

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Committee Substitute for House Bill No. 1995, Page 1, In the Title, Line 8, by  
2 deleting the phrase "first degree murder" and inserting in lieu thereof the phrase "judicial  
3 proceedings"; and  
4

5 Further amend said bill and page, Section A, Line 8, by inserting after all of said section and line  
6 the following:  
7

8 "217.690. 1. When in its opinion there is reasonable probability that an offender of a  
9 correctional center can be released without detriment to the community or to himself, the board may  
10 in its discretion release or parole such person except as otherwise prohibited by law. All paroles  
11 shall issue upon order of the board, duly adopted.

12 2. Before ordering the parole of any offender, the board shall have the offender appear  
13 before a hearing panel and shall conduct a personal interview with him or her, unless waived by the  
14 offender. A parole shall be ordered only for the best interest of society, not as an award of  
15 clemency; it shall not be considered a reduction of sentence or a pardon. An offender shall be  
16 placed on parole only when the board believes that he or she is able and willing to fulfill the  
17 obligations of a law-abiding citizen. Every offender while on parole shall remain in the legal  
18 custody of the department but shall be subject to the orders of the board.

19 3. [The board has discretionary authority to require the payment of a fee, not to exceed sixty  
20 dollars per month, from every offender placed under board supervision on probation, parole, or  
21 conditional release, to waive all or part of any fee, to sanction offenders for willful nonpayment of  
22 fees, and to contract with a private entity for fee collections services. All fees collected shall be  
23 deposited in the inmate fund established in section 217.430. Fees collected may be used to pay the  
24 costs of contracted collections services. The fees collected may otherwise be used to provide  
25 community corrections and intervention services for offenders. Such services include substance  
26 abuse assessment and treatment, mental health assessment and treatment, electronic monitoring  
27 services, residential facilities services, employment placement services, and other offender  
28 community corrections or intervention services designated by the board to assist offenders to  
29 successfully complete probation, parole, or conditional release. The board shall adopt rules not  
30 inconsistent with law, in accordance with section 217.040, with respect to sanctioning offenders and  
31 with respect to establishing, waiving, collecting, and using fees.

32 4.] The board shall adopt rules not inconsistent with law, in accordance with section  
33 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or  
34 conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall  
35 recite the conditions of such parole.

36 [5.] 4. When considering parole for an offender with consecutive sentences, the minimum  
Standing Action Taken \_\_\_\_\_ Date \_\_\_\_\_

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term for eligibility for parole shall be calculated by adding the minimum terms for parole eligibility for each of the consecutive sentences, except the minimum term for parole eligibility shall not exceed the minimum term for parole eligibility for an ordinary life sentence.

[6.] 5. Any offender under a sentence for first degree murder who has been denied release on parole after a parole hearing shall not be eligible for another parole hearing until at least three years from the month of the parole denial; however, this subsection shall not prevent a release pursuant to subsection 4 of section 558.011.

[7.] 6. Parole hearings shall, at a minimum, contain the following procedures:

(1) The victim or person representing the victim who attends a hearing may be accompanied by one other person;

(2) The victim or person representing the victim who attends a hearing shall have the option of giving testimony in the presence of the inmate or to the hearing panel without the inmate being present;

(3) The victim or person representing the victim may call or write the parole board rather than attend the hearing;

(4) The victim or person representing the victim may have a personal meeting with a board member at the board's central office;

(5) The judge, prosecuting attorney or circuit attorney and a representative of the local law enforcement agency investigating the crime shall be allowed to attend the hearing or provide information to the hearing panel in regard to the parole consideration; and

(6) The board shall evaluate information listed in the juvenile sex offender registry pursuant to section 211.425, provided the offender is between the ages of seventeen and twenty-one, as it impacts the safety of the community.

[8.] 7. The board shall notify any person of the results of a parole eligibility hearing if the person indicates to the board a desire to be notified.

[9.] 8. The board may, at its discretion, require any offender seeking parole to meet certain conditions during the term of that parole so long as said conditions are not illegal or impossible for the offender to perform. These conditions may include an amount of restitution to the state for the cost of that offender's incarceration.

[10.] 9. Nothing contained in this section shall be construed to require the release of an offender on parole nor to reduce the sentence of an offender heretofore committed.

[11.] 10. Beginning January 1, 2001, the board shall not order a parole unless the offender has obtained a high school diploma or its equivalent, or unless the board is satisfied that the offender, while committed to the custody of the department, has made an honest good-faith effort to obtain a high school diploma or its equivalent; provided that the director may waive this requirement by certifying in writing to the board that the offender has actively participated in mandatory education programs or is academically unable to obtain a high school diploma or its equivalent.

[12.] 11. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

217.692. 1. Notwithstanding any other provision of law to the contrary, any offender incarcerated in a correctional institution serving any sentence of life with no parole for fifty years or life without parole, whose plea of guilt was entered or whose trial commenced prior to December

31, 1990, and who:

- (1) Pleaded guilty to or was found guilty of a homicide of a spouse or domestic partner;
- (2) Has no prior violent felony convictions;
- (3) No longer has a cognizable legal claim or legal recourse; and
- (4) Has a history of being a victim of continual and substantial physical or sexual domestic violence that was not presented as an affirmative defense at trial or sentencing and such history can be corroborated with evidence of facts or circumstances which existed at the time of the alleged physical or sexual domestic violence of the offender, including but not limited to witness statements, hospital records, social services records, and law enforcement records;

shall be eligible for parole after having served fifteen years of such sentence when the board determines by using the guidelines established by this section that there is a strong and reasonable probability that the person will not thereafter violate the law.

2. The board of probation and parole shall give a thorough review of the case history and prison record of any offender described in subsection 1 of this section. At the end of the board's review, the board shall provide the offender with a copy of a statement of reasons for its parole decision.

3. Any offender released under the provisions of this section shall be under the supervision of the parole board for an amount of time to be determined by the board.

4. The parole board shall consider, but not be limited to the following criteria when making its parole decision:

- (1) Length of time served;
- (2) Prison record and self-rehabilitation efforts;
- (3) Whether the history of the case included corroborative material of physical, sexual, mental, or emotional abuse of the offender, including but not limited to witness statements, hospital records, social service records, and law enforcement records;
- (4) If an offer of a plea bargain was made and if so, why the offender rejected or accepted the offer;
- (5) Any victim information outlined in subsection [7] 6 of section 217.690 and section 595.209;
- (6) The offender's continued claim of innocence;
- (7) The age and maturity of the offender at the time of the board's decision;
- (8) The age and maturity of the offender at the time of the crime and any contributing influence affecting the offender's judgment;
- (9) The presence of a workable parole plan; and
- (10) Community and family support.

5. Nothing in this section shall limit the review of any offender's case who is eligible for parole prior to fifteen years, nor shall it limit in any way the parole board's power to grant parole prior to fifteen years.

6. Nothing in this section shall limit the review of any offender's case who has applied for executive clemency, nor shall it limit in any way the governor's power to grant clemency.

7. It shall be the responsibility of the offender to petition the board for a hearing under this section.

8. A person commits the crime of perjury if he or she, with the purpose to deceive, knowingly makes a false witness statement to the board. Perjury under this section shall be a class D felony.

9. In cases where witness statements alleging physical or sexual domestic violence are in conflict as to whether such violence occurred or was continual and substantial in nature, the history

1 of such alleged violence shall be established by other corroborative evidence in addition to witness  
2 statements, as provided by subsection 1 of this section. A contradictory statement of the victim  
3 shall not be deemed a conflicting statement for purposes of this section.

4 217.692. 1. Notwithstanding any other provision of law to the contrary, any offender  
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6 life without parole, whose plea of guilt was entered or whose trial commenced prior to December  
7 31, 1990, and who:

- 8 (1) Pleaded guilty to or was found guilty of a homicide of a spouse or domestic partner;
- 9 (2) Has no prior violent felony convictions;
- 10 (3) No longer has a cognizable legal claim or legal recourse; and
- 11 (4) Has a history of being a victim of continual and substantial physical or sexual domestic  
12 violence that was not presented as an affirmative defense at trial or sentencing and such history can  
13 be corroborated with evidence of facts or circumstances which existed at the time of the alleged  
14 physical or sexual domestic violence of the offender, including but not limited to witness statements,  
15 hospital records, social services records, and law enforcement records;

16  
17 shall be eligible for parole after having served fifteen years of such sentence when the board  
18 determines by using the guidelines established by this section that there is a strong and reasonable  
19 probability that the person will not thereafter violate the law.

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21 prison record of any offender described in subsection 1 of this section. At the end of the board's  
22 review, the board shall provide the offender with a copy of a statement of reasons for its parole  
23 decision.

24 3. Any offender released under the provisions of this section shall be under the supervision  
25 of the parole board for an amount of time to be determined by the board.

26 4. The parole board shall consider, but not be limited to the following criteria when making  
27 its parole decision:

- 28 (1) Length of time served;
- 29 (2) Prison record and self-rehabilitation efforts;
- 30 (3) Whether the history of the case included corroborative material of physical, sexual,  
31 mental, or emotional abuse of the offender, including but not limited to witness statements, hospital  
32 records, social service records, and law enforcement records;
- 33 (4) If an offer of a plea bargain was made and if so, why the offender rejected or accepted  
34 the offer;
- 35 (5) Any victim information outlined in subsection [7] 6 of section 217.690 and section  
36 595.209;
- 37 (6) The offender's continued claim of innocence;
- 38 (7) The age and maturity of the offender at the time of the board's decision;
- 39 (8) The age and maturity of the offender at the time of the crime and any contributing  
40 influence affecting the offender's judgment;
- 41 (9) The presence of a workable parole plan; and
- 42 (10) Community and family support.

43 5. Nothing in this section shall limit the review of any offender's case who is eligible for  
44 parole prior to fifteen years, nor shall it limit in any way the parole board's power to grant parole  
45 prior to fifteen years.

46 6. Nothing in this section shall limit the review of any offender's case who has applied for  
47 executive clemency, nor shall it limit in any way the governor's power to grant clemency.

48 7. It shall be the responsibility of the offender to petition the board for a hearing under this

1 section.

2 8. A person commits the crime of perjury if he or she, with the purpose to deceive,  
3 knowingly makes a false witness statement to the board. Perjury under this section shall be a class  
4 C felony.

5 9. In cases where witness statements alleging physical or sexual domestic violence are in  
6 conflict as to whether such violence occurred or was continual and substantial in nature, the history  
7 of such alleged violence shall be established by other corroborative evidence in addition to witness  
8 statements, as provided by subsection 1 of this section. A contradictory statement of the victim  
9 shall not be deemed a conflicting statement for purposes of this section."; and

10  
11 Further amend said bill, Section 565.040, Page 19, Line 15, by inserting after all of said section and  
12 line the following:

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14  
15 "577.023. 1. For purposes of this section, unless the context clearly indicates otherwise:

16 (1) An "aggravated offender" is a person who:

17 (a) Has pleaded guilty to or has been found guilty of three or more intoxication-related  
18 traffic offenses; or

19 (b) Has pleaded guilty to or has been found guilty of one or more intoxication-related traffic  
20 offense and, in addition, any of the following: involuntary manslaughter under subdivision (2) or  
21 (3) of subsection 1 of section 565.024; murder in the second degree under section 565.021, where  
22 the underlying felony is an intoxication-related traffic offense; [or] assault in the second degree  
23 under subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in  
24 the second degree under subdivision (4) of subsection 1 of section 565.082;

25 (2) A "chronic offender" is:

26 (a) A person who has pleaded guilty to or has been found guilty of four or more  
27 intoxication-related traffic offenses; or

28 (b) A person who has pleaded guilty to or has been found guilty of, on two or more separate  
29 occasions, any combination of the following: involuntary manslaughter under subdivision (2) or (3)  
30 of subsection 1 of section 565.024; murder in the second degree under section 565.021, where the  
31 underlying felony is an intoxication-related traffic offense; assault in the second degree under  
32 subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in the  
33 second degree under subdivision (4) of subsection 1 of section 565.082; or

34 (c) A person who has pleaded guilty to or has been found guilty of two or more  
35 intoxication-related traffic offenses and, in addition, any of the following: involuntary manslaughter  
36 under subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under  
37 section 565.021, where the underlying felony is an intoxication-related traffic offense; assault in the  
38 second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law  
39 enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082;

40  
41 (3) "Continuous alcohol monitoring", automatically testing breath, blood, or transdermal  
42 alcohol concentration levels and tampering attempts at least once every hour, regardless of the  
43 location of the person who is being monitored, and regularly transmitting the data[. Continuous  
44 alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of  
45 section 217.690];

46 (4) An "intoxication-related traffic offense" is driving while intoxicated, driving with  
47 excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of  
48 subsection 1 of section 565.024, murder in the second degree under section 565.021, where the

1 underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to  
2 subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement officer in the  
3 second degree pursuant to subdivision (4) of subsection 1 of section 565.082, or driving under the  
4 influence of alcohol or drugs in violation of state law or a county or municipal ordinance;

5 (5) A "persistent offender" is one of the following:

6 (a) A person who has pleaded guilty to or has been found guilty of two or more  
7 intoxication-related traffic offenses;

8 (b) A person who has pleaded guilty to or has been found guilty of involuntary  
9 manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, assault in the  
10 second degree pursuant to subdivision (4) of subsection 1 of section 565.060, assault of a law  
11 enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section  
12 565.082; and

13 (6) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one  
14 intoxication-related traffic offense, where such prior offense occurred within five years of the  
15 occurrence of the intoxication-related traffic offense for which the person is charged.

16 2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or  
17 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

18 3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or  
19 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

20 4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or  
21 section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C  
22 felony.

23 5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or  
24 section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B  
25 felony.

26 6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior  
27 offender, persistent offender, aggravated offender, or chronic offender under this section nor  
28 sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary  
29 notwithstanding.

30 (1) No prior offender shall be eligible for parole or probation until he or she has served a  
31 minimum of ten days imprisonment:

32 (a) Unless as a condition of such parole or probation such person performs at least thirty  
33 days involving at least two hundred forty hours of community service under the supervision of the  
34 court in those jurisdictions which have a recognized program for community service; or

35 (b) The offender participates in and successfully completes a program established pursuant  
36 to section 478.007 or other court-ordered treatment program, if available, and as part of either  
37 program, the offender performs at least thirty days of community service under the supervision of  
38 the court.

39 (2) No persistent offender shall be eligible for parole or probation until he or she has served  
40 a minimum of thirty days imprisonment:

41 (a) Unless as a condition of such parole or probation such person performs at least sixty  
42 days involving at least four hundred eighty hours of community service under the supervision of the  
43 court; or

44 (b) The offender participates in and successfully completes a program established pursuant  
45 to section 478.007 or other court-ordered treatment program, if available, and as part of either  
46 program, the offender performs at least sixty days of community service under the supervision of  
47 the court.

48 (3) No aggravated offender shall be eligible for parole or probation until he or she has

1 served a minimum of sixty days imprisonment.

2 (4) No chronic offender shall be eligible for parole or probation until he or she has served a  
3 minimum of two years imprisonment. In addition to any other terms or conditions of probation, the  
4 court shall consider, as a condition of probation for any person who pleads guilty to or is found  
5 guilty of an intoxication-related traffic offense, requiring the offender to abstain from consuming or  
6 using alcohol or any products containing alcohol as demonstrated by continuous alcohol monitoring  
7 or by verifiable breath alcohol testing performed a minimum of four times per day as scheduled by  
8 the court for such duration as determined by the court, but not less than ninety days. The court may,  
9 in addition to imposing any other fine, costs, or assessments provided by law, require the offender to  
10 bear any costs associated with continuous alcohol monitoring or verifiable breath alcohol testing.

11 7. The state, county, or municipal court shall find the defendant to be a prior offender,  
12 persistent offender, aggravated offender, or chronic offender if:

13 (1) The indictment or information, original or amended, or the information in lieu of an  
14 indictment pleads all essential facts warranting a finding that the defendant is a prior offender or  
15 persistent offender; and

16 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding  
17 beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated  
18 offender, or chronic offender; and

19 (3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by  
20 the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic  
21 offender.

22 8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the  
23 jury outside of its hearing.

24 9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings  
25 of such facts to a later time, but prior to sentencing.

26 10. The defendant shall be accorded full rights of confrontation and cross-examination, with  
27 the opportunity to present evidence, at such hearings.

28 11. The defendant may waive proof of the facts alleged.

29 12. Nothing in this section shall prevent the use of presentence investigations or  
30 commitments.

31 13. At the sentencing hearing both the state, county, or municipality and the defendant shall  
32 be permitted to present additional information bearing on the issue of sentence.

33 14. The pleas or findings of guilt shall be prior to the date of commission of the present  
34 offense.

35 15. The court shall not instruct the jury as to the range of punishment or allow the jury,  
36 upon a finding of guilt, to assess and declare the punishment as part of its verdict in cases of prior  
37 offenders, persistent offenders, aggravated offenders, or chronic offenders.

38 16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an intoxication-  
39 related traffic offense shall be heard and determined by the trial court out of the hearing of the jury  
40 prior to the submission of the case to the jury, and shall include but not be limited to evidence  
41 received by a search of the records of the Missouri uniform law enforcement system, including  
42 criminal history records from the central repository or records from the driving while intoxicated  
43 tracking system (DWITS) maintained by the Missouri state highway patrol, or the certified driving  
44 record maintained by the Missouri department of revenue. After hearing the evidence, the court  
45 shall enter its findings thereon. A plea of guilty or a finding of guilt followed by incarceration, a  
46 fine, a suspended imposition of sentence, suspended execution of sentence, probation or parole or  
47 any combination thereof in any intoxication-related traffic offense in a state, county or municipal  
48 court or any combination thereof shall be treated as a prior plea of guilty or finding of guilt for

- 1 purposes of this section."; and
- 2
- 3 Further amend said bill by amending the title, enacting clause, and intersectional references
- 4 accordingly.