

HOUSE AMENDMENT NO. \_\_\_\_\_  
TO  
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Offered By

1 AMEND House Amendment No. \_\_\_\_\_ to House Committee Substitute for House Bill Nos. 2523,  
2 2367 & 2470, Page 24, Line 15, by deleting all of said line and inserting in lieu thereof the  
3 following:

4  
5 "the Missouri supreme court

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

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

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

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

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

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

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

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

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

24 ~~[4.]~~ 5. For the purpose of determining the minimum prison term to be served, the following  
 25 calculations shall apply:

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

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

30 ~~[5.]~~ 6. For purposes of this section, the term "minimum prison term" shall mean time  
 31 required to be served by the offender before he or she is eligible for parole, conditional release or  
 32 other early release by the department of corrections.

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

38 7. (1) A sentencing advisory commission is hereby created to consist of eleven members.  
 39 One member shall be appointed by the speaker of the house. One member shall be appointed by the

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

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

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

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

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

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

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

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

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

39 (2) Offender treatment programs;

- 1 (3) Mandatory community service;
- 2 (4) Work release programs in local facilities; and
- 3 (5) Community-based residential and nonresidential programs.

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

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

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

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

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

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

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

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

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

38 (4) The victim is a child less than twelve years of age and such rape in the first degree or  
39 attempt to commit rape in the first degree was outrageously or wantonly vile, horrible or inhumane,

1 in that it involved torture or depravity of mind, in which case the required term of imprisonment is  
2 life imprisonment without eligibility for probation, parole or conditional release.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 24           (1) 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; or
- 27           (2) Has previously committed an act which would constitute an offense listed in subsection  
28 4 of this section, whether or not the act resulted in a conviction; or
- 29           (3) Has committed an act or acts against more than one victim which would constitute an  
30 offense or offenses listed in subsection 4 of this section, whether or not the defendant was charged  
31 with an additional offense or offenses as a result of such act or acts.

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

38          7. Notwithstanding any other provision of law, the court shall set the minimum time  
39 required to be served before a predatory sexual offender is eligible for parole, conditional release or

1 other early release by the department of corrections. The minimum time to be served by a person  
2 found to be a predatory sexual offender who:

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

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

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

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

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

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

26 566.210. 1. A person commits the offense of sexual trafficking of a child in the first degree  
27 if he or she knowingly:

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

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

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

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

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

9  
10 Further amend said bill by amending the title, enacting clause, and intersectional references  
11 accordingly.

12  
13 THIS AMENDMENT AMENDS 5277H06.11H