

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 83, Page 7, Section 214.330, Line 122, by
2 inserting after all of said section and line the following:
3

4 "217.362. 1. The department of corrections shall design and implement an intensive long-
5 term program for the treatment of chronic nonviolent offenders with serious substance abuse
6 addictions who have not pleaded guilty to or been convicted of a dangerous felony as defined in
7 section 556.061.

8 2. Prior to sentencing, any judge considering an offender for this program shall notify the
9 department. The potential candidate for the program shall be screened by the department to
10 determine eligibility. The department shall, by regulation, establish eligibility criteria and inform
11 the court of such criteria. The department shall notify the court as to the offender's eligibility and
12 the availability of space in the program. Notwithstanding any other provision of law to the contrary,
13 except as provided for in section 558.019, if an offender is eligible and there is adequate space, the
14 court may sentence a person to the program which shall consist of institutional drug or alcohol
15 treatment for a period of at least twelve and no more than twenty-four months, as well as a term of
16 incarceration. The department shall determine the nature, intensity, duration, and completion
17 criteria of the education, treatment, and aftercare portions of any program services provided.
18 Execution of the offender's term of incarceration shall be suspended pending completion of said
19 program. Allocation of space in the program may be distributed by the department in proportion to
20 drug arrest patterns in the state. If the court is advised that an offender is not eligible or that there is
21 no space available, the court shall consider other authorized dispositions.

22 3. Upon successful completion of the program, the division of probation and parole shall
23 advise the sentencing court of an offender's probationary release date thirty days prior to release. If
24 the court determines that probation is not appropriate the court may order the execution of the
25 offender's sentence.

26 4. Upon successful completion of the program, the offender may petition the court that
27 sentenced the offender under this section for limited driving privileges as provided under section
28 302.309.

29 5. If it is determined by the department that the offender has not successfully completed the
30 program, or that the offender is not cooperatively participating in the program, the offender shall be

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removed from the program and the court shall be advised. Failure of an offender to complete the program shall cause the offender to serve the sentence prescribed by the court and void the right to be considered for probation on this sentence.

[5-] 6. An offender's first incarceration in a department of corrections program pursuant to this section prior to release on probation shall not be considered a previous prison commitment for the purpose of determining a minimum prison term pursuant to the provisions of section 558.019."; and

Further amend said bill, Page 15, Section 287.835, Line 11, by inserting after all of said section and line the following:

"302.309. 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309, the director of revenue shall return the license to the operator immediately upon the termination of the period of suspension and upon compliance with the requirements of chapter 303.

2. Any operator whose license is revoked pursuant to ~~[these sections]~~ sections 302.302 to 302.309, upon the termination of the period of revocation, shall apply for a new license in the manner prescribed by law.

3. (1) All circuit courts, the director of revenue, or a commissioner operating under section 478.007 shall have jurisdiction to hear applications and make eligibility determinations granting limited driving privileges, except as provided under subdivision (8) of this subsection. Any application may be made in writing to the director of revenue and the person's reasons for requesting the limited driving privilege shall be made therein.

(2) When any court of record having jurisdiction or the director of revenue finds that an operator is required to operate a motor vehicle in connection with any of the following:

- (a) A business, occupation, or employment;
- (b) Seeking medical treatment for such operator;
- (c) Attending school or other institution of higher education;
- (d) Attending alcohol- or drug-treatment programs;
- (e) Seeking the required services of a certified ignition interlock device provider; or
- (f) Any other circumstance the court or director finds would create an undue hardship on the operator,

the court or director may grant such limited driving privilege as the circumstances of the case justify if the court or director finds undue hardship would result to the individual, and while so operating a motor vehicle within the restrictions and limitations of the limited driving privilege the driver shall not be guilty of operating a motor vehicle without a valid license.

(3) An operator may make application to the proper court in the county in which such operator resides or in the county in which is located the operator's principal place of business or employment. Any application for a limited driving privilege made to a circuit court shall name the

1 director as a party defendant and shall be served upon the director prior to the grant of any limited
2 privilege, and shall be accompanied by a copy of the applicant's driving record as certified by the
3 director. Any applicant for a limited driving privilege shall have on file with the department of
4 revenue proof of financial responsibility as required by chapter 303. Any application by a person
5 who transports persons or property as classified in section 302.015 may be accompanied by proof of
6 financial responsibility as required by chapter 303, but if proof of financial responsibility does not
7 accompany the application, or if the applicant does not have on file with the department of revenue
8 proof of financial responsibility, the court or the director has discretion to grant the limited driving
9 privilege to the person solely for the purpose of operating a vehicle whose owner has complied with
10 chapter 303 for that vehicle, and the limited driving privilege must state such restriction. When
11 operating such vehicle under such restriction the person shall carry proof that the owner has
12 complied with chapter 303 for that vehicle.

13 (4) No limited driving privilege shall be issued to any person otherwise eligible under the
14 provisions of subdivision (6) of this subsection if such person has a license denial under paragraph
15 (a) or (b) of subdivision (8) of this subsection or on a license revocation resulting from a conviction
16 under subdivision (9) of subsection 1 of section 302.302, or a license revocation under subdivision
17 (2) of subsection 2 of section 302.525, or section 302.574 or 577.041, until the applicant has filed
18 proof with the department of revenue that any motor vehicle operated by the person is equipped
19 with a functioning, certified ignition interlock device as a required condition of limited driving
20 privilege. The ignition interlock device required for obtaining a limited driving privilege under
21 paragraph (a) or (b) of subdivision (8) of this subsection shall have a photo identification technology
22 feature, and a court may require a global positioning system feature for such device.

23 (5) The court order or the director's grant of the limited or restricted driving privilege shall
24 indicate the termination date of the privilege, which shall be not later than the end of the period of
25 suspension or revocation. The court order or the director's grant of the limited or restricted driving
26 privilege shall also indicate whether a functioning, certified ignition interlock device is required as a
27 condition of operating a motor vehicle with the limited driving privilege. A copy of any court order
28 shall be sent by the clerk of the court to the director, and a copy shall be given to the driver which
29 shall be carried by the driver whenever such driver operates a motor vehicle. The director of
30 revenue upon granting a limited driving privilege shall give a copy of the limited driving privilege
31 to the applicant. The applicant shall carry a copy of the limited driving privilege while operating a
32 motor vehicle. A conviction which results in the assessment of points pursuant to section 302.302,
33 other than a violation of a municipal stop sign ordinance where no accident is involved, against a
34 driver who is operating a vehicle pursuant to a limited driving privilege terminates the privilege, as
35 of the date the points are assessed to the person's driving record. If the date of arrest is prior to the
36 issuance of the limited driving privilege, the privilege shall not be terminated. Failure of the driver
37 to maintain proof of financial responsibility, as required by chapter 303, or to maintain proof of
38 installation of a functioning, certified ignition interlock device, as applicable, shall terminate the
39 privilege. The director shall notify by ordinary mail the driver whose privilege is so terminated.

1 (6) Except as provided in subdivision (8) of this subsection, no person is eligible to receive a
2 limited driving privilege whose license at the time of application has been suspended or revoked for
3 the following reasons:

4 (a) A conviction of any felony in the commission of which a motor vehicle was used and
5 such conviction occurred within the five-year period prior to the date of application. However, any
6 felony conviction for leaving the scene of an accident under section 577.060 shall not render the
7 applicant ineligible for a limited driving privilege under this section;

8 (b) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5), (6),
9 (7), (8), (9), or (10) of subsection 1 of section 302.060; or

10 (c) Due to a suspension pursuant to subdivision (8) or (10) of subsection 1 of section
11 302.302 or subsection 2 of section 302.525.

12 (7) No person who possesses a commercial driver's license shall receive a limited driving
13 privilege issued for the purpose of operating a commercial motor vehicle if such person's driving
14 privilege is suspended, revoked, cancelled, denied, or disqualified. Nothing in this section shall
15 prohibit the issuance of a limited driving privilege for the purpose of operating a noncommercial
16 motor vehicle provided that pursuant to the provisions of this section, the applicant is not otherwise
17 ineligible for a limited driving privilege.

18 (8) (a) Provided that pursuant to the provisions of this section, the applicant is not otherwise
19 ineligible for a limited driving privilege, a circuit court or the director may, in the manner prescribed
20 in this subsection, allow a person who has had such person's license to operate a motor vehicle
21 revoked where that person cannot obtain a new license for a period of ten years, as prescribed in
22 subdivision (9) of subsection 1 of section 302.060, to apply for a limited driving privilege pursuant
23 to this subsection. Such person shall present evidence satisfactory to the court or the director that
24 such person's habits and conduct show that the person no longer poses a threat to the public safety of
25 this state. A circuit court shall grant a limited driving privilege to any individual who otherwise is
26 eligible to receive a limited driving privilege, has filed proof of installation of a certified ignition
27 interlock device, and has had no alcohol-related enforcement contacts since the alcohol-related
28 enforcement contact that resulted in the person's license denial.

29 (b) Provided that pursuant to the provisions of this section, the applicant is not otherwise
30 ineligible for a limited driving privilege or convicted of acting with criminal negligence while
31 driving while intoxicated to cause the death of another person, a circuit court or the director may, in
32 the manner prescribed in this subsection, allow a person who has had such person's license to
33 operate a motor vehicle revoked where that person cannot obtain a new license for a period of five
34 years because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of
35 subsection 1 of section 302.060, to apply for a limited driving privilege pursuant to this subsection.
36 Such person shall present evidence satisfactory to the court or the director that such person's habits
37 and conduct show that the person no longer poses a threat to the public safety of this state. Any
38 person who is denied a license permanently in this state because of an alcohol-related conviction
39 subsequent to a restoration of such person's driving privileges pursuant to subdivision (9) of

1 subsection 1 of section 302.060 shall not be eligible for limited driving privilege pursuant to the
 2 provisions of this subdivision. A circuit court shall grant a limited driving privilege to any
 3 individual who otherwise is eligible to receive a limited driving privilege, has filed proof of
 4 installation of a certified ignition interlock device, and has had no alcohol-related enforcement
 5 contacts since the alcohol-related enforcement contact that resulted in the person's license denial.

6 (9) An adult treatment court, as defined in section 478.001, or a DWI docket or court
 7 established under section 478.007 may grant a limited driving privilege to a participant in or
 8 graduate of the program who would otherwise be ineligible for such privilege under another
 9 provision of law.

10 4. Any person who has received notice of denial of a request of limited driving privilege by
 11 the director of revenue may make a request for a review of the director's determination in the circuit
 12 court of the county in which the person resides or the county in which is located the person's
 13 principal place of business or employment within thirty days of the date of mailing of the notice of
 14 denial. Such review shall be based upon the records of the department of revenue and other
 15 competent evidence and shall be limited to a review of whether the applicant was statutorily entitled
 16 to the limited driving privilege.

17 5. The director of revenue shall promulgate rules and regulations necessary to carry out the
 18 provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010,
 19 that is created under the authority delegated in this section shall become effective only if it complies
 20 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This
 21 section and chapter 536 are nonseverable and if any of the powers vested with the general assembly
 22 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are
 23 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
 24 adopted after August 28, 2001, shall be invalid and void."; and

25
 26 Further amend said bill, Page 89, Section 537.529, Line 115, by inserting after all of said section
 27 and line the following:

28
 29 "559.115. 1. Neither probation nor parole shall be granted by the circuit court between the
 30 time the transcript on appeal from the offender's conviction has been filed in appellate court and the
 31 disposition of the appeal by such court.

32 2. Unless otherwise prohibited by subsection [8] 2 of this section, a circuit court only upon
 33 its own motion and not that of the state or the offender shall have the power to grant probation to an
 34 offender anytime up to one hundred twenty days after such offender has been delivered to the
 35 department of corrections but not thereafter. The court may request information and a
 36 recommendation from the department concerning the offender and such offender's behavior during
 37 the period of incarceration. Except as provided in this section, the court may place the offender on
 38 probation in a program created pursuant to section 217.777, or may place the offender on probation
 39 with any other conditions authorized by law.

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

24 4. Upon successful completion of a one hundred twenty-day institutional treatment program
25 under subsection 3 of this section, the offender may petition the court for limited driving privileges
26 as provided under section 302.309.

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

35 [5.] 6. Except when the offender has been found to be a predatory sexual offender pursuant
36 to section 566.125, the court shall request the department of corrections to conduct a sexual offender
37 assessment if the defendant has been found guilty of sexual abuse when classified as a class B
38 felony. Upon completion of the assessment, the department shall provide to the court a report on the
39 offender and may provide recommendations for terms and conditions of an offender's probation.

1 The assessment shall not be considered a one hundred twenty-day program as provided under
2 subsection 3 of this section. The process for granting probation to an offender who has completed
3 the assessment shall be as provided under subsections 2 and ~~[6]~~ 7 of this section.

4 ~~[6:]~~ 7. Unless the offender is being granted probation pursuant to successful completion of a
5 one hundred twenty-day program the circuit court shall notify the state in writing when the court
6 intends to grant probation to the offender pursuant to the provisions of this section. The state may,
7 in writing, request a hearing within ten days of receipt of the court's notification that the court
8 intends to grant probation. Upon the state's request for a hearing, the court shall grant a hearing as
9 soon as reasonably possible. If the state does not respond to the court's notice in writing within ten
10 days, the court may proceed upon its own motion to grant probation.

11 ~~[7:]~~ 8. An offender's first incarceration under this section prior to release on probation shall
12 not be considered a previous prison commitment for the purpose of determining a minimum prison
13 term under the provisions of section 558.019.

14 ~~[8:]~~ 9. Notwithstanding any other provision of law, probation may not be granted pursuant to
15 this section to offenders who have been convicted of murder in the second degree pursuant to
16 section 565.021; forcible rape pursuant to section 566.030 as it existed prior to August 28, 2013;
17 rape in the first degree under section 566.030; forcible sodomy pursuant to section 566.060 as it
18 existed prior to August 28, 2013; sodomy in the first degree under section 566.060; statutory rape in
19 the first degree pursuant to section 566.032; statutory sodomy in the first degree pursuant to section
20 566.062; child molestation in the first degree pursuant to section 566.067 when classified as a class
21 A felony; abuse of a child pursuant to section 568.060 when classified as a class A felony; or an
22 offender who has been found to be a predatory sexual offender pursuant to section 566.125; any
23 offense under section 557.045; or any offense in which there exists a statutory prohibition against
24 either probation or parole."; and

25
26 Further amend said bill by amending the title, enacting clause, and intersectional references
27 accordingly.