

HOUSE BILL NO. 3541

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COLLINS.

7530H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 217.692, RSMo, and to enact in lieu thereof one new section relating to eligibility for parole.

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

Section A. Section 217.692, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 217.692, to read as follows: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~~ **2000**, 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 time of the alleged physical, **psychological**, or sexual domestic violence or sexual or labor**

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.

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.

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