

SECOND REGULAR SESSION

HOUSE BILL NO. 1386

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DIXON (Sponsor), BOUGH, JOLLY, WOOD, SCHNEIDER, LEMBKE, WILDBERGER, WITTE, WILSON (130), RUESTMAN, VIEBROCK, SUTHERLAND, DEMPSEY, YATES, LUETKEMEYER, PARKER, ICET, WRIGHT, MORRIS, ROARK, THRELKELD, MARSH, MAYER, NIEVES, BRUNS, BURNETT, DUSENBERG, KELLY (36), KELLY (144), SANDER, ST. ONGE, SWINGER, BIVINS AND MUCKLER (Co-sponsors).

Read 1st time February 4, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4071L.011

AN ACT

To repeal section 558.018, RSMo, and to enact in lieu thereof one new section relating to prior, persistent, and predatory sexual offenders, with penalty provisions.

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

Section A. Section 558.018, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 558.018, to read as follows:

558.018. 1. The court shall sentence a person who has pleaded **guilty or nolo contendere** to or has been found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes designated in this subsection to an extended term of imprisonment if it finds the defendant is a [persistent] **prior** sexual offender.

2. A "[persistent] **prior** sexual offender" is one who has previously pleaded **guilty or nolo contendere** to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes designated in this subsection.

3. The term of imprisonment for one found to be a [persistent] **prior** sexual offender shall be not less than thirty years, which term shall be served without probation or parole.

4. The court shall sentence a person who has pleaded **guilty or nolo contendere** to or has been found guilty of the felony of forcible rape, statutory rape in the first degree, forcible

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

14 sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding
15 crimes or child molestation in the first degree when classified as a class B felony or sexual abuse
16 when classified as a class B felony to an extended term of imprisonment as provided for in this
17 section if it finds the defendant is a [predatory] **persistent** sexual offender.

18 5. For purposes of this section, a "[predatory] **persistent** sexual offender" is a person
19 who:

20 (1) Has previously pleaded guilty **or nolo contendere** to or has been found guilty of the
21 felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory
22 sodomy in the first degree, or an attempt to commit any of the preceding crimes or child
23 molestation in the first degree when classified as a class B felony or sexual abuse when classified
24 as a class B felony; or

25 (2) Has previously committed an act which would constitute an offense listed in
26 subsection 4 of this section, whether or not the act resulted in a conviction; or

27 (3) Has committed an act or acts against more than one victim which would constitute
28 an offense or offenses listed in subsection 4 of this section, whether or not the defendant was
29 charged with an additional offense or offenses as a result of such act or acts.

30 6. A person found to be a [predatory] **persistent** sexual offender shall be imprisoned for
31 life with eligibility for parole, however subsection 4 of section 558.019 shall not apply to persons
32 found to be [predatory] **persistent** sexual offenders for the purposes of determining the minimum
33 prison term or the length of sentence as defined or used in such subsection. Notwithstanding any
34 other provision of law, in no event shall a person found to be a [predatory] **persistent** sexual
35 offender receive a final discharge from parole.

36 7. Notwithstanding any other provision of law, the court shall set the minimum time
37 required to be served before a [predatory] **persistent** sexual offender is eligible for parole,
38 conditional release or other early release by the department of corrections. The minimum time
39 to be served by a person found to be a [predatory] **persistent** sexual offender who:

40 (1) Has previously pleaded guilty **or nolo contendere** to or has been found guilty of the
41 felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory
42 sodomy in the first degree, or an attempt to commit any of the preceding crimes and pleads guilty
43 **or nolo contendere** to or is found guilty of the felony of forcible rape, statutory rape in the first
44 degree, forcible sodomy, statutory sodomy in the first degree or an attempt to commit any of the
45 preceding crimes shall be any number of years but not less than thirty years;

46 (2) Has previously pleaded guilty **or nolo contendere** to or has been found guilty of
47 child molestation in the first degree when classified as a class B felony or sexual abuse when
48 classified as a class B felony and pleads guilty **or nolo contendere** to or is found guilty of
49 attempting to commit or committing forcible rape, statutory rape in the first degree, forcible

50 sodomy or statutory sodomy in the first degree shall be any number of years but not less than
51 fifteen years;

52 (3) Has previously pleaded guilty **or nolo contendere** to or has been found guilty of the
53 felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory
54 sodomy in the first degree, or an attempt to commit any of the preceding crimes and pleads guilty
55 **or nolo contendere** to or is found guilty of child molestation in the first degree when classified
56 as a class B felony or sexual abuse when classified as a class B felony shall be any number of
57 years but not less than fifteen years;

58 (4) Has previously pleaded guilty **or nolo contendere** to or has been found guilty of
59 child molestation in the first degree when classified as a class B felony or sexual abuse when
60 classified as a class B felony, and pleads guilty **or nolo contendere** to or is found guilty of child
61 molestation in the first degree when classified as a class B felony or sexual abuse when classified
62 as a class B felony shall be any number of years but not less than fifteen years;

63 (5) Is found to be a [predatory] **persistent** sexual offender pursuant to subdivision (2)
64 or (3) of subsection 5 of this section shall be any number of years within the range to which the
65 person could have been sentenced pursuant to the applicable law if the person was not found to
66 be a [predatory] **persistent** sexual offender.

67 **8. The court shall sentence a person to an extended term of imprisonment if it finds**
68 **that such person is a predatory sexual offender and such person pleads guilty or nolo**
69 **contendere to or is found guilty of any of the following offenses when classified as felonies**
70 **or an attempt to commit any of those same felony offenses:**

71 (1) Any felony offense of chapter 566, RSMo;

72 (2) Promoting prostitution in the first degree, promoting prostitution in the second
73 degree, promoting prostitution in the third degree, pursuant to chapter 567, RSMo;

74 (3) Incest, endangering the welfare of a child pursuant to subdivision (2) of
75 subsection 1 of section 568.045, RSMo, abuse of a child pursuant to subdivision (2) of
76 subsection 1 of section 568.060, RSMo, genital mutilation, use of a child in a sexual
77 performance, promoting a sexual performance, pursuant to chapter 568, RSMo; or

78 (4) Promoting obscenity in the first degree, sexual exploitation of a minor,
79 promoting child pornography in the first degree, promoting pornography for minors or
80 obscenity in the second degree, promoting child pornography in the second degree,
81 possession of child pornography, furnishing pornographic material to minors, public
82 display of explicit sexual material, coercing acceptance of obscene material, pursuant to
83 chapter 573, RSMo.

84 **9. A "predatory sexual offender" is one who has previously pleaded guilty or nolo**
85 **contendere to or has been found guilty of two or more of the following felony sexual**
86 **offenses or an attempt to commit any of those same felony offenses:**

87 **(1) Any felony offense of chapter 566, RSMo;**

88 **(2) Promoting prostitution in the first degree, promoting prostitution in the second**
89 **degree, promoting prostitution in the third degree, pursuant to chapter 567, RSMo;**

90 **(3) Incest, endangering the welfare of a child pursuant to subdivision (2) of**
91 **subsection 1 of section 568.045, RSMo, abuse of a child pursuant to subdivision (2) of**
92 **subsection 1 of section 568.060, RSMo, genital mutilation, use of a child in a sexual**
93 **performance, promoting a sexual performance, pursuant to chapter 568, RSMo; or**

94 **(4) Promoting obscenity in the first degree, sexual exploitation of a minor,**
95 **promoting child pornography in the first degree, promoting pornography for minors or**
96 **obscenity in the second degree, promoting child pornography in the second degree,**
97 **possession of child pornography, furnishing pornographic material to minors, public**
98 **display of explicit sexual material, coercing acceptance of obscene material, pursuant to**
99 **chapter 573, RSMo.**

100 **10. The term of imprisonment for one found to be a predatory sexual offender shall**
101 **be imprisonment for life without eligibility for probation or parole, or release except by act**
102 **of the governor.**

103 **11. Notwithstanding any provision of law to the contrary, the department of**
104 **corrections, or any division thereof, may not furlough an individual found to be and**
105 **sentenced as a prior sexual offender, a persistent sexual offender, or a predatory sexual**
106 **offender.**