

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 3068 & 3049, Page 7, Section 43.530,
2 Line 23, by 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
5 long-term program for the treatment of chronic nonviolent offenders with serious substance
6 abuse addictions who have not pleaded guilty to or been convicted of a dangerous felony as
7 defined in 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
11 inform the court of such criteria. The department shall notify the court as to the offender's
12 eligibility and the availability of space in the program. Notwithstanding any other provision of
13 law to the contrary, except as provided for in section 558.019, if an offender is eligible and there
14 is adequate space, the court may sentence a person to the program which shall consist of
15 institutional drug or alcohol treatment for a period of at least twelve and no more than twenty-
16 four months, as well as a term of incarceration. The department shall determine the nature,
17 intensity, duration, and completion criteria of the education, treatment, and aftercare portions of
18 any program services provided. Execution of the offender's term of incarceration shall be
19 suspended pending completion of said program. Allocation of space in the program may be
20 distributed by the department in proportion to drug arrest patterns in the state. If the court is
21 advised that an offender is not eligible or that there is no space available, the court shall consider
22 other authorized dispositions.

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

27 4. Upon successful completion of the program, the offender may petition the court that
28 sentenced the offender under this section for limited driving privileges as provided under section
29 302.309.

Action Taken _____ Date _____

1 5. If it is determined by the department that the offender has not successfully completed
2 the program, or that the offender is not cooperatively participating in the program, the offender
3 shall be removed from the program and the court shall be advised. Failure of an offender to
4 complete the program shall cause the offender to serve the sentence prescribed by the court and
5 void the right to be considered for probation on this sentence.

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

10 302.309. 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309,
11 the director of revenue shall return the license to the operator immediately upon the termination
12 of the period of suspension and upon compliance with the requirements of chapter 303.

13 2. Any operator whose license is revoked pursuant to ~~[these sections]~~ sections 302.302 to
14 302.309, upon the termination of the period of revocation, shall apply for a new license in the
15 manner prescribed by law.

16 3. (1) All circuit courts, the director of revenue, or a commissioner operating under
17 section 478.007 shall have jurisdiction to hear applications and make eligibility determinations
18 granting limited driving privileges, except as provided under subdivision (8) of this subsection.
19 Any application may be made in writing to the director of revenue and the person's reasons for
20 requesting the limited driving privilege shall be made therein.

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

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

29 the operator,

30
31 the court or director may grant such limited driving privilege as the circumstances of the case
32 justify if the court or director finds undue hardship would result to the individual, and while so
33 operating a motor vehicle within the restrictions and limitations of the limited driving privilege
34 the driver shall not be guilty of operating a motor vehicle without a valid license.

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

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

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

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

1 responsibility, as required by chapter 303, or to maintain proof of installation of a functioning,
2 certified ignition interlock device, as applicable, shall terminate the privilege. The director shall
3 notify by ordinary mail the driver whose privilege is so terminated.

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

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

11 (b) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5),
12 (6), (7), (8), (9), or (10) of subsection 1 of section 302.060; or

13 (c) Due to a suspension pursuant to subdivision (8) or (10) of subsection 1 of section
14 302.302 or subsection 2 of section 302.525.

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

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

33 (b) Provided that pursuant to the provisions of this section, the applicant is not otherwise
34 ineligible for a limited driving privilege or convicted of acting with criminal negligence while
35 driving while intoxicated to cause the death of another person, a circuit court or the director may,
36 in the manner prescribed in this subsection, allow a person who has had such person's license to
37 operate a motor vehicle revoked where that person cannot obtain a new license for a period of
38 five years because of two convictions of driving while intoxicated, as prescribed in subdivision

1 (10) of subsection 1 of section 302.060, to apply for a limited driving privilege pursuant to this
2 subsection. Such person shall present evidence satisfactory to the court or the director that such
3 person's habits and conduct show that the person no longer poses a threat to the public safety of
4 this state. Any person who is denied a license permanently in this state because of an alcohol-
5 related conviction subsequent to a restoration of such person's driving privileges pursuant to
6 subdivision (9) of subsection 1 of section 302.060 shall not be eligible for limited driving
7 privilege pursuant to the provisions of this subdivision. A circuit court shall grant a limited
8 driving privilege to any individual who otherwise is eligible to receive a limited driving
9 privilege, has filed proof of installation of a certified ignition interlock device, and has had no
10 alcohol-related enforcement contacts since the alcohol-related enforcement contact that resulted
11 in the person's license denial.

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

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

23 5. The director of revenue shall promulgate rules and regulations necessary to carry out
24 the provisions of this section. Any rule or portion of a rule, as that term is defined in section
25 536.010, that is created under the authority delegated in this section shall become effective only
26 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
27 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
28 general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove
29 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
30 and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

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

34 2. Unless otherwise prohibited by subsection [8] 9 of this section, a circuit court only
35 upon its own motion and not that of the state or the offender shall have the power to grant
36 probation to an offender anytime up to one hundred twenty days after such offender has been
37 delivered to the department of corrections but not thereafter. The court may request information
38 and a recommendation from the department concerning the offender and such offender's

1 behavior during the period of incarceration. Except as provided in this section, the court may
2 place the offender on probation in a program created pursuant to section 217.777, or may place
3 the offender on probation with any other conditions authorized by law.

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

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

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

1 ~~[5-]~~ 6. Except when the offender has been found to be a predatory sexual offender
2 pursuant to section 566.125, the court shall request the department of corrections to conduct a
3 sexual offender assessment if the defendant has been found guilty of sexual abuse when
4 classified as a class B felony. Upon completion of the assessment, the department shall provide
5 to the court a report on the offender and may provide recommendations for terms and conditions
6 of an offender's probation. The assessment shall not be considered a one hundred twenty-day
7 program as provided under subsection 3 of this section. The process for granting probation to an
8 offender who has completed the assessment shall be as provided under subsections 2 and ~~[6]~~ 7 of
9 this section.

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

17 ~~[7-]~~ 8. An offender's first incarceration under this section prior to release on probation
18 shall not be considered a previous prison commitment for the purpose of determining a minimum
19 prison term under the provisions of section 558.019.

20 ~~[8-]~~ 9. Notwithstanding any other provision of law, probation may not be granted
21 pursuant to this section to offenders who have been convicted of murder in the second degree
22 pursuant to section 565.021; forcible rape pursuant to section 566.030 as it existed prior to
23 August 28, 2013; rape in the first degree under section 566.030; forcible sodomy pursuant to
24 section 566.060 as it existed prior to August 28, 2013; sodomy in the first degree under section
25 566.060; statutory rape in the first degree pursuant to section 566.032; statutory sodomy in the
26 first degree pursuant to section 566.062; child molestation in the first degree pursuant to section
27 566.067 when classified as a class A felony; abuse of a child pursuant to section 568.060 when
28 classified as a class A felony; or an offender who has been found to be a predatory sexual
29 offender pursuant to section 566.125; any offense under section 557.045; or any offense in which
30 there exists a statutory prohibition against either probation or parole."; and

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