

FIRST REGULAR SESSION

# HOUSE BILL NO. 745

93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DIXON.

Read 1<sup>st</sup> time March 9, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1883L.011

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## 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.

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Section A. Section 558.018, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 558.018, to read as follows: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

2. A "persistent sexual offender" is one who has previously pleaded guilty 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 sexual offender shall be not less than thirty years, which term shall be served [without] **with eligibility for probation or parole, however, subsection 4 of section 558.019 shall not apply to persons found to be persistent sexual offenders for the purposes of determining the minimum prison term or the length of sentence as defined or used in such subsection. Notwithstanding any other provision of law, in no event shall a person found to be a persistent sexual offender receive a final discharge from parole.**

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           4. [The court shall sentence a person who has pleaded guilty to or has been found guilty  
18 of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory  
19 sodomy in the first degree, or an attempt to commit any of the preceding crimes or child  
20 molestation in the first degree when classified as a class B felony or sexual abuse when classified  
21 as a class B felony to an extended term of imprisonment as provided for in this section if it finds  
22 the defendant is a predatory sexual offender.] **Notwithstanding any other provision of law, the  
23 court shall set the minimum time required to be served before a persistent sexual offender  
24 is eligible for parole, conditional release, or other early release by the department of  
25 corrections. The minimum time to be served by a person found to be a persistent sexual  
26 offender who:**

27           (1) **Has pleaded guilty to or has been found guilty of the felony of forcible rape,  
28 rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the  
29 first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or  
30 is found guilty of the felony of forcible rape, statutory rape in the first degree, forcible  
31 sodomy, statutory sodomy in the first degree or an attempt to commit any of the preceding  
32 crimes shall be any number of years but not less than thirty years;**

33           (2) **Has previously pleaded guilty to or has been found guilty of child molestation  
34 in the first degree when classified as a class B felony or sexual abuse when classified as a  
35 class B felony and pleads guilty to or is found guilty of attempting to commit or committing  
36 forcible rape, statutory rape in the first degree, forcible sodomy or statutory sodomy in the  
37 first degree shall be any number of years but not less than fifteen years;**

38           (3) **Has previously pleaded guilty to or has been found guilty of the felony of  
39 forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory  
40 sodomy in the first degree, or an attempt to commit any of the preceding crimes and pleads  
41 guilty to or is found guilty of child molestation in the first degree when classified as a class  
42 B felony or sexual abuse when classified as a class B felony shall be any number of years  
43 but not less than fifteen years;**

44           (4) **Has previously pleaded guilty to or has been found guilty of child molestation  
45 in the first degree when classified as a class B felony or sexual abuse when classified as a  
46 class B felony, and pleads guilty to or is found guilty of child molestation in the first degree  
47 when classified as a class B felony or sexual abuse when classified as a class B felony shall  
48 be any number of years but not less than fifteen years;**

49           (5) **Is found to be a persistent sexual offender under subsection 2 of this section  
50 shall be any number of years within the range to which the person could have been  
51 sentenced pursuant to the applicable law if the person was not found to be a persistent  
52 sexual offender.**

53 5. For purposes of this section, a "predatory sexual offender" is a person who:

54 (1) Has previously pleaded guilty to or has been found guilty of the felony of forcible  
55 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the  
56 first degree, or an attempt to commit any of the preceding crimes or child molestation in the first  
57 degree when classified as a class B felony or sexual abuse when classified as a class B felony;  
58 or

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

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

64 6. A person found to be a predatory sexual offender shall be imprisoned for life [with]  
65 **without** eligibility for parole[, however subsection 4 of section 558.019 shall not apply to  
66 persons found to be predatory sexual offenders for the purposes of determining the minimum  
67 prison term or the length of sentence as defined or used in such subsection. Notwithstanding any  
68 other provision of law, in no event shall a person found to be a predatory sexual offender receive  
69 a final discharge from parole.

70 7. Notwithstanding any other provision of law, the court shall set the minimum time  
71 required to be served before a predatory sexual offender is eligible for parole, conditional release  
72 or other early release by the department of corrections. The minimum time to be served by a  
73 person found to be a predatory sexual offender who:

74 (1) Has previously pleaded guilty to or has been found guilty of the felony of forcible  
75 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the  
76 first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found  
77 guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory  
78 sodomy in the first degree or an attempt to commit any of the preceding crimes shall be any  
79 number of years but not less than thirty years;

80 (2) Has previously pleaded guilty to or has been found guilty of child molestation in the  
81 first degree when classified as a class B felony or sexual abuse when classified as a class B  
82 felony and pleads guilty to or is found guilty of attempting to commit or committing forcible  
83 rape, statutory rape in the first degree, forcible sodomy or statutory sodomy in the first degree  
84 shall be any number of years but not less than fifteen years;

85 (3) Has previously pleaded guilty to or has been found guilty of the felony of forcible  
86 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the  
87 first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found  
88 guilty of child molestation in the first degree when classified as a class B felony or sexual abuse

89 when classified as a class B felony shall be any number of years but not less than fifteen years;

90 (4) Has previously pleaded guilty to or has been found guilty of child molestation in the  
91 first degree when classified as a class B felony or sexual abuse when classified as a class B  
92 felony, and pleads guilty to or is found guilty of child molestation in the first degree when  
93 classified as a class B felony or sexual abuse when classified as a class B felony shall be any  
94 number of years but not less than fifteen years;

95 (5) Is found to be a predatory sexual offender pursuant to subdivision (2) or (3) of  
96 subsection 5 of this section shall be any number of years within the range to which the person  
97 could have been sentenced pursuant to the applicable law if the person was not found to be a  
98 predatory sexual offender].

99 [8.] 7. Notwithstanding any provision of law to the contrary, the department of  
100 corrections, or any division thereof, may not furlough an individual found to be and sentenced  
101 as a persistent sexual offender or a predatory sexual offender.