

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 _____

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

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

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

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

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

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

34
35 Earned credits, if not rescinded, shall continue to be suspended for a period of time during which the
36 court or board has suspended the term of probation, parole, or release, and shall begin to accrue on
37 the first day of the next calendar month following the lifting of the suspension.

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

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

5 7. Notwithstanding subsection 2 of section 217.730 to the contrary, once the combination of
6 time served in custody, if applicable, time served on probation, parole, or conditional release, and
7 earned compliance credits satisfy the total term of probation, parole, or conditional release, the
8 board or sentencing court shall order final discharge of the offender, so long as the offender has
9 completed restitution and at least two years of his or her probation, parole, or conditional release,
10 which shall include any time served in custody under section 217.718 and sections 559.036 and
11 559.115.

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

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

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

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

26 12. The application of earned compliance credits shall be suspended upon entry into a
27 treatment court, as described in sections 478.001 to 478.009, and shall remain suspended until the
28 offender is discharged from such treatment court. Upon successful completion of treatment court,
29 all earned compliance credits accumulated during the suspension period shall be retroactively
30 applied, so long as the other terms and conditions of probation have been successfully completed.";
31 and
32

33 Further amend said bill, Page 7, Section 217.720, Line 57, by inserting after all of said section and
34 line the following:
35

36 "217.940. 1. This act establishes the "Correctional Center Nursery Program". The
37 department of corrections shall, subject to appropriations, establish a correctional center nursery in
38 one or more of the correctional centers for women operated by the department, no later than July 1,
39 2025. The purpose of the correctional center nursery program is for bonding and unification

1 between the mother and child. The program shall allow eligible inmates and children born from
 2 them while in the custody of the department to reside together in the institution for up to eighteen
 3 months post-delivery. In establishing this program, neither the inmate's participation in the program
 4 nor any provision of sections 217.940 to 217.947 shall affect, modify, or interfere with the inmate's
 5 custodial rights to the child nor does it establish legal custody of the child with the department.

6 2. As used in sections 217.940 to 217.947, the following terms shall mean:

7 (1) "Correctional center nursery program", the program authorized by sections 217.940 to
 8 217.947;

9 (2) "Department", the department of corrections;

10 (3) "Public assistance", all forms of assistance, including monetary assistance from any
 11 public source paid either to the mother or child or any other person on behalf of the child;

12 (4) "Support", the payment of money, including interest:

13 (a) For a child or spouse ordered by a court of competent jurisdiction, whether the payment
 14 is ordered in an emergency, temporary, permanent, or modified order, the amount of unpaid support
 15 shall bear simple interest from the date it accrued, at a rate of ten dollars upon one hundred dollars
 16 per annum, and proportionately for a greater or lesser sum, or for a longer or shorter time;

17 (b) To third parties on behalf of a child or spouse, including, but not limited to, payments to
 18 medical, dental or educational providers, payments to insurers for health and hospitalization
 19 insurance, payments of residential rent or mortgage payments, payments on an automobile, or
 20 payments for day care; or

21 (c) For a mother, ordered by a court of competent jurisdiction, for the necessary expenses
 22 incurred by or for the mother in connection with her confinement or of other expenses in connection
 23 with the pregnancy of the mother.

24 217.941. 1. An inmate is eligible to participate in the correctional center nursery program
 25 if:

26 (1) She delivers the child while in the custody of the department;

27 (2) She is expected to give birth or gives birth on or after the date the program is
 28 implemented;

29 (3) She has a presumptive release date established by the parole board of eighteen months or
 30 less from the date she applies to participate in the program;

31 (4) She has not pled guilty to or been convicted of a dangerous felony as defined in section
 32 556.061;

33 (5) She has not pled guilty to or been convicted of any sexual offense contained in chapter
 34 566 where the victim of the crime was a minor;

35 (6) She has not pled guilty to or been convicted of an offense against the family contained in
 36 chapter 568, excluding criminal nonsupport; and

37 (7) She and the child meet any other criteria established by the department.

38 2. Placement into the program shall be by internal classification of the department. A
 39 sentencing court is without jurisdiction to order a placement of an inmate into the program.

1 3. Program capacity shall be determined by the department.

2 4. Upon first release of the mother and child, the child shall not be eligible to return to the
3 program if the mother is revoked or receives a new assignment to the department of corrections.

4 217.942. 1. To participate in the correctional center nursery program, each eligible inmate
5 selected by the department shall agree in writing to:

6 (1) Comply with all department policies, procedures and other requirements related to the
7 corrections nursery program and rules that apply to all incarcerated offenders generally;

8 (2) If eligible, have the child participate in the state children's health insurance program
9 under sections 208.631 to 208.658;

10 (3) Abide by any court decisions regarding the allocation of parental rights and
11 responsibilities with respect to the child; and

12 (4) Specify with whom the child is to be placed in the event the inmate's participation in the
13 program is terminated for a reason other than release from imprisonment.

14 2. The department shall be required to establish policy for the operation of the program.

15 217.943. An inmate's participation in the correctional center nursery program may be
16 terminated by the department if one of the following occurs:

17 (1) The inmate fails to comply with the agreement entered into under section 217.942;

18 (2) The inmate violates an institutional rule that results in alternative housing placement
19 outside of the area designated for the program;

20 (3) The inmate's child becomes seriously ill, cannot receive the necessary medical care, or
21 otherwise cannot safely participate in the program;

22 (4) A court of competent jurisdiction grants custody of the child to a person other than the
23 inmate;

24 (5) A court of competent jurisdiction issues an order regarding the child granting temporary,
25 permanent, or legal custody of the child to a person other than the inmate, or to a public children
26 services agency or private child placing agency; or

27 (6) The inmate is released from imprisonment.

28 217.944. 1. The division of child support enforcement shall collect support payments made
29 pursuant to the assignment and forward them to the department for deposit into the inmate's inmate
30 banking account.

31 2. The department may accept monetary and property donations on behalf of the program.

32 3. All donations accepted by the department for the correctional center nursery program
33 shall be used solely for any expenses relating to the operation and maintenance of the program.

34 4. No donations of property shall be made on behalf of one particular inmate or child to be
35 used while incarcerated.

36 5. Financial donations, public assistance, or support for a specific inmate or child shall be
37 made through the inmate banking system.

38 217.945. 1. There is hereby created in the state treasury the "Correctional Center Nursery
39 Program Fund", which shall consist of money collected under this section and section 217.944 as

well as any appropriations made by the general assembly. The department shall obtain sufficient resources to initiate and maintain the program and may accept gifts, grants, and donations of any kind. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and money in the fund shall be used solely by the department for the purposes of operating and maintaining sections 217.940 to 217.947.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

217.946. Notwithstanding any other provision of law to contrary, neither the correctional center nursery program nor the department, with respect to the program, is subject to any regulation, licensing or oversight by the department of health and senior services, department of social services, children's division, juvenile officer of any jurisdiction or the office of childhood unless the department voluntarily agrees to services, regulation, licensing, or oversight from any of the aforementioned entities.

217.947. The operation of a correctional center nursery program established under sections 217.940 to 217.947 and the presence of children of inmates participating in the correctional center nursery program shall not be considered a dangerous condition that would result in a waiver of sovereign immunity under section 537.600. The sovereign immunity provisions under section 537.600 and any other statute regarding the sovereign immunity of the state or public entities in existence as of August 28, 2022, shall remain in effect and shall be applied in the same manner as such provisions were applied prior to the establishment of the correctional center nursery program under sections 217.940 to 217.947."; and

Further amend said bill, Pages 9-12, Section 559.036, Lines 1-123, by deleting all of said section and lines and inserting in lieu thereof the following:

"559.036. 1. A term of probation commences on the day it is imposed. Multiple terms of Missouri probation, whether imposed at the same time or at different times, shall run concurrently. Terms of probation shall also run concurrently with any federal or other state jail, prison, probation or parole term for another offense to which the defendant is or becomes subject during the period[, unless otherwise specified by the Missouri court].

2. The court may terminate a period of probation and discharge the defendant at any time before completion of the specific term fixed under section 559.016 if warranted by the 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 any probation may be ordered except that the court may extend the term of probation by one additional year by order of the court if the defendant admits he or she has violated the conditions of probation or is found by the court to have violated the conditions of his or her

1 probation. Total time on any probation term, including any extension shall not exceed the maximum
2 term established in section 559.016. Total time on any probation term shall not include time when
3 the probation term is suspended under this section. Procedures for termination, discharge and
4 extension may be established by rule of court.

5 3. If the defendant violates a condition of probation at any time prior to the expiration or
6 termination of the probation term, the court may continue him or her on the existing conditions, with
7 or without modifying or enlarging the conditions or extending the term.

8 4. (1) Unless the defendant consents to the revocation of probation, if a continuation,
9 modification, enlargement or extension is not appropriate under this section, the court shall order
10 placement of the offender in ~~[one of the]~~ a department of corrections' one hundred twenty-day
11 ~~[programs]~~ program so long as:

12 (a) The underlying offense for the probation is a class D or E felony or an offense listed in
13 chapter 579 or an offense previously listed in chapter 195; except that, the court may, upon its own
14 motion or a motion of the prosecuting or circuit attorney, make a finding that an offender is not
15 eligible if the underlying offense is involuntary manslaughter in the second degree, stalking in the
16 first degree, assault in the second degree, sexual assault, rape in the second degree, domestic assault
17 in the second degree, assault in the third degree when the victim is a special victim, statutory rape in
18 the second degree, statutory sodomy in the second degree, deviate sexual assault, sodomy in the
19 second degree, sexual misconduct involving a child, incest, endangering the welfare of a child in the
20 first degree under subdivision (1) or (2) of subsection 1 of section 568.045, abuse of a child,
21 invasion of privacy, any case in which the defendant is found guilty of a felony offense under
22 chapter 571, or an offense of aggravated stalking or assault of a law enforcement officer in the
23 second degree as such offenses existed prior to January 1, 2017;

24 (b) The probation violation is not the result of the defendant being an absconder or being
25 found guilty of, pleading guilty to, or being arrested on suspicion of any felony, misdemeanor, or
26 infraction. For purposes of this subsection, "absconder" shall mean an offender under supervision
27 who has left such offender's place of residency without the permission of the offender's supervising
28 officer for the purpose of avoiding supervision;

29 (c) The defendant has not violated any conditions of probation involving the possession or
30 use of weapons, or a stay-away condition prohibiting the defendant from contacting a certain
31 individual; and

32 (d) The defendant has not already been placed in one of the programs by the court for the
33 same underlying offense or during the same probation term.

34 (2) Upon receiving the order, the department of corrections shall conduct an assessment of
35 the offender and place such offender in either the [appropriate] one hundred twenty-day structured
36 cognitive behavioral intervention program [under subsection 3 of section 559.115] or the one
37 hundred twenty-day institutional treatment program. The placement of the offender in the structured
38 cognitive behavioral intervention program or institutional treatment program shall be at the sole
39 discretion of the department based on the assessment of the offender. The program shall begin upon

1 receipt of the offender by the department. The time between the court's order and receipt of the
2 offender by the department shall not apply toward the program.

3 (3) [Notwithstanding any of the provisions of subsection 3 of section 559.115 to the
4 contrary, once the defendant has successfully completed the program under this subsection, the court
5 shall release the defendant to continue to serve the term of probation, which shall not be modified,
6 enlarged, or extended based on the same incident of violation.] Upon successful completion of a
7 program under this subsection, as determined by the department, the division of probation and
8 parole shall advise the sentencing court of the defendant's probationary release date thirty days prior
9 to release. Once the defendant has successfully completed a program under this subsection, the
10 court shall release the defendant to continue to serve the term of probation, which shall not be
11 modified, enlarged, or extended based on the same incident of violation.

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

21 (5) Time served in the program shall be credited as time served on any sentence imposed for
22 the underlying offense.

23 5. If the defendant consents to the revocation of probation or if the defendant is not eligible
24 under subsection 4 of this section for placement in a program and a continuation, modification,
25 enlargement, or extension of the term under this section is not appropriate, the court may revoke
26 probation and order that any sentence previously imposed be executed. If imposition of sentence
27 was suspended, the court may revoke probation and impose any sentence available under section
28 557.011. The court may mitigate any sentence of imprisonment by reducing the prison or jail term
29 by all or part of the time the defendant was on probation. The court may, upon revocation of
30 probation, place an offender on a second term of probation. Such probation shall be for a term of
31 probation as provided by section 559.016, notwithstanding any amount of time served by the
32 offender on the first term of probation.

33 6. Probation shall not be revoked without giving the probationer notice and an opportunity
34 to be heard on the issues of whether such probationer violated a condition of probation and, if a
35 condition was violated, whether revocation is warranted under all the circumstances. Not less than
36 five business days prior to the date set for a hearing on the violation, except for a good cause shown,
37 the judge shall inform the probationer that he or she may have the right to request the appointment
38 of counsel if the probationer is unable to retain counsel. If the probationer requests counsel, the
39 judge shall determine whether counsel is necessary to protect the probationer's due process rights. If

1 the judge determines that counsel is not necessary, the judge shall state the grounds for the decision
2 in the record.

3 7. The prosecuting or circuit attorney may file a motion to revoke probation or at any time
4 during the term of probation, the court may issue a notice to the probationer to appear to answer a
5 charge of a violation, and the court may issue a warrant of arrest for the violation. Such notice shall
6 be personally served upon the probationer. The warrant shall authorize the return of the probationer
7 to the custody of the court or to any suitable detention facility designated by the court. Upon the
8 filing of the prosecutor's or circuit attorney's motion or on the court's own motion, the court may
9 immediately enter an order suspending the period of probation and may order a warrant for the
10 defendant's arrest. The probation shall remain suspended until the court rules on the prosecutor's or
11 circuit attorney's motion, or until the court otherwise orders the probation reinstated.
12 Notwithstanding any other provision of the law, the probation term shall be tolled during the time
13 period when the probation is suspended under this section. The court may grant the probationer
14 credit on the probation term for any of the tolled period when reinstating the probation term.

15 8. The power of the court to revoke probation shall extend for the duration of the term of
16 probation designated by the court and for any further period which is reasonably necessary for the
17 adjudication of matters arising before its expiration, provided that some affirmative manifestation of
18 an intent to conduct a revocation hearing occurs prior to the expiration of the period and that every
19 reasonable effort is made to notify the probationer and to conduct the hearing prior to the expiration
20 of the period. If the delay of the hearing is attributable to the probationer's actions or the
21 probationer otherwise consents or acquiesces to the delay, the court shall have been found to have
22 made every reasonable effort to conduct the hearing within the probation term.

23 9. A defendant who was sentenced prior to January 1, 2017 to an offense that was eligible at
24 the time of sentencing under paragraph (a) of subdivision (1) of subsection 4 of this section for the
25 court ordered detention sanction shall continue to remain eligible for the sanction so long as the
26 defendant meets all the other requirements provided under subsection 4 of this section."; and

27
28 Further amend said bill, Pages 12-14, Section 559.115, Lines 1-71, by deleting all of said section
29 and lines and inserting in lieu thereof the following:

30
31 "559.115. 1. Neither probation nor parole shall be granted by the circuit court between the
32 time the transcript on appeal from the offender's conviction has been filed in appellate court and the
33 disposition of the appeal by such court.

34 2. Unless otherwise prohibited by subsection 8 of this section, a circuit court only upon its
35 own motion and not that of the state or the offender shall have the power to grant probation to an
36 offender anytime up to one hundred twenty days after such offender has been delivered to the
37 department of corrections but not thereafter. The court may request information and a
38 recommendation from the department concerning the offender and such offender's behavior during
39 the period of incarceration. Except as provided in this section, the court may place the offender on

1 probation in a program created pursuant to section 217.777, or may place the offender on probation
2 with any other conditions authorized by law.

3 3. The court may recommend placement of an offender in a department of corrections one
4 hundred twenty-day program under this subsection ~~[or order such placement under subsection 4 of~~
5 ~~section 559.036]. [Upon the recommendation or order of the court,]~~ The department of corrections
6 shall assess each offender to determine the appropriate one hundred twenty-day program in which to
7 place the offender, which may include placement in the ~~[shock incarceration]~~ structured cognitive
8 behavioral intervention program or institutional treatment program. The placement of an offender in
9 the structured cognitive behavioral intervention program or institutional treatment program shall be
10 at the sole discretion of the department based on the assessment of the offender and available bed
11 space. When the court recommends and receives placement of an offender in a department of
12 corrections one hundred twenty-day program, the offender shall be released on probation if the
13 department of corrections determines that the offender has successfully completed the program
14 except as follows. Upon successful completion of a program under this subsection, the division of
15 probation and parole shall advise the sentencing court of an offender's probationary release date
16 thirty days prior to release. The court shall follow the recommendation of the department unless the
17 court determines that probation is not appropriate. If the court determines that probation is not
18 appropriate, the court may order the execution of the offender's sentence only after conducting a
19 hearing on the matter within ninety to one hundred twenty days from the date the offender was
20 delivered to the department of corrections. If the department determines the offender has not
21 successfully completed a one hundred twenty-day program under this subsection, the ~~[offender shall~~
22 ~~be removed from the program and the court shall be advised of the removal.]~~ division of probation
23 and parole shall advise the prosecuting attorney and the sentencing court of the defendant's
24 unsuccessful program exit and the defendant shall be removed from the program. The department
25 shall report on the offender's participation in the program and may provide recommendations for
26 terms and conditions of an offender's probation. The court shall then have the power to grant
27 probation or order the execution of the offender's sentence.

28 4. If the court is advised that an offender is not eligible for placement in a one hundred
29 twenty-day program under subsection 3 of this section, the court shall consider other authorized
30 dispositions. If the department of corrections one hundred twenty-day program under subsection 3
31 of this section is full, the court may place the offender in a private program approved by the
32 department of corrections or the court, the expenses of such program to be paid by the offender, or
33 in an available program offered by another organization. If the offender is convicted of a class C,
34 class D, or class E nonviolent felony, the court may order probation while awaiting appointment to
35 treatment.

36 5. Except when the offender has been found to be a predatory sexual offender pursuant to
37 section 566.125, the court shall request the department of corrections to conduct a sexual offender
38 assessment if the defendant has been found guilty of sexual abuse when classified as a class B
39 felony. Upon completion of the assessment, the department shall provide to the court a report on the

offender and may provide recommendations for terms and conditions of an offender's probation. The assessment shall not be considered a one hundred twenty-day program as provided under subsection 3 of this section. The process for granting probation to an offender who has completed the assessment shall be as provided under subsections 2 and 6 of this section.

6. Unless the offender is being granted probation pursuant to successful completion of a one hundred twenty-day program the circuit court shall notify the state in writing when the court intends to grant probation to the offender pursuant to the provisions of this section. The state may, in writing, request a hearing within ten days of receipt of the court's notification that the court intends to grant probation. Upon the state's request for a hearing, the court shall grant a hearing as soon as reasonably possible. If the state does not respond to the court's notice in writing within ten days, the court may proceed upon its own motion to grant probation.

7. An offender's first incarceration under this section prior to release on probation shall not be considered a previous prison commitment for the purpose of determining a minimum prison term under the provisions of section 558.019.

8. Notwithstanding any other provision of law, probation may not be granted pursuant to this section to offenders who have been convicted of murder in the second degree pursuant to section 565.021; forcible rape pursuant to section 566.030 as it existed prior to August 28, 2013; rape in the first degree under section 566.030; forcible sodomy pursuant to section 566.060 as it existed prior to August 28, 2013; sodomy in the first degree under section 566.060; statutory rape in the first degree pursuant to section 566.032; statutory sodomy in the first degree pursuant to section 566.062; child molestation in the first degree pursuant to section 566.067 when classified as a class A felony; abuse of a child pursuant to section 568.060 when classified as a class A felony; or an offender who has been found to be a predatory sexual offender pursuant to section 566.125; any offense under section 557.045; or any offense in which there exists a statutory prohibition against either probation or parole."; and

Further amend said bill, Page 18, Section 217.703, Line 119, by inserting after all of said section and line the following:

~~"[217.785. 1. As used in this section, the term "Missouri postconviction drug treatment program" means a program of noninstitutional and institutional correctional programs for the monitoring, control and treatment of certain drug abuse offenders.~~

~~2. The department of corrections shall establish by regulation the "Missouri Postconviction Drug Treatment Program". The program shall include noninstitutional and institutional placement. The institutional phase of the program may include any offender under the supervision and control of the department of corrections. The department shall establish rules determining how, when and where an offender shall be admitted into or removed from the program.~~

~~3. Any first-time offender who has been found guilty of violating the provisions of chapter 195 or 579, or whose controlled substance abuse was a precipitating or contributing factor in the commission of his offense, and who is~~

1 placed on probation may be required to participate in the noninstitutional phase of
2 the program, which may include education, treatment and rehabilitation programs.
3 Persons required to attend a program pursuant to this section may be charged a
4 reasonable fee to cover the costs of the program. Failure of an offender to
5 complete successfully the noninstitutional phase of the program shall be sufficient
6 cause for the offender to be remanded to the sentencing court for assignment to the
7 institutional phase of the program or any other authorized disposition.

8 4. A probationer shall be eligible for assignment to the institutional phase
9 of the postconviction drug treatment program if he has failed to complete
10 successfully the noninstitutional phase of the program. If space is available, the
11 sentencing court may assign the offender to the institutional phase of the program
12 as a special condition of probation, without the necessity of formal revocation of
13 probation.

14 5. The availability of space in the institutional program shall be
15 determined by the department of corrections. If the sentencing court is advised
16 that there is no space available, then the court shall consider other authorized
17 dispositions.

18 6. Any time after ninety days and prior to one hundred twenty days after
19 assignment of the offender to the institutional phase of the program, the
20 department shall submit to the court a report outlining the performance of the
21 offender in the program. If the department determines that the offender will not
22 participate or has failed to complete the program, the department shall advise the
23 sentencing court, who shall cause the offender to be brought before the court for
24 consideration of revocation of the probation or other authorized disposition. If the
25 offender successfully completes the program, the department shall release the
26 individual to the appropriate probation and parole district office and so advise the
27 court.

28 7. Time spent in the institutional phase of the program shall count as time
29 served on the sentence.]; and
30

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