred as a result of
26 the offender's actions;

- 1 (2) Offender treatment programs;
- 2 (3) Mandatory community service;
- 3 (4) Work release programs in local facilities; and
- 4 (5) Community-based residential and nonresidential programs.

5 9. The provisions of this section shall apply only to offenses occurring on or after August
6 28, 2003.

7 10. Pursuant to subdivision (1) of subsection 8 of this section, the court may order the
8 assessment and payment of a designated amount of restitution to a county law enforcement
9 restitution fund established by the county commission pursuant to section 50.565. Such
10 contribution shall not exceed three hundred dollars for any charged offense. Any restitution
11 moneys deposited into the county law enforcement restitution fund pursuant to this section shall
12 only be expended pursuant to the provisions of section 50.565.

13 11. A judge may order payment to a restitution fund only if such fund had been created by
14 ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not
15 have any direct supervisory authority or administrative control over any fund to which the judge is
16 ordering a defendant to make payment.

17 12. A defendant who fails to make a payment to a county law enforcement restitution fund
18 may not have his or her probation revoked solely for failing to make such payment unless the
19 judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence
20 that the defendant either willfully refused to make the payment or that the defendant willfully,
21 intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources
22 to pay.

23 13. Nothing in this section shall be construed to allow the sentencing advisory
24 commission to issue recommended sentences in specific cases pending in the courts of this state.”;

25 and

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