

**HOUSE AMENDMENT NO. \_\_\_\_\_**  
**TO**  
**HOUSE AMENDMENT NO. \_\_\_\_\_**

**Offered By**

1 AMEND House Amendment No. \_\_\_\_\_ to House Committee Substitute for House Bill Nos. 1777,  
2 2203, 2059 & 2502, Page 1, Lines 1-2, by deleting all of said lines and inserting in lieu thereof the  
3 following:

4  
5 "AMEND House Committee Substitute for House Bill Nos. 1777, 2203, 2059, & 2502, Page 8,  
6 Section 492.304, Line 42, by inserting after all of said section and line the following:

7  
8 "558.019. 1. This section shall not be construed to affect the powers of the governor under  
9 Article IV, Section 7, of the Missouri Constitution. This statute shall not affect those provisions of  
10 section 565.020, section 566.125, or section 571.015, which set minimum terms of sentences, or the  
11 provisions of section 559.115, relating to probation.

12 2. The minimum prison term for an offender with one or two previous felony convictions  
13 unrelated to the present offense, for offenses not qualifying as dangerous felonies under section  
14 556.061, shall be fifty percent of the sentence imposed by the court; except that, for any such  
15 offenders who are seventy years of age or older, the minimum prison term that the offender shall  
16 serve shall be forty percent of the sentence imposed by the court.

17 3. The provisions of subsections [2] 3 to 5 of this section shall only be applicable to the  
18 offenses contained in sections 565.021, 565.023, 565.024, 565.027, 565.050, 565.052, 565.054,  
19 565.072, 565.073, 565.074, 565.090, 565.110, 565.115, 565.120, 565.153, 565.156, 565.225,  
20 565.300, 566.030, 566.031, 566.032, 566.034, 566.060, 566.061, 566.062, 566.064, 566.067,  
21 566.068, 566.069, 566.071, 566.083, 566.086, 566.100, 566.101, 566.103, 566.111, 566.115,  
22 566.145, 566.151, 566.153, 566.203, 566.206, 566.209, 566.210, 566.211, 566.215, 568.030,  
23 568.045, 568.060, 568.065, 568.175, 569.040, 569.160, 570.023, 570.025, 570.030 when punished  
24 as a class A, B, or C felony, 570.145 when punished as a class A or B felony, 570.223 when  
25 punished as a class B or C felony, 571.020, 571.030, 571.070, 573.023, 573.025, 573.035, 573.037,  
26 573.200, 573.205, 574.070, 574.080, 574.115, 575.030, 575.150, 575.153, 575.155, 575.157,  
27 575.200 when punished as a class A felony, 575.210, 575.230 when punished as a class B felony,  
28 575.240 when punished as a class B felony, 576.070, 576.080, 577.010, 577.013, 577.078, 577.703,  
29 577.706, 579.065, and 579.068 when punished as a class A or B felony. For the purposes of this

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 section, "prison commitment" means and is the receipt by the department of corrections of an  
 2 offender after sentencing. ~~[For purposes of this section, prior prison commitments to the department~~  
 3 ~~of corrections shall not include an offender's first incarceration prior to release on probation under~~  
 4 ~~section 217.362 or 559.115.]~~ Other provisions of the law to the contrary notwithstanding, ~~[any]~~ if  
 5 an offender ~~[who]~~ has been found guilty of a felony other than a dangerous felony as defined in  
 6 section 556.061 ~~[and]~~, is committed to the department of corrections ~~[shall be required to serve the~~  
 7 ~~following minimum prison terms:~~

8 (1) ~~If the offender has one previous prison commitment to the department of corrections for~~  
 9 ~~a felony offense, the minimum prison term which the offender must serve shall be forty percent of~~  
 10 ~~his or her sentence or until the offender attains seventy years of age, and has served at least thirty~~  
 11 ~~percent of the sentence imposed, whichever occurs first;~~

12 (2) ~~If the offender has two previous prison commitments to the department of corrections~~  
 13 ~~for felonies unrelated to the present offense, the minimum prison term which the offender must~~  
 14 ~~serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age,~~  
 15 ~~and has served at least forty percent of the sentence imposed, whichever occurs first;~~

16 (3) ~~If the offender]~~, and has three or more previous ~~[prison commitments to the department~~  
 17 ~~of corrections]~~ convictions for felonies unrelated to the present offense, the minimum prison term  
 18 ~~[which]~~ that the offender ~~[must]~~ shall serve shall be eighty percent of his or her sentence or until the  
 19 offender attains seventy years of age, and has served at least forty percent of the sentence imposed,  
 20 whichever occurs first.

21 ~~[3:]~~ 4. Other provisions of the law to the contrary notwithstanding, any offender who has  
 22 been found guilty of a dangerous felony as defined in section 556.061 and is committed to the  
 23 department of corrections shall be required to serve a minimum prison term of eighty-five percent of  
 24 the sentence imposed by the court or until the offender attains seventy years of age, and has served  
 25 at least forty percent of the sentence imposed, whichever occurs first.

26 ~~[4:]~~ 5. For the purpose of determining the minimum prison term to be served, the following  
 27 calculations shall apply:

28 (1) A sentence of life shall be calculated to be thirty years;

29 (2) Any sentence either alone or in the aggregate with other consecutive sentences for  
 30 offenses committed at or near the same time which is over seventy-five years shall be calculated to  
 31 be seventy-five years.

32 ~~[5:]~~ 6. For purposes of this section, the term "minimum prison term" shall mean time  
 33 required to be served by the offender before he or she is eligible for parole, conditional release or  
 34 other early release by the department of corrections.

35 ~~[6. An offender who was convicted of, or pled guilty to, a felony offense other than those~~  
 36 ~~offenses listed in subsection 2 of this section prior to August 28, 2019, shall no longer be subject to~~  
 37 ~~the minimum prison term provisions under subsection 2 of this section, and shall be eligible for~~  
 38 ~~parole, conditional release, or other early release by the department of corrections according to the~~  
 39 ~~rules and regulations of the department.]~~

1           7. (1) A sentencing advisory commission is hereby created to consist of eleven members.  
2 One member shall be appointed by the speaker of the house. One member shall be appointed by the  
3 president pro tem of the senate. One member shall be the director of the department of corrections.  
4 Six members shall be appointed by and serve at the pleasure of the governor from among the  
5 following: the public defender commission; private citizens; a private member of the Missouri Bar;  
6 the board of probation and parole; and a prosecutor. Two members shall be appointed by the  
7 supreme court, one from a metropolitan area and one from a rural area. All members shall be  
8 appointed to a four-year term. All members of the sentencing commission appointed prior to  
9 August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of  
10 the governor.

11           (2) The commission shall study sentencing practices in the circuit courts throughout the  
12 state for the purpose of determining whether and to what extent disparities exist among the various  
13 circuit courts with respect to the length of sentences imposed and the use of probation for offenders  
14 convicted of the same or similar offenses and with similar criminal histories. The commission shall  
15 also study and examine whether and to what extent sentencing disparity among economic and social  
16 classes exists in relation to the sentence of death and if so, the reasons therefor, if sentences are  
17 comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation  
18 based on sentence. It shall compile statistics, examine cases, draw conclusions, and perform other  
19 duties relevant to the research and investigation of disparities in death penalty sentencing among  
20 economic and social classes.

21           (3) The commission shall study alternative sentences, prison work programs, work release,  
22 home-based incarceration, probation and parole options, and any other programs and report the  
23 feasibility of these options in Missouri.

24           (4) The governor shall select a chairperson who shall call meetings of the commission as  
25 required or permitted pursuant to the purpose of the sentencing commission.

26           (5) The members of the commission shall not receive compensation for their duties on the  
27 commission, but shall be reimbursed for actual and necessary expenses incurred in the performance  
28 of these duties and for which they are not reimbursed by reason of their other paid positions.

29           (6) The circuit and associate circuit courts of this state, the office of the state courts  
30 administrator, the department of public safety, and the department of corrections shall cooperate  
31 with the commission by providing information or access to information needed by the commission.  
32 The office of the state courts administrator will provide needed staffing resources.

33           8. Courts shall retain discretion to lower or exceed the sentence recommended by the  
34 commission as otherwise allowable by law, and to order restorative justice methods, when  
35 applicable.

36           9. If the imposition or execution of a sentence is suspended, the court may order any or all  
37 of the following restorative justice methods, or any other method that the court finds just or  
38 appropriate:

1 (1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the  
2 offender's actions;

3 (2) Offender treatment programs;

4 (3) Mandatory community service;

5 (4) Work release programs in local facilities; and

6 (5) Community-based residential and nonresidential programs.

7 10. Pursuant to subdivision (1) of subsection 9 of this section, the court may order the  
8 assessment and payment of a designated amount of restitution to a county law enforcement  
9 restitution fund established by the county commission pursuant to section 50.565. Such contribution  
10 shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited  
11 into the county law enforcement restitution fund pursuant to this section shall only be expended  
12 pursuant to the provisions of section 50.565.

13 11. A judge may order payment to a restitution fund only if such fund had been created by  
14 ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not  
15 have any direct supervisory authority or administrative control over any fund to which the judge is  
16 ordering a person to make payment.

17 12. A person who fails to make a payment to a county law enforcement restitution fund may  
18 not have his or her probation revoked solely for failing to make such payment unless the judge, after  
19 evidentiary hearing, makes a finding supported by a preponderance of the evidence that the person  
20 either willfully refused to make the payment or that the person willfully, intentionally, and  
21 purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

22 13. Nothing in this section shall be construed to allow the sentencing advisory commission  
23 to issue recommended sentences in specific cases pending in the courts of this state."; and

24  
25 Further amend said bill, Page 9, Section 558.041, Line 4, by deleting said line and inserting in lieu  
26 thereof the following:"; and

27  
28 Further amend said amendment, Line 20, by inserting after all of said line the following:

29  
30 "Further amend said bill and section, Page 10, Line 54, by inserting after said section and line the  
31 following:

32  
33 "566.030. 1. A person commits the offense of rape in the first degree if he or she has sexual  
34 intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to  
35 consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance  
36 administered without a victim's knowledge or consent which renders the victim physically or  
37 mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

1           2. The offense of rape in the first degree or an attempt to commit rape in the first degree is a  
2 felony for which the authorized term of imprisonment is life imprisonment or a term of years not  
3 less than five years, unless:

4           (1) The offense is an aggravated sexual offense, in which case the authorized term of  
5 imprisonment is life imprisonment or a term of years not less than fifteen years;

6           (2) The person is a persistent or predatory sexual offender as defined in section 566.125 and  
7 subjected to an extended term of imprisonment under said section;

8           (3) The victim is a child less than twelve years of age, in which case the required term of  
9 imprisonment is life imprisonment without eligibility for probation or parole until the offender has  
10 served not less than thirty years of such sentence or unless the offender has reached the age of  
11 seventy-five years and has served at least fifteen years of such sentence, unless such rape in the first  
12 degree is described under subdivision (4) of this subsection; or

13           (4) The victim is a child less than twelve years of age and such rape in the first degree or  
14 attempt to commit rape in the first degree was outrageously or wantonly vile, horrible or inhumane,  
15 in that it involved torture or depravity of mind, in which case the required term of imprisonment is  
16 life imprisonment without eligibility for probation, parole or conditional release.

17           3. Subsection [4] 5 of section 558.019 shall not apply to the sentence of a person who has  
18 been found guilty of rape in the first degree or attempt to commit rape in the first degree when the  
19 victim is less than twelve years of age, and "life imprisonment" shall mean imprisonment for the  
20 duration of a person's natural life for the purposes of this section.

21           4. No person found guilty of rape in the first degree or an attempt to commit rape in the first  
22 degree shall be granted a suspended imposition of sentence or suspended execution of sentence.

23           566.060. 1. A person commits the offense of sodomy in the first degree if he or she has  
24 deviate sexual intercourse with another person who is incapacitated, incapable of consent, or lacks  
25 the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use  
26 of a substance administered without a victim's knowledge or consent which renders the victim  
27 physically or mentally impaired so as to be incapable of making an informed consent to sexual  
28 intercourse.

29           2. The offense of sodomy in the first degree or an attempt to commit sodomy in the first  
30 degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of  
31 years not less than five years, unless:

32           (1) The offense is an aggravated sexual offense, in which case the authorized term of  
33 imprisonment is life imprisonment or a term of years not less than ten years;

34           (2) The person is a persistent or predatory sexual offender as defined in section 566.125 and  
35 subjected to an extended term of imprisonment under said section;

36           (3) The victim is a child less than twelve years of age, in which case the required term of  
37 imprisonment is life imprisonment without eligibility for probation or parole until the offender has  
38 served not less than thirty years of such sentence or unless the offender has reached the age of

1 seventy-five years and has served at least fifteen years of such sentence, unless such sodomy in the  
2 first degree is described under subdivision (4) of this subsection; or

3 (4) The victim is a child less than twelve years of age and such sodomy in the first degree or  
4 attempt to commit sodomy in the first degree was outrageously or wantonly vile, horrible or  
5 inhumane, in that it involved torture or depravity of mind, in which case the required term of  
6 imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

7 3. Subsection [4] 5 of section 558.019 shall not apply to the sentence of a person who has  
8 been found guilty of sodomy in the first degree or an attempt to commit sodomy in the first degree  
9 when the victim is less than twelve years of age, and "life imprisonment" shall mean imprisonment  
10 for the duration of a person's natural life for the purposes of this section.

11 4. No person found guilty of sodomy in the first degree or an attempt to commit sodomy in  
12 the first degree shall be granted a suspended imposition of sentence or suspended execution of  
13 sentence.

14 566.125. 1. The court shall sentence a person to an extended term of imprisonment if it  
15 finds the defendant is a persistent sexual offender and has been found guilty of attempting to commit  
16 or committing the following offenses:

17 (1) Statutory rape in the first degree or statutory sodomy in the first degree;

18 (2) Rape in the first degree or sodomy in the first degree;

19 (3) Forcible rape;

20 (4) Forcible sodomy;

21 (5) Rape;

22 (6) Sodomy.

23 2. A "persistent sexual offender" is one who has previously been found guilty of attempting  
24 to commit or committing any of the offenses listed in subsection 1 of this section or one who has  
25 previously been found guilty of an offense in any other jurisdiction which would constitute any of  
26 the offenses listed in subsection 1 of this section.

27 3. The term of imprisonment for one found to be a persistent sexual offender shall be  
28 imprisonment for life without eligibility for probation or parole. Subsection [4] 5 of section 558.019  
29 shall not apply to any person imprisoned under this subsection, and "imprisonment for life" shall  
30 mean imprisonment for the duration of the person's natural life.

31 4. The court shall sentence a person to an extended term of imprisonment as provided for in  
32 this section if it finds the defendant is a predatory sexual offender and has been found guilty of  
33 committing or attempting to commit any of the offenses listed in subsection 1 of this section or  
34 committing child molestation in the first or second degree or sexual abuse when classified as a class  
35 B felony.

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

37 (1) Has previously been found guilty of committing or attempting to commit any of the  
38 offenses listed in subsection 1 of this section, or committing child molestation in the first or second  
39 degree, or sexual abuse when classified as a class B felony; or

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

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

6 6. A person found to be a predatory sexual offender shall be imprisoned for life with  
7 eligibility for parole, however subsection [4] 5 of section 558.019 shall not apply to persons found  
8 to be predatory sexual offenders for the purposes of determining the minimum prison term or the  
9 length of sentence as defined or used in such subsection. Notwithstanding any other provision of  
10 law, in no event shall a person found to be a predatory sexual offender receive a final discharge from  
11 parole.

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

16 (1) Has previously been found guilty of committing or attempting to commit any of the  
17 offenses listed in subsection 1 of this section and is found guilty of committing or attempting to  
18 commit any of the offenses listed in subsection 1 of this section shall be any number of years but not  
19 less than thirty years;

20 (2) Has previously been found guilty of child molestation in the first or second degree, or  
21 sexual abuse when classified as a class B felony and is found guilty of attempting to commit or  
22 committing any of the offenses listed in subsection 1 of this section shall be any number of years but  
23 not less than fifteen years;

24 (3) Has previously been found guilty of committing or attempting to commit any of the  
25 offenses listed in subsection 1 of this section, or committing child molestation in the first or second  
26 degree, or sexual abuse when classified as a class B felony shall be any number of years but not less  
27 than fifteen years;

28 (4) Has previously been found guilty of child molestation in the first degree or second  
29 degree, or sexual abuse when classified as a class B felony, and is found guilty of child molestation  
30 in the first or second degree, or sexual abuse when classified as a class B felony shall be any number  
31 of years but not less than fifteen years;

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

36 8. Notwithstanding any provision of law to the contrary, the department of corrections, or  
37 any division thereof, may not furlough an individual found to be and sentenced as a persistent sexual  
38 offender or a predatory sexual offender.

1           566.210. 1. A person commits the offense of sexual trafficking of a child in the first degree  
2 if he or she knowingly:

3           (1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but  
4 not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing  
5 or threatening to cause financial harm, a person under the age of twelve to participate in a  
6 commercial sex act, a sexual performance, or the production of explicit sexual material as defined in  
7 section 573.010, or benefits, financially or by receiving anything of value, from participation in such  
8 activities;

9           (2) Causes a person under the age of twelve to engage in a commercial sex act, a sexual  
10 performance, or the production of explicit sexual material as defined in section 573.010; or

11           (3) Advertises the availability of a person under the age of twelve to participate in a  
12 commercial sex act, a sexual performance, or the production of explicit sexual material as defined in  
13 section 573.010.

14           2. It shall not be a defense that the defendant believed that the person was twelve years of  
15 age or older.

16           3. The offense of sexual trafficking of a child in the first degree is a felony for which the  
17 authorized term of imprisonment is life imprisonment without eligibility for probation or parole  
18 until the offender has served not less than twenty-five years of such sentence. Subsection [4] 5 of  
19 section 558.019 shall not apply to the sentence of a person who has been found guilty of sexual  
20 trafficking of a child less than twelve years of age, and "life imprisonment" shall mean  
21 imprisonment for the duration of a person's natural life for the purposes of this section."; and"; and

22  
23 Further amend said bill by amending the title, enacting clause, and intersectional references  
24 accordingly.

25  
26 THIS AMENDS 4155H03.17H