

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 799,
2 Page 5, Section 217.670, Line 28, by inserting after all of said section and line the following:

3
4 "217.703. 1. The division of probation and parole shall award earned compliance credits to
5 any offender who is:

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

8 (2) On probation, parole, or conditional release for an offense listed in chapter 579, or an
9 offense previously listed in chapter 195, or for a class D or E felony, excluding sections 565.225,
10 565.252, 566.031, 566.061, 566.083, 566.093, 568.020, 568.060, offenses defined as sexual assault
11 under section 589.015, deviate sexual assault, assault in the second degree under subdivision (2) of
12 subsection 1 of section 565.052, endangering the welfare of a child in the first degree under
13 subdivision (2) of subsection 1 of section 568.045, and any offense of aggravated stalking or assault
14 in the second degree under subdivision (2) of subsection 1 of section 565.060 as such offenses
15 existed prior to January 1, 2017;

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

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

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

20 (1) Involuntary manslaughter in the second degree;

21 (2) Assault in the second degree except under subdivision (2) of subsection 1 of section
22 565.052 or section 565.060 as it existed prior to January 1, 2017;

23 (3) Domestic assault in the second degree;

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

26 (5) Statutory rape in the second degree;

27 (6) Statutory sodomy in the second degree;

28 (7) Endangering the welfare of a child in the first degree under subdivision (1) of subsection
29 1 of section 568.045; or

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

Action Taken _____ Date _____

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

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

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

5. Credits shall not accrue during any calendar month in which a violation report, which may include a report of absconder status, has been submitted, the offender is in custody, or a motion to revoke or motion to suspend has been filed, and shall be suspended pending the outcome of a hearing, if a hearing is held. If no hearing is held, or if a hearing is held and the offender is continued under supervision, or the court or board finds that the violation did not occur, then the offender shall be deemed to be in compliance and shall begin earning credits on the first day of the next calendar month following the month in which the report was submitted or the motion was filed. If a hearing is held, all earned credits shall be rescinded if:

(1) The court or board revokes the probation or parole or the court places the offender in a department program under subsection 4 of section 559.036 ~~[or under section 217.785]~~; or

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

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

6. Offenders who are deemed by the division to be absconders shall not earn credits. For purposes of this subsection, "absconder" shall mean an offender under supervision whose

whereabouts are unknown and who has left such offender's place of residency without the permission of the offender's supervising officer and without notifying of their whereabouts for the purpose of avoiding supervision. An offender shall no longer be deemed an absconder when such offender is available for active supervision.

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

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

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

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

11. Any offender who was sentenced prior to January 1, 2017, to an offense that was eligible for earned compliance credits under subsection 1 or 2 of this section at the time of sentencing shall continue to remain eligible for earned compliance credits so long as the offender meets all the other requirements provided under this section.

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

Further amend said bill, Pages 9-10, Section 559.036, Lines 8-36, by deleting all of said lines from the bill and inserting in lieu thereof the following:

"conduct of the defendant and the ends of justice. The court may extend the term of the probation, but no more than one extension of"; and

Further amend said section, Page 10, Line 41, by inserting after "559.016." the following:

"Total time on any probation term shall not include time when the probation term is suspended

1 under this section."; and

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3 Further amend said section and page, Lines 49-50, by deleting all of said lines and inserting in lieu
4 thereof the following:

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6 "court shall order placement of the offender in ~~[one of the]~~ a department of corrections' one hundred
7 twenty-day ~~[programs]~~ program so long as:"; and

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9 Further amend said section, Pages 10-12, by renumbering the remaining subsections accordingly.;
10 and

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12 Further amend said section, Page 11, Lines 75-82, by deleting all of said lines and inserting in lieu
13 thereof the following:

14
15 "assessment of the offender and place such offender in either the [appropriate] one hundred twenty-
16 day structured cognitive behavioral intervention program [under subsection 3 of section 559.115] or
17 the one hundred twenty-day institutional treatment program. The placement of the offender in the
18 structured cognitive behavioral intervention program or institutional treatment program shall be at
19 the sole discretion of the department based on the assessment of the offender. The program shall
20 begin upon receipt of the offender by the department. The time between the court's order and
21 receipt of the offender by the department shall not apply toward the program.

22 (3) ~~[Notwithstanding any of the provisions of subsection 3 of section 559.115 to the contrary,~~
23 ~~once the defendant has successfully completed the program under this subsection, the court shall~~
24 ~~release the defendant to continue to serve the term of probation, which shall not be modified,~~
25 ~~enlarged, or extended based on the same incident of violation.]~~ Upon successful completion of a
26 program under this subsection, as determined by the department, the division of probation and
27 parole shall advise the sentencing court of the defendant's probationary release date thirty days prior
28 to release. Once the defendant has successfully completed a program under this subsection, the
29 court shall release the defendant to continue to serve the term of probation, which shall not be
30 modified, enlarged, or extended based on the same incident of violation.

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

40 (5) Time served in the program shall be credited as time served on any sentence imposed
41 for the underlying offense."; and

Further amend said section, Page 12, Line 112, by inserting the following at the end of said line:

"Notwithstanding any other provision of the law, the probation term shall be tolled during the time period when the probation is suspended under this section. The court may grant the probationer credit on the probation term for any of the tolled period when reinstating the probation term."; and

Further amend said section and page, Line 118, by inserting the following at the end of said line:

"If the delay of the hearing is attributable to the probationer's actions or the probationer otherwise consents or acquiesces to the delay, the court shall have been found to have made every reasonable effort to conduct the hearing within the probation term."; and

Further amend said section and page, Lines 120-121, and 123, by deleting "[4] 6" and inserting in lieu thereof "4"; and

Further amend said bill, Page 13, Section 559.115, Lines 13-17, by deleting all of said lines and inserting in lieu thereof the following:

~~"one hundred twenty-day program under this subsection [or order such placement under subsection 4 of section 559.036]. [Upon the recommendation or order of the court,]~~ The department of corrections shall assess each offender to determine the appropriate one hundred twenty-day program in which to place the offender, which may include placement in the ~~[shock incarceration]~~ structured cognitive behavioral intervention program or institutional treatment program. The placement of an offender in the structured cognitive behavioral intervention program or institutional treatment program shall be at the sole discretion of the department based on the assessment of the offender and available bed space. When the court recommends"; and

Further amend said section and page, Lines 29-30, by deleting all of said lines and inserting in lieu thereof the following:

~~"subsection, the [offender shall be removed from the program and the court shall be advised of the removal]~~ division of probation and parole shall advise the prosecuting attorney and the sentencing court of the defendant's unsuccessful program exit and the defendant shall be removed from the program. The department shall report on the offender's participation in the program and"; and

Further amend said section, Page 14, Line 70, by inserting after "556.125;" the following:

"any offense under section 557.045;"; and

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- 2 Further amend said bill, Pages 16-20, Sections 217.703 and 217.810 , by deleting the repeal of said
- 3 sections from the bill; and
- 4
- 5 Further amend said bill by amending the title, enacting clause, and intersectional references
- 6 accordingly.