

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1872
103RD GENERAL ASSEMBLY

4717H.05C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 217.692, RSMo, and to enact in lieu thereof six 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Section A. Section 217.692, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 217.692, 557.600, 557.602, 557.604, 557.606, and 557.608, to read as follows:

217.692. 1. Notwithstanding any other provision of law to the contrary, any offender incarcerated in a correctional institution serving any sentence ~~[of life with no parole for fifty years or life without parole, whose plea of guilt was entered or whose trial commenced prior to December 31, 1990,]~~ and who:

(1) Pled guilty to or was found guilty of ~~[a homicide of a spouse or domestic partner]~~ **an offense stemming directly from the offender's history of abuse by a spouse, domestic partner, intimate partner, household member, or sexual or labor trafficker including, but not limited to, homicide of such abuser;**

(2) Has no prior violent felony convictions;

(3) No longer has a cognizable legal claim or legal recourse; and

(4) Has a history of being a victim of continual and substantial physical, **psychological**, or sexual domestic violence ~~[that was not presented as an affirmative defense at trial or sentencing]~~ **or sexual or labor trafficking within five years prior to or on the date of the offense for which he or she was convicted and such violence or trafficking was a contributing factor to the behavior underlying his or her criminal conviction** and such history can be corroborated with evidence of facts or circumstances which existed at the

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.

17 time of the alleged physical, **psychological**, or sexual domestic violence **or sexual or labor**
18 **trafficking** of the offender, including but not limited to witness statements, hospital records,
19 social services records, and law enforcement records;

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21 shall be eligible for parole after having served [~~fifteen years~~] **the lesser of five years or one-**
22 **third** of such sentence when the parole board determines by using the guidelines established
23 by this section that there is a strong and reasonable probability that the person will not
24 thereafter violate the law.

25 2. The parole board shall give a thorough review of the case history and prison record
26 of any offender described in subsection 1 of this section. At the end of the parole board's
27 review, the parole board shall provide the offender with a copy of a statement of reasons for
28 its parole decision. **If the parole board denies parole, the offender may reapply for board**
29 **review under this section once every two years.**

30 3. Any offender released under the provisions of this section shall be under the
31 supervision of the division of probation and parole for an amount of time to be determined by
32 the parole board.

33 4. The parole board shall consider, but not be limited to the following criteria when
34 making its parole decision:

35 (1) Length of time served;

36 (2) Prison record and self-rehabilitation efforts;

37 (3) Whether the history of the case included corroborative material of physical,
38 sexual, [~~mental,~~] or [~~emotional~~] **psychological** abuse **or sexual or labor trafficking** of the
39 offender, including but not limited to witness statements, hospital records, social service
40 records, and law enforcement records;

41 (4) [~~If an offer of a plea bargain was made and if so, why the offender rejected or~~
42 ~~accepted the offer;~~

43 ~~(5)~~ (5) Any victim information outlined in subsection 10 of section 217.690 and section
44 595.209;

45 ~~[(6) The offender's continued claim of innocence;~~

46 ~~(7)~~ (5) The age and maturity of the offender at the time of the parole board's
47 decision;

48 ~~[(8)~~ (6) The age and maturity of the offender at the time of the crime and any
49 contributing influence affecting the offender's judgment;

50 ~~[(9)~~ (7) The presence of a workable parole plan; and

51 ~~[(10)~~ (8) Community and family support.

52 5. **It shall not be considered a negative factor for determining parole eligibility if**
53 **an offender was unable to participate in treatment or other programming while**

54 **incarcerated despite the willingness of the offender to participate in such treatment or**
55 **programming.**

56 **6.** Nothing in this section shall limit the review of any offender's case who is eligible
57 for parole prior to ~~[fifteen]~~ **five** years, nor shall it limit in any way the parole board's power to
58 grant parole prior to ~~[fifteen]~~ **five** years.

59 ~~[6-]~~ **7.** Nothing in this section shall limit the review of any offender's case who has
60 applied for executive clemency, nor shall it limit in any way the governor's power to grant
61 clemency.

62 ~~[7-]~~ **8.** It shall be the responsibility of the offender to petition the parole board for a
63 hearing under this section. **There shall be a presumption in favor of granting a hearing on**
64 **a petition filed under this section. A hearing for an offender described in subsection 1 of**
65 **this section shall be denied only if the parole board determines that there is an inherent**
66 **lack of reliability of the facts asserted in the petition or a deficiency in the factual**
67 **allegations in the petition. If the parole board determines that the offender is not**
68 **entitled to a hearing, the board shall provide written findings of fact outlining the**
69 **reasons for such decision.**

70 ~~[8- A person commits the crime of perjury if he or she, with the purpose to deceive,~~
71 ~~knowingly makes a false witness statement to the parole board. Perjury under this section~~
72 ~~shall be a class D felony.-]~~

73 **9.** In cases where witness statements alleging physical, **psychological**, or sexual
74 domestic violence **or sexual or labor trafficking** are in conflict as to whether such violence
75 occurred or was continual and substantial in nature, the history of such alleged violence shall
76 be established by other corroborative evidence in addition to witness statements, as provided
77 by subsection 1 of this section. A contradictory statement of the victim shall not be deemed a
78 conflicting statement for purposes of this section.

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) "Coercion", any scheme, plan, or pattern intended to cause a person to**
3 **believe that failure to perform an act would result in physical or psychological harm to**
4 **that person, or any of that person's family or household;**

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

9 (3) "Intimate partner", a spouse or former spouse, person with a continuing
10 social relationship of a romantic or intimate nature, person with a child in common, or
11 current or former cohabitating partner;

12 (4) "Physical abuse", any real or threatened physical injury or damage to the
13 body that is not accidental;

14 (5) "Posttraumatic stress disorder", the same as such term is defined in the
15 Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5, 2013),
16 and occurred as a result of the victimization of a survivor of domestic abuse;

17 (6) "Psychological abuse", a pattern of real or threatened mental intimidation,
18 threats, coercive control, economic-financial control, or humiliation that is intended to
19 provoke fear of harm;

20 (7) "Sentencing hearing", a postconviction hearing in which a defendant is
21 brought before the court for imposition of a sentence.

557.604. 1. During a hearing to:

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 trier
6 shall consider as a mitigating factor that the person has been abused physically, sexually,
7 or psychologically or coerced by the person's intimate partner or family or household
8 member, the trafficker of the person, or other individual who used the person for
9 financial gain. If the trier is a jury, the jury shall be instructed on the law.

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

12 (1) Documentary evidence corroborating that the defendant was a survivor of
13 domestic abuse, or subjected to physical, sexual, or psychological abuse, including
14 evidence to show prior misconduct toward the defendant by the defendant's intimate
15 partner or family or household member, the trafficker of the defendant, or a person who
16 used the defendant for financial gain if logically relevant to show motive, intent, absence
17 of mistake or accident, or otherwise establish a pattern of abuse or coercion. If the
18 conviction is for an offense under chapter 565, the evidence shall show that the victim of
19 the instant offense was the perpetrator of physical, sexual, or psychological abuse
20 against the defendant and was an intimate partner, a family or household member, the
21 trafficker of the defendant, or a person who used the defendant for financial gain, or
22 that the offense was coerced by the perpetrator of physical, sexual, or psychological
23 abuse against the defendant and the perpetrator was an intimate partner, a family or

24 household member, the trafficker of the defendant, or a person who used the defendant
25 for financial gain; and

26 (2) At least one piece of documentary evidence that is a court record,
27 presentence report, social services record, hospital record, sworn statement from a
28 witness to the domestic abuse who is not the defendant, present sense impression of the
29 defendant, law enforcement record, domestic incident report, or order of protection.

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

41 3. If the trier finds by a preponderance of the evidence that the defendant is a
42 survivor of domestic abuse, or was subjected to physical, sexual, or psychological abuse
43 or coercion and that such abuse or coercion was a substantial contributing factor to the
44 defendant's criminal liability, the trier shall depart from the applicable sentence to the
45 ranges provided as follows:

46 (1) Class A felonies shall be sentenced as class B felonies;

47 (2) Class B felonies shall be sentenced as class C felonies;

48 (3) Class C felonies shall be sentenced as class D felonies;

49 (4) Class D felonies shall be sentenced as class E felonies;

50 (5) Class E felonies shall be sentenced as class A misdemeanors.

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

8 (1) At the time of the offense for which the sentence is being served, the
9 defendant was a victim of domestic abuse or subjected to physical, sexual, or
10 psychological abuse or coercion inflicted by a member of the same family or household

11 as the defendant, an intimate partner of the defendant, the trafficker of the defendant,
12 or other individual who used the defendant for financial gain; and

13 (2) Such abuse was a significant contributing factor to the offense for which the
14 defendant is presently in custody or to the criminal behavior of the defendant.

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

557.608. 1. Any person who is:

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

4 (2) Serving a sentence for a class A, B, C, D, or E felony for an offense committed
5 prior to August 28, 2026; and

6 (3) Eligible for an alternative sentence under the provisions of section 557.604,
7

8 may, on or after August 28, 2026, submit to the judge who imposed the original sentence
9 a request to apply for resentencing in accordance with the provisions of section 557.604.
10 Such person shall include in the request documentation showing that he or she is
11 confined in an institution under the custody and control of the department of
12 corrections and is serving a sentence for a class A, B, C, D, or E felony for an offense
13 committed prior to August 28, 2026. The person shall also declare that he or she is
14 eligible for an alternative sentence under the provisions of section 557.604.

15 2. At the time of the request to apply for resentencing, if the original sentencing
16 judge is a judge of a court of competent jurisdiction but such court is not the court in
17 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 as provided
25 under chapter 600 to assist the person in the preparation of and proceedings on the
26 application for resentencing.

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

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

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

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

57 **7. (1) If the court finds that the applicant has not complied with the provisions**
58 **of subsection 6 of this section, the court shall dismiss the application without prejudice.**

59 **(2) If the court finds that the applicant has complied with the provisions of**
60 **subsection 6 of this section, the court shall conduct a hearing to aid in making its**
61 **determination of whether the applicant should be resentenced in accordance with**
62 **section 557.604. At the hearing, the court shall determine any controverted issues of fact**
63 **relevant to the issue of sentencing. The court may consider any facts or circumstances**

64 relevant to the imposition of a new sentence submitted by the applicant or the
65 prosecuting attorney and may consider the institutional record of confinement of such
66 person; provided, however, the institutional record shall not be solely dispositive as to
67 whether an applicant receives a reduced sentence. The court shall not order a new
68 presentence investigation and report or entertain any matter challenging the underlying
69 basis of the subject conviction. Consideration of the institutional record of confinement
70 of an applicant by the court shall include, but not be limited to, the participation or
71 willingness of the applicant to participate in programming such as domestic abuse,
72 parenting, and substance abuse treatment while incarcerated and the disciplinary
73 history of the applicant. The fact that the applicant may have been unable to participate
74 in treatment or other programming while incarcerated despite the willingness of the
75 applicant to do so shall not be considered a negative factor when the court is making its
76 determination.

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

81 **9. If the court determines that the applicant should be resentenced in accordance**
82 **with section 557.604, the court shall notify the applicant that, unless he or she withdraws**
83 **the application for resentencing or appeals the order of the court, the court shall enter**
84 **an order vacating the sentence originally imposed and shall impose a new, lesser**
85 **sentence, upon a determination following a hearing, as authorized by section 557.604.**
86 **Any order issued by a court under this section shall include written findings of fact and**
87 **the reasons for such order. Sentences modified under the provisions of this section shall**
88 **be reduced in the following manner:**

89 **(1) Sentences for class A felonies shall be resentenced as class B felonies;**
90 **(2) Sentences for class B felonies shall be resentenced as class C felonies;**
91 **(3) Sentences for class C felonies shall be resentenced as class D felonies;**
92 **(4) Sentences for class D felonies shall be resentenced as class E felonies;**
93 **(5) Sentences for class E felonies shall be resentenced within the class A**
94 **misdemeanor range.**

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

97 **(1) An order denying resentencing; or**
98 **(2) A new sentence imposed under the provisions of this section.**

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100 **The applicant may request that the court of appeals appoint an attorney as provided**
101 **under chapter 600 to the applicant for the preparation of and proceedings for any**
102 **appeal regarding the application for resentencing.**

103 **11. When calculating the new sentence to be served by the applicant under**
104 **section 557.604, such applicant shall be credited for any time served in the county jail**
105 **and any period of incarceration served under the custody and control of the department**
106 **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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