

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

Offered By

1 AMEND House Committee Substitute for House Bill No. 2079, Page 2, Section 221.105, Line 52,  
2 by inserting after all of said section and line the following:

3  
4 "558.019. 1. This section shall not be construed to affect the powers of the governor under  
5 Article IV, Section 7, of the Missouri Constitution. This statute shall not affect those provisions of  
6 section 565.020, section 566.125, or section 571.015, which set minimum terms of sentences, or the  
7 provisions of section 559.115, relating to probation.

8 2. The minimum prison term for an offender with one or two previous felony convictions  
9 unrelated to the present offense, for offenses not qualifying as dangerous felonies under section  
10 556.061, shall be fifty percent of the sentence imposed by the court; except that, for any such  
11 offenders who are seventy years of age or older, the minimum prison term that the offender shall  
12 serve shall be forty percent of the sentence imposed by the court.

13 3. The provisions of subsections [2] 3 to 5 of this section shall only be applicable to the  
14 offenses contained in sections 565.021, 565.023, 565.024, 565.027, 565.050, 565.052, 565.054,  
15 565.072, 565.073, 565.074, 565.090, 565.110, 565.115, 565.120, 565.153, 565.156, 565.225,  
16 565.300, 566.030, 566.031, 566.032, 566.034, 566.060, 566.061, 566.062, 566.064, 566.067,  
17 566.068, 566.069, 566.071, 566.083, 566.086, 566.100, 566.101, 566.103, 566.111, 566.115,  
18 566.145, 566.151, 566.153, 566.203, 566.206, 566.209, 566.210, 566.211, 566.215, 568.030,  
19 568.045, 568.060, 568.065, 568.175, 569.040, 569.160, 570.023, 570.025, 570.030 when punished  
20 as a class A, B, or C felony, 570.145 when punished as a class A or B felony, 570.223 when  
21 punished as a class B or C felony, 571.020, 571.030, 571.070, 573.023, 573.025, 573.035, 573.037,  
22 573.200, 573.205, 574.070, 574.080, 574.115, 575.030, 575.150, 575.153, 575.155, 575.157,  
23 575.200 when punished as a class A felony, 575.210, 575.230 when punished as a class B felony,  
24 575.240 when punished as a class B felony, 576.070, 576.080, 577.010, 577.013, 577.078, 577.703,  
25 577.706, 579.065, and 579.068 when punished as a class A or B felony. For the purposes of this  
26 section, "prison commitment" means and is the receipt by the department of corrections of an  
27 offender after sentencing. ~~[For purposes of this section, prior prison commitments to the department~~  
28 ~~of corrections shall not include an offender's first incarceration prior to release on probation under~~  
29 ~~section 217.362 or 559.115.]~~ Other provisions of the law to the contrary notwithstanding, [any] if  
30 an offender [who] has been found guilty of a felony other than a dangerous felony as defined in

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1 section 556.061 ~~[and]~~, is committed to the department of corrections ~~[shall be required to serve the~~  
 2 ~~following minimum prison terms:~~

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

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

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

16 ~~[3:]~~ 4. Other provisions of the law to the contrary notwithstanding, any offender who has  
 17 been found guilty of a dangerous felony as defined in section 556.061 and is committed to the  
 18 department of corrections shall be required to serve a minimum prison term of eighty-five percent of  
 19 the sentence imposed by the court or until the offender attains seventy years of age, and has served  
 20 at least forty percent of the sentence imposed, whichever occurs first.

21 ~~[4:]~~ 5. For the purpose of determining the minimum prison term to be served, the following  
 22 calculations shall apply:

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

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

27 ~~[5:]~~ 6. For purposes of this section, the term "minimum prison term" shall mean time  
 28 required to be served by the offender before he or she is eligible for parole, conditional release or  
 29 other early release by the department of corrections.

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

35 7. (1) A sentencing advisory commission is hereby created to consist of eleven members.  
 36 One member shall be appointed by the speaker of the house. One member shall be appointed by the  
 37 president pro tem of the senate. One member shall be the director of the department of corrections.  
 38 Six members shall be appointed by and serve at the pleasure of the governor from among the  
 39 following: the public defender commission; private citizens; a private member of the Missouri Bar;

1 the board of probation and parole; and a prosecutor. Two members shall be appointed by the  
2 supreme court, one from a metropolitan area and one from a rural area. All members shall be  
3 appointed to a four-year term. All members of the sentencing commission appointed prior to  
4 August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of  
5 the governor.

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

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

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

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

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

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

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

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

36 (2) Offender treatment programs;

37 (3) Mandatory community service;

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

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

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

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

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

16           13. Nothing in this section shall be construed to allow the sentencing advisory commission  
17 to issue recommended sentences in specific cases pending in the courts of this state.

18           566.030. 1. A person commits the offense of rape in the first degree if he or she has sexual  
19 intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to  
20 consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance  
21 administered without a victim's knowledge or consent which renders the victim physically or  
22 mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

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

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

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

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

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

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

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

7           566.060. 1. A person commits the offense of sodomy in the first degree if he or she has  
8 deviate sexual intercourse with another person who is incapacitated, incapable of consent, or lacks  
9 the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use  
10 of a substance administered without a victim's knowledge or consent which renders the victim  
11 physically or mentally impaired so as to be incapable of making an informed consent to sexual  
12 intercourse.

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

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

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

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

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

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

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

36           566.125. 1. The court shall sentence a person to an extended term of imprisonment if it  
37 finds the defendant is a persistent sexual offender and has been found guilty of attempting to commit  
38 or committing the following offenses:

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

- 1 (2) Rape in the first degree or sodomy in the first degree;
- 2 (3) Forcible rape;
- 3 (4) Forcible sodomy;
- 4 (5) Rape;
- 5 (6) Sodomy.

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

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

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

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

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

23 (2) Has previously committed an act which would constitute an offense listed in subsection  
24 4 of this section, whether or not the act resulted in a conviction; or

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

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

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

38 (1) Has previously been found guilty of committing or attempting to commit any of the  
39 offenses listed in subsection 1 of this section and is found guilty of committing or attempting to

1 commit any of the offenses listed in subsection 1 of this section shall be any number of years but not  
2 less than thirty years;

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

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

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

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

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

22 566.210. 1. A person commits the offense of sexual trafficking of a child in the first degree  
23 if he or she knowingly:

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

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

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

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

37 3. The offense of sexual trafficking of a child in the first degree is a felony for which the  
38 authorized term of imprisonment is life imprisonment without eligibility for probation or parole  
39 until the offender has served not less than twenty-five years of such sentence. Subsection [4] 5 of

1 section 558.019 shall not apply to the sentence of a person who has been found guilty of sexual  
2 trafficking of a child less than twelve years of age, and "life imprisonment" shall mean  
3 imprisonment for the duration of a person's natural life for the purposes of this section."; and  
4  
5 Further amend said bill by amending the title, enacting clause, and intersectional references  
6 accordingly.