

SECOND REGULAR SESSION

HOUSE BILL NO. 1872

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REUTER.

4717H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 557, RSMo, by adding thereto five new sections relating to sentence departures due to domestic abuse, with penalty provisions and a delayed effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 557, RSMo, is amended by adding thereto five new sections, to be
2 known as sections 557.600, 557.602, 557.604, 557.606, and 557.608, to read as follows:

2 **557.600. Sections 557.600 to 557.608 shall be known and may be cited as the**
2 **"Missouri Survivors' Act".**

557.602. As used in sections 557.600 to 557.608, the following terms mean:

2 (1) **"Domestic abuse", any act of physical harm or the threat of imminent**
3 **physical harm that is committed by an adult, emancipated minor, or minor child**
4 **thirteen years of age or older against another adult, emancipated minor, or minor child**
5 **who is currently or was previously an intimate partner or family or household member;**

6 (2) **"Physical abuse", any real or threatened physical injury or damage to the**
7 **body that is not accidental;**

8 (3) **"Posttraumatic stress disorder", the same as such term is defined in the**
9 **Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5, 2013),**
10 **and occurred as a result of the victimization of a survivor;**

11 (4) **"Psychological abuse", a pattern of real or threatened mental intimidation,**
12 **threats, coercive control, economic-financial control, or humiliation that is intended to**
13 **provoke fear of harm.**

557.604. 1. During a hearing to:

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 2 (1) Sentence a person; or
3 (2) Accept a plea of guilty for a person

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5 who is a survivor of domestic abuse and who has been charged with an offense, the court
6 shall consider as a mitigating factor that the person has been abused physically, sexually,
7 or psychologically by the person's intimate partner or family or household member.

8 2. The defendant shall provide to the court evidence including, but not limited
9 to:

10 (1) Documentary evidence corroborating that the defendant was, at the time of
11 the offense or within one year prior to the commission of the offense, a victim of
12 domestic abuse perpetrated by the person the defendant defended himself or herself
13 against; and

14 (2) At least one piece of documentary evidence that is a court record,
15 presentence report, social services record, hospital record, sworn statement from a
16 witness to the domestic abuse who is not the defendant, law enforcement record,
17 domestic incident report, or order of protection.

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19 Other evidence may include, but not be limited to, local jail records or records of the
20 department of corrections, documentation prepared at or near the time of the
21 commission of the offense or the prosecution thereof tending to support the claims of the
22 defendant, or verification of consultation with a licensed medical care provider or
23 mental health care provider, employee of a court acting within the scope of his or her
24 employment, member of the clergy, attorney, social worker, or rape crisis counselor, or
25 other advocate acting on behalf of an agency that assists victims of domestic abuse.
26 Expert testimony from a psychiatrist, psychologist, or mental health professional
27 showing that the defendant has been diagnosed with posttraumatic stress disorder may
28 also be submitted to the court as evidence.

29 3. If the court finds by a preponderance of the evidence that the defendant is a
30 survivor of domestic abuse within one year prior to or on the date of the offense and that
31 abuse was a substantial contributing factor to the defendant's criminal liability, the
32 court shall depart from the applicable sentence to the ranges provided as follows:

- 33 (1) Class A felonies shall be sentenced as class B felonies;
34 (2) Class B felonies shall be sentenced as class C felonies;
35 (3) Class C felonies shall be sentenced as class D felonies;
36 (4) Class D felonies shall be sentenced as class E felonies;
37 (5) Class E felonies shall continue to be sentenced as class E felonies.

557.606. 1. If a court has imposed a criminal judgment and sentence upon a defendant other than for an offense that would require such defendant to register as a sexual offender under sections 589.400 to 589.425, an attempt or conspiracy to commit any such offense, or any offense for which the defendant has been sentenced to death and the defendant is serving the sentence in the custody of the department of corrections, the court shall impose a new, lesser sentence upon a determination following a hearing in accordance with section 557.608 that:

(1) At the time of the offense for which the sentence is being served, the defendant was a victim of domestic abuse and subjected to physical, sexual, or psychological abuse inflicted by a member of the same family or household as the defendant or someone who was an intimate partner of the defendant; and

(2) Such abuse was a significant contributing factor to the criminal behavior of the defendant.

At the hearing to determine whether the defendant should be resentenced under this section, the court shall consider oral and written arguments, take testimony from witnesses offered by either party, and consider all relevant evidence to assist in making its determination. The court may determine that such abuse constitutes a significant contributing factor to the crime regardless of whether the defendant raised an affirmative defense.

557.608. 1. Any person who is:

(1) Confined in an institution under the custody and control of the department of corrections;

(2) Serving a sentence for a class A, B, C, or D felony for an offense committed prior to November 1, 2026; and

(3) Eligible for an alternative sentence under the provisions of section 557.604,

may, on or after November 1, 2026, submit to the judge who imposed the original sentence a request to apply for resentencing in accordance with the provisions of section 557.604. Such person shall include in the request documentation showing that he or she is confined in an institution under the custody and control of the department of corrections and is serving a sentence for a class A, B, C, or D felony for an offense committed prior to November 1, 2026. The person shall also declare that he or she is eligible for an alternative sentence under the provisions of section 557.604.

2. At the time of the request to apply for resentencing, if the original sentencing judge is a judge of a court of competent jurisdiction but such court is not the court in which the original sentence was imposed, the request shall be randomly assigned to

18 another judge of the court in which the original sentence was imposed. If the original
19 sentencing judge is no longer a judge of a court of competent jurisdiction, the request
20 shall be randomly assigned to another judge of the appropriate court.

21 3. (1) If the court finds that such person has met the requirements to apply for
22 resentencing as provided in subsection 1 of this section, the court shall provide notice to
23 the person that he or she may submit an application for resentencing. Upon such
24 notification, the person may request that the court appoint an attorney to assist the
25 person in the preparation of and proceedings on the application for resentencing.

26 (2) If the court finds that such person has not met the requirements to apply for
27 resentencing as provided for in subsection 1 of this section, the court shall notify the
28 person and dismiss his or her request without prejudice.

29 4. Upon the receipt of an application for resentencing, the court clerk shall
30 promptly notify the appropriate prosecuting attorney and provide such prosecuting
31 attorney with a copy of the application.

32 5. If the judge who received the application is not the judge who originally
33 sentenced the applicant, the application may be referred to the original sentencing judge
34 provided that he or she is a judge of a court of competent jurisdiction and the applicant
35 and the prosecuting attorney agree that the application should be referred.

36 6. An application for resentencing under this section shall include evidence
37 corroborating the claim of the applicant that he or she was, within one year prior to or
38 at the time of the offense, a victim of domestic abuse and subjected to substantial
39 physical, sexual, or psychological abuse inflicted by a member of the same family or
40 household as the applicant, or previous intimate partner who was in a relationship with
41 the applicant. At least one piece of evidence shall be a court record, presentence report,
42 social services record, hospital record, sworn statement from a witness to the domestic
43 abuse who is not the applicant, law enforcement record, domestic incident report, or
44 order of protection. Other evidence may include, but not be limited to, local jail records
45 or records of the department of corrections, documentation prepared at or near the time
46 of the commission of the offense or the prosecution thereof tending to support the claims
47 of the applicant, or verification of consultation with a licensed medical care provider or
48 mental health care provider, employee of a court acting within the scope of his or her
49 employment, member of the clergy, attorney, social worker, or rape crisis counselor, or
50 other advocate acting on behalf of an agency that assists victims of domestic abuse.
51 Expert testimony from a psychiatrist, psychologist, or mental health professional
52 showing that the applicant has been diagnosed with posttraumatic stress disorder may
53 also be submitted to the court as evidence.

54 7. (1) If the court finds that the applicant has not complied with the provisions
55 of subsection 6 of this section, the court shall dismiss the application without prejudice.

56 (2) If the court finds that the applicant has complied with the provisions of
57 subsection 6 of this section, the court shall conduct a hearing to aid in making its
58 determination of whether the applicant should be resentenced in accordance with
59 section 557.604. At the hearing, the court shall determine any controverted issues of fact
60 relevant to the issue of sentencing. The court may consider any facts or circumstances
61 relevant to the imposition of a new sentence submitted by the applicant or the
62 prosecuting attorney and may consider the institutional record of confinement of such
63 person; however, the court shall not order a new presentence investigation and report or
64 entertain any matter challenging the underlying basis of the subject conviction.
65 Consideration of the institutional record of confinement of an applicant by the court
66 shall include, but not be limited to, the participation or willingness of the applicant to
67 participate in programming such as domestic abuse, parenting, and substance abuse
68 treatment while incarcerated and the disciplinary history of the applicant. The fact that
69 the applicant may have been unable to participate in treatment or other programming
70 while incarcerated despite the willingness of the applicant to do so shall not be
71 considered a negative factor when the court is making its determination.

72 8. If the court determines that the applicant should not be resentenced in
73 accordance with section 557.604, the court shall inform such applicant of its decision
74 and shall enter an order to that effect. Any order issued by a court under this
75 subsection shall include written findings of fact and the reasons for such order.

76 9. If the court determines that the applicant should be resentenced in accordance
77 with section 557.604, the court shall notify the applicant that, unless he or she withdraws
78 the application for resentencing or appeals the order of the court, the court shall enter
79 an order vacating the sentence originally imposed and shall impose a new sentence, as
80 authorized by section 557.604. Any order issued by a court under this section shall
81 include written findings of fact and the reasons for such order. Sentences modified
82 under the provisions of this section shall be reduced in the following manner:

- 83 (1) Sentences for class A felonies shall be resentenced as class B felonies;
84 (2) Sentences for class B felonies shall be resentenced as class C felonies;
85 (3) Sentences for class C felonies shall be resentenced as class D felonies;
86 (4) Sentences for class D felonies shall be resentenced as class E felonies;
87 (5) Sentences for class E felonies may be resentenced within the class E felony
88 range.

89 10. An appeal to the court of appeals may be taken as of right in accordance with
90 the applicable provisions provided for by law from:

91 **(1) An order denying resentencing; or**

92 **(2) A new sentence imposed under the provisions of this section.**

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94 **The applicant may request that the court of appeals assign an attorney to the applicant**
95 **for the preparation of and proceedings for any appeal regarding the application for**
96 **resentencing.**

97 **11. When calculating the new sentence to be served by the applicant under**
98 **section 557.604, such applicant shall be credited for any time served in the county jail**
99 **and any period of incarceration served under the custody and control of the department**
100 **of corrections toward the sentence originally imposed.**

 Section B. The enactment of sections 557.600 to 557.608 of this act shall become
2 effective on November 1, 2026.

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