

SECOND REGULAR SESSION

SENATE BILL NO. 1097

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SIFTON.

Read 1st time March 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6792S.011

AN ACT

To repeal sections 557.036, 558.021, 558.046, 559.115, 559.117, 566.030, 566.032, 566.060, 566.062, 566.125, and 589.414, RSMo, and to enact in lieu thereof twelve new sections relating to sexual offenders, with penalty provisions.

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

Section A. Sections 557.036, 558.021, 558.046, 559.115, 559.117, 566.030, 566.032, 566.060, 566.062, 566.125, and 589.414, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 557.036, 558.021, 558.046, 559.115, 559.117, 566.030, 566.032, 566.060, 566.062, 566.123, 566.124, and 589.414, to read as follows:

557.036. 1. Upon a finding of guilt, the court shall decide the extent or duration of sentence or other disposition to be imposed under all the circumstances, having regard to the nature and circumstances of the offense and the history and character of the defendant and render judgment accordingly.

2. Where an offense is submitted to the jury, the trial shall proceed in two stages. At the first stage, the jury shall decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of punishment shall not be submitted to the jury at the first stage.

3. If the jury at the first stage of a trial finds the defendant guilty of the submitted offense, the second stage of the trial shall proceed. The issue at the second stage of the trial shall be the punishment to be assessed and declared. Evidence supporting or mitigating punishment may be presented. Such evidence may include, within the discretion of the court, evidence concerning the impact of the offense upon the victim, the victim's family and others, the nature and circumstances of the offense, and the history and character of the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 defendant. Rebuttal and surrebuttal evidence may be presented. The state shall
17 be the first to proceed. The court shall instruct the jury as to the range of
18 punishment authorized by statute for each submitted offense. The attorneys may
19 argue the issue of punishment to the jury, and the state shall have the right to
20 open and close the argument. The jury shall assess and declare the punishment
21 as authorized by statute.

22 4. A second stage of the trial shall not proceed and the court, and not the
23 jury, shall assess punishment if:

24 (1) The defendant requests in writing, prior to voir dire, that the court
25 assess the punishment in case of a finding of guilt; or

26 (2) The state pleads and proves the defendant is a prior offender,
27 persistent offender, dangerous offender, or persistent misdemeanor offender as
28 defined in section 558.016[, or a persistent sexual offender or predatory sexual
29 offender as defined in section 566.125]. If the jury cannot agree on the
30 punishment to be assessed, the court shall proceed as provided in subsection 1 of
31 this section. If, after due deliberation by the jury, the court finds the jury cannot
32 agree on punishment, then the court may instruct the jury that if it cannot agree
33 on punishment that the court will assess punishment.

34 5. If the jury returns a verdict of guilty in the first stage and declares a
35 term of imprisonment in the second stage, the court shall proceed as provided in
36 subsection 1 of this section except that any term of imprisonment imposed cannot
37 exceed the term declared by the jury unless the term declared by the jury is less
38 than the authorized lowest term for the offense, in which event the court cannot
39 impose a term of imprisonment greater than the lowest term provided for the
40 offense.

41 6. If the defendant is found to be a prior offender, persistent offender,
42 dangerous offender or persistent misdemeanor offender as defined in section
43 558.016:

44 (1) If he has been found guilty of an offense, the court shall proceed as
45 provided in section 558.016; or

46 (2) If he has been found guilty of a class A felony, the court may impose
47 any sentence authorized for the class A felony.

48 7. The court shall not seek an advisory verdict from the jury in cases of
49 prior offenders, persistent offenders, dangerous offenders[, persistent sexual
50 offenders or predatory sexual offenders]; if an advisory verdict is rendered, the
51 court shall not deem it advisory, but shall consider it as mere surplusage.

558.021. 1. The court shall find the defendant to be a prior offender,
2 persistent offender, **or** dangerous offender[, persistent sexual offender or
3 predatory sexual offender] if:

4 (1) The indictment or information, original or amended, or the information
5 in lieu of an indictment pleads all essential facts warranting a finding that the
6 defendant is a prior offender, persistent offender, **or** dangerous offender[,
7 persistent sexual offender or predatory sexual offender]; and

8 (2) Evidence is introduced that establishes sufficient facts pleaded to
9 warrant a finding beyond a reasonable doubt that the defendant is a prior
10 offender, persistent offender, **or** dangerous offender[, persistent sexual offender
11 or predatory sexual offender]; and

12 (3) The court makes findings of fact that warrant a finding beyond a
13 reasonable doubt by the court that the defendant is a prior offender, persistent
14 offender, **or** dangerous offender[, persistent sexual offender or predatory sexual
15 offender].

16 2. In a jury trial, the facts shall be pleaded, established and found prior
17 to submission to the jury outside of its hearing, except the facts required by
18 subdivision (1) of subsection 4 of section 558.016 may be established and found
19 at a later time, but prior to sentencing, and may be established by judicial notice
20 of prior testimony before the jury.

21 3. In a trial without a jury or upon a plea of guilty, the court may defer
22 the proof and findings of such facts to a later time, but prior to sentencing. The
23 facts required by subdivision (1) of subsection 4 of section 558.016 may be
24 established by judicial notice of prior testimony or the plea of guilty.

25 4. The defendant shall be accorded full rights of confrontation and
26 cross-examination, with the opportunity to present evidence, at such hearings.

27 5. The defendant may waive proof of the facts alleged.

28 6. Nothing in this section shall prevent the use of presentence
29 investigations or commitments under sections 557.026 and 557.031.

30 7. At the sentencing hearing both the state and the defendant shall be
31 permitted to present additional information bearing on the issue of sentence.

558.046. The sentencing court may, upon petition, reduce any term of
2 sentence or probation pronounced by the court or a term of conditional release or
3 parole pronounced by the state board of probation and parole if the court
4 determines that:

5 (1) The convicted person was:

- 6 (a) Convicted of an offense that did not involve violence or the threat of
7 violence; and
- 8 (b) Convicted of an offense that involved alcohol or illegal drugs; and
- 9 (2) Since the commission of such offense, the convicted person has
10 successfully completed a detoxification and rehabilitation program; and
- 11 (3) The convicted person is not:
- 12 (a) A prior offender, a persistent offender, a dangerous offender or a
13 persistent misdemeanor offender as defined by section 558.016; or
- 14 (b) A **predatory sexual offender as defined in section 566.123 or**
15 **a prior sexual offender or a persistent sexual offender as defined in section**
16 **[566.125] 566.124; or**
- 17 (c) **[A prior] An offender**, a persistent offender or a class X offender as
18 defined in] **recognized by subsection 2 of** section 558.019.

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

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

14 3. The court may recommend placement of an offender in a department
15 of corrections one hundred twenty-day program under this subsection or order
16 such placement under subsection 4 of section 559.036. Upon the recommendation
17 or order of the court, the department of corrections shall assess each offender to
18 determine the appropriate one hundred twenty-day program in which to place the
19 offender, which may include placement in the shock incarceration program or
20 institutional treatment program. When the court recommends and receives
21 placement of an offender in a department of corrections one hundred twenty-day
22 program, the offender shall be released on probation if the department of
23 corrections determines that the offender has successfully completed the program

24 except as follows. Upon successful completion of a program under this subsection,
25 the board of probation and parole shall advise the sentencing court of an
26 offender's probationary release date thirty days prior to release. The court shall
27 follow the recommendation of the department unless the court determines that
28 probation is not appropriate. If the court determines that probation is not
29 appropriate, the court may order the execution of the offender's sentence only
30 after conducting a hearing on the matter within ninety to one hundred twenty
31 days from the date the offender was delivered to the department of corrections. If
32 the department determines the offender has not successfully completed a one
33 hundred twenty-day program under this subsection, the offender shall be removed
34 from the program and the court shall be advised of the removal. The department
35 shall report on the offender's participation in the program and may provide
36 recommendations for terms and conditions of an offender's probation. The court
37 shall then have the power to grant probation or order the execution of the
38 offender's sentence.

39 4. If the court is advised that an offender is not eligible for placement in
40 a one hundred twenty-day program under subsection 3 of this section, the court
41 shall consider other authorized dispositions. If the department of corrections one
42 hundred twenty-day program under subsection 3 of this section is full, the court
43 may place the offender in a private program approved by the department of
44 corrections or the court, the expenses of such program to be paid by the offender,
45 or in an available program offered by another organization. If the offender is
46 convicted of a class C, class D, or class E nonviolent felony, the court may order
47 probation while awaiting appointment to treatment.

48 5. Except when the offender has been found to be a predatory sexual
49 offender pursuant to section [566.125] **566.123**, the court shall request the
50 department of corrections to conduct a sexual offender assessment if the
51 defendant has been found guilty of sexual abuse when classified as a class B
52 felony. Upon completion of the assessment, the department shall provide to the
53 court a report on the offender and may provide recommendations for terms and
54 conditions of an offender's probation. The assessment shall not be considered a
55 one hundred twenty-day program as provided under subsection 3 of this
56 section. The process for granting probation to an offender who has completed the
57 assessment shall be as provided under subsections 2 and 6 of this section.

58 6. Unless the offender is being granted probation pursuant to successful
59 completion of a one hundred twenty-day program the circuit court shall notify the

60 state in writing when the court intends to grant probation to the offender
61 pursuant to the provisions of this section. The state may, in writing, request a
62 hearing within ten days of receipt of the court's notification that the court intends
63 to grant probation. Upon the state's request for a hearing, the court shall grant
64 a hearing as soon as reasonably possible. If the state does not respond to the
65 court's notice in writing within ten days, the court may proceed upon its own
66 motion to grant probation.

67 7. An offender's first incarceration under this section prior to release on
68 probation shall not be considered a previous prison commitment for the purpose
69 of determining a minimum prison term under the provisions of section 558.019.

70 8. Notwithstanding any other provision of law, probation may not be
71 granted pursuant to this section to offenders who have been convicted of murder
72 in the second degree pursuant to section 565.021; forcible rape pursuant to
73 section 566.030 as it existed prior to August 28, 2013; rape in the first degree
74 under section 566.030; forcible sodomy pursuant to section 566.060 as it existed
75 prior to August 28, 2013; sodomy in the first degree under section 566.060;
76 statutory rape in the first degree pursuant to section 566.032; statutory sodomy
77 in the first degree pursuant to section 566.062; child molestation in the first
78 degree pursuant to section 566.067 when classified as a class A felony; abuse of
79 a child pursuant to section 568.060 when classified as a class A felony; or an
80 offender who has been found to be a predatory sexual offender pursuant to section
81 ~~[566.125]~~ **566.123**; or any offense in which there exists a statutory prohibition
82 against either probation or parole.

559.117. 1. The director of the department of corrections is authorized to
2 establish, as a three-year pilot program, a mental health assessment process.

3 2. Only upon a motion filed by the prosecutor in a criminal case, the judge
4 who is hearing the criminal case in a participating county may request that an
5 offender be placed in the department of corrections for one hundred twenty days
6 for a mental health assessment and for treatment if it appears that the offender
7 has a mental disorder or mental illness such that the offender may qualify for
8 probation including community psychiatric rehabilitation (CPR) programs and
9 such probation is appropriate and not inconsistent with public safety. Before the
10 judge rules upon the motion, the victim shall be given notice of such motion and
11 the opportunity to be heard. Upon recommendation of the court, the department
12 shall determine the offender's eligibility for the mental health assessment
13 process.

14 3. Following this assessment and treatment period, an assessment report
15 shall be sent to the sentencing court and the sentencing court may, if appropriate,
16 release the offender on probation. The offender shall be supervised on probation
17 by a state probation and parole officer, who shall work cooperatively with the
18 department of mental health to enroll eligible offenders in community psychiatric
19 rehabilitation (CPR) programs.

20 4. Notwithstanding any other provision of law, probation shall not be
21 granted under this section to offenders who:

22 (1) Have been found guilty of, or plead guilty to, murder in the second
23 degree under section 565.021;

24 (2) Have been found guilty of, or plead guilty to, rape in the first degree
25 under section 566.030 or forcible rape under section 566.030 as it existed prior
26 to August 28, 2013;

27 (3) Have been found guilty of, or plead guilty to, statutory rape in the first
28 degree under section 566.032;

29 (4) Have been found guilty of, or plead guilty to, sodomy in the first
30 degree under section 566.060 or forcible sodomy under section 566.060 as it
31 existed prior to August 28, 2013;

32 (5) Have been found guilty of, or plead guilty to, statutory sodomy in the
33 first degree under section 566.062;

34 (6) Have been found guilty of, or plead guilty to, child molestation in the
35 first degree under section 566.067 when classified as a class A felony;

36 (7) Have been found to be a predatory sexual offender under section
37 ~~566.125~~ **566.123**; or

38 (8) Have been found guilty of, or plead guilty to, any offense for which
39 there exists a statutory prohibition against either probation or parole.

40 5. At the end of the three-year pilot, the director of the department of
41 corrections and the director of the department of mental health shall jointly
42 submit recommendations to the governor and to the general assembly by
43 December 31, 2015, on whether to expand the process statewide.

566.030. 1. A person commits the offense of rape in the first degree if he
2 or she has sexual intercourse with another person who is incapacitated, incapable
3 of consent, or lacks the capacity to consent, or by the use of forcible
4 compulsion. Forcible compulsion includes the use of a substance administered
5 without a victim's knowledge or consent which renders the victim physically or
6 mentally impaired so as to be incapable of making an informed consent to sexual

7 intercourse.

8 2. The offense of rape in the first degree or an attempt to commit rape in
9 the first degree is a felony for which the authorized term of imprisonment is life
10 imprisonment or a term of years not less than five years, unless:

11 (1) The offense is an aggravated sexual offense, in which case the
12 authorized term of imprisonment is life imprisonment or a term of years not less
13 than fifteen years;

14 (2) The person is a **prior sexual offender or a persistent sexual**
15 **offender as defined in section 566.124** or predatory sexual offender as
16 defined in section [566.125] **566.123** and subjected to an extended term of
17 imprisonment under said section;

18 (3) The victim is a child less than twelve years of age, in which case the
19 required term of imprisonment is life imprisonment without eligibility for
20 probation or parole until the offender has served not less than thirty years of
21 such sentence or unless the offender has reached the age of seventy-five years and
22 has served at least fifteen years of such sentence, unless such rape in the first
23 degree is described under subdivision (4) of this subsection; or

24 (4) The victim is a child less than twelve years of age and such rape in the
25 first degree or attempt to commit rape in the first degree was outrageously or
26 wantonly vile, horrible or inhumane, in that it involved torture or depravity of
27 mind, in which case the required term of imprisonment is life imprisonment
28 without eligibility for probation, parole or conditional release.

29 3. Subsection 4 of section 558.019 shall not apply to the sentence of a
30 person who has been found guilty of rape in the first degree or attempt to commit
31 rape in the first degree when the victim is less than twelve years of age, and "life
32 imprisonment" shall mean imprisonment for the duration of a person's natural
33 life for the purposes of this section.

34 4. No person found guilty of rape in the first degree or an attempt to
35 commit rape in the first degree shall be granted a suspended imposition of
36 sentence or suspended execution of sentence.

566.032. 1. A person commits the offense of statutory rape in the first
2 degree if he or she has sexual intercourse with another person who is less than
3 fourteen years of age.

4 2. The offense of statutory rape in the first degree or an attempt to
5 commit statutory rape in the first degree is a felony for which the authorized
6 term of imprisonment is life imprisonment or a term of years not less than five

7 years, unless:

8 (1) The offense is an aggravated sexual offense, or the victim is less than
9 twelve years of age in which case the authorized term of imprisonment is life
10 imprisonment or a term of years not less than ten years; or

11 (2) The person is a **prior sexual offender or a persistent sexual**
12 **offender as defined in section 566.124** or predatory sexual offender as
13 defined in section [566.125 and subjected to an extended term of imprisonment
14 under said section] **566.123**.

566.060. 1. A person commits the offense of sodomy in the first degree if
2 he or she has deviate sexual intercourse with another person who is
3 incapacitated, incapable of consent, or lacks the capacity to consent, or by the use
4 of forcible compulsion. Forcible compulsion includes the use of a substance
5 administered without a victim's knowledge or consent which renders the victim
6 physically or mentally impaired so as to be incapable of making an informed
7 consent to sexual intercourse.

8 2. The offense of sodomy in the first degree or an attempt to commit
9 sodomy in the first degree is a felony for which the authorized term of
10 imprisonment is life imprisonment or a term of years not less than five years,
11 unless:

12 (1) The offense is an aggravated sexual offense, in which case the
13 authorized term of imprisonment is life imprisonment or a term of years not less
14 than ten years;

15 (2) The person is a **prior sexual offender or a persistent sexual**
16 **offender as defined in section 566.124** or predatory sexual offender as
17 defined in section [566.125 and subjected to an extended term of imprisonment
18 under said section] **566.123**;

19 (3) The victim is a child less than twelve years of age, in which case the
20 required term of imprisonment is life imprisonment without eligibility for
21 probation or parole until the offender has served not less than thirty years of
22 such sentence or unless the offender has reached the age of seventy-five years and
23 has served at least fifteen years of such sentence, unless such sodomy in the first
24 degree is described under subdivision (4) of this subsection; or

25 (4) The victim is a child less than twelve years of age and such sodomy in
26 the first degree or attempt to commit sodomy in the first degree was outrageously
27 or wantonly vile, horrible or inhumane, in that it involved torture or depravity
28 of mind, in which case the required term of imprisonment is life imprisonment

29 without eligibility for probation, parole or conditional release.

30 3. Subsection 4 of section 558.019 shall not apply to the sentence of a
31 person who has been found guilty of sodomy in the first degree or an attempt to
32 commit sodomy in the first degree when the victim is less than twelve years of
33 age, and "life imprisonment" shall mean imprisonment for the duration of a
34 person's natural life for the purposes of this section.

35 4. No person found guilty of sodomy in the first degree or an attempt to
36 commit sodomy in the first degree shall be granted a suspended imposition of
37 sentence or suspended execution of sentence.

566.062. 1. A person commits the offense of statutory sodomy in the first
2 degree if he or she has deviate sexual intercourse with another person who is less
3 than fourteen years of age.

4 2. The offense of statutory sodomy in the first degree or an attempt to
5 commit statutory sodomy in the first degree is a felony for which the authorized
6 term of imprisonment is life imprisonment or a term of years not less than five
7 years, unless:

8 (1) The offense is an aggravated sexual offense or the victim is less than
9 twelve years of age, in which case the authorized term of imprisonment is life
10 imprisonment or a term of years not less than ten years; or

11 (2) The person is a **prior sexual offender or a persistent sexual**
12 **offender as defined in section 566.124** or a predatory sexual offender as
13 defined in section [566.125 and subjected to an extended term of imprisonment
14 under said section] **566.123**.

566.123. 1. As used in this section, the following terms shall
2 **mean:**

3 (1) **"Predatory sexual offense", statutory rape in the first degree,**
4 **statutory sodomy in the first degree, rape in the first degree, sodomy**
5 **in the first degree, forcible rape, forcible sodomy, rape, sodomy, child**
6 **molestation in the first degree when classified as a class A or B felony,**
7 **child molestation in the second degree when classified as a class A or**
8 **B felony, sexual abuse when classified as a class B felony, sexual abuse**
9 **in the first degree when classified as a class B felony, or an attempt to**
10 **commit any of these offenses, or the commission of an offense in**
11 **another jurisdiction that if committed in this state would constitute the**
12 **commission of any of the listed offenses;**

13 (2) **"Predatory sexual offender", any person who has been found**

14 **guilty of committing or attempting to commit a predatory sexual**
15 **offense and who has, prior to that finding:**

16 **(a) Committed another act that would constitute a predatory**
17 **sexual offense, regardless of whether the other act was charged or**
18 **resulted in a finding of guilt; or**

19 **(b) Committed an act or acts against more than one victim that**
20 **would constitute a predatory sexual offense, whether the defendant was**
21 **charged with an additional offense or offenses as a result of such act**
22 **or acts.**

23 **2. The court shall sentence a person to life without eligibility for**
24 **probation or parole if it finds that the defendant is a predatory sexual**
25 **offender. Subsection 4 of section 558.019 shall not apply to any person**
26 **imprisoned under this subsection for the purposes of determining the**
27 **minimum prison term or the length of sentence as defined or used in**
28 **such subsection. Notwithstanding any other provision of law, in no**
29 **event shall a person found to be a predatory sexual offender receive a**
30 **final discharge from parole.**

31 **3. Notwithstanding any other provision of law, the department**
32 **of corrections, or any division thereof, shall not furlough an individual**
33 **found to be, and sentenced as, a persistent sexual offender as defined**
34 **in section 566.124 or a predatory sexual offender.**

35 **4. The punishment imposed under this section shall be in**
36 **addition to any punishment provided by law for the offense, of which**
37 **the defendant has been previously found guilty, or the act which would**
38 **constitute an offense, whether the act was charged or resulted in a**
39 **finding of guilt.**

40 **5. In determining whether a defendant is a predatory sexual**
41 **offender:**

42 **(1) Prior findings of guilt shall be pleaded and proven in the**
43 **same manner required under section 558.021;**

44 **(2) Acts that would constitute an offense that were not charged**
45 **or did not result in a finding of guilt shall be pleaded and proven as**
46 **follows:**

47 **(a) In a trial without a jury or upon a plea of guilty, the**
48 **acts shall be pleaded and proven in the same manner required under**
49 **section 558.021. The court may defer the proof and findings**
50 **establishing the defendant is a predatory sexual offender to a later**

51 time, but prior to sentencing. The facts required to prove the
52 defendant is a predatory sexual offender may be established by judicial
53 notice of prior testimony or the plea of guilty;

54 (b) Notwithstanding any other provision of law, if an offense is
55 submitted to the jury, the trial shall proceed in multiple stages. If the
56 jury at the first stage of a trial finds the defendant guilty of the
57 submitted offense, the second stage of the trial shall proceed. The issue
58 at the second stage of the trial shall be whether the defendant is a
59 predatory sexual offender. The state shall be the first to proceed. The
60 court shall instruct the jury. The attorneys may argue the issue of
61 whether the defendant is a predatory sexual offender to the jury, and
62 the state shall have the right to open and close the argument. The jury
63 shall determine whether the defendant is a predatory sexual offender
64 beyond a reasonable doubt. If the jury determines that the defendant
65 is a predatory sexual offender, the court shall not seek an advisory
66 verdict from the jury. If the jury determines that the defendant is not
67 a predatory sexual offender, a third stage of the trial shall proceed,
68 unless jury sentencing is removed under section 557.036. The issue at
69 the third stage of the trial shall be the punishment to be assessed and
70 declared. The third stage of the trial shall proceed in the same manner
71 required under section 557.036. The parties may present additional
72 evidence in this stage and may argue evidence presented at the first
73 stage or the second stage.

566.124. 1. As used in this section, the following terms shall
2 mean:

3 (1) "Sexual offense", any offense under chapter 566, or an attempt
4 to commit any of these offenses, or the commission of an offense in
5 another jurisdiction that if committed in this state would constitute the
6 commission of any of the listed offenses, or any offense that requires
7 registration under section 589.400;

8 (2) "Persistent sexual offender", a person who has been found
9 guilty of two or more sexual offenses;

10 (3) "Prior sexual offender", a person who has been found guilty
11 of one sexual offense.

12 2. No court shall suspend the imposition of sentence as to a prior
13 or persistent sexual offender under this section nor sentence such
14 person to pay a fine in lieu of a term of imprisonment, section 557.011

15 to the contrary notwithstanding, nor shall such person be eligible for
16 parole or probation until such person has served a minimum of three
17 years' imprisonment.

18 3. The court shall find the defendant to be a prior sexual
19 offender or persistent sexual offender, if:

20 (1) The indictment or information, original or amended, or the
21 information in lieu of an indictment pleads all essential facts
22 warranting a finding that the defendant is a prior sexual offender or
23 persistent sexual offender;

24 (2) Evidence is introduced that establishes sufficient facts
25 pleaded to warrant a finding beyond a reasonable doubt the defendant
26 is a prior sexual offender or persistent sexual offender; and

27 (3) The court makes findings of fact that warrant a finding
28 beyond a reasonable doubt by the court that the defendant is a prior
29 sexual offender or persistent sexual offender.

30 4. In a jury trial, such facts shall be pleaded, established, and
31 found prior to submission to the jury outside of its hearing.

32 5. In a trial without a jury or upon a plea of guilty, the court may
33 defer the proof in findings of such facts to a later time, but prior to
34 sentencing.

35 6. The defendant shall be accorded full rights of confrontation
36 and cross-examination, with the opportunity to present evidence, at
37 such hearings.

38 7. The defendant may waive proof of the facts alleged.

39 8. Nothing in this section shall prevent the use of presentence
40 investigations or commitments.

41 9. At the sentencing hearing both the state and the defendant
42 shall be permitted to present additional information bearing on the
43 issue of sentence.

44 10. The findings of guilt shall be prior to the date of commission
45 of the present offense.

46 11. The court shall not instruct the jury as to the range of
47 punishment or allow the jury, upon a finding of guilt, to assess and
48 declare the punishment as part of its verdict in cases of prior sexual
49 offenders or persistent sexual offenders.

50 12. Evidence of prior findings of guilt shall be heard and
51 determined by the trial court out of the hearing of the jury prior to the

52 **submission of the case to the jury and shall include, but not be limited**
53 **to, evidence of findings of guilt received by a search of the records of**
54 **the Missouri uniform law enforcement system maintained by the**
55 **Missouri state highway patrol. After hearing the evidence, the court**
56 **shall enter its findings thereon.**

57 **13. The court shall sentence a person who has been found to be**
58 **a prior sexual offender to the authorized term of imprisonment for the**
59 **class one class step higher than the offense for which the person was**
60 **found guilty.**

61 **14. The court shall sentence a person who has been found to be**
62 **a persistent sexual offender to the authorized term of imprisonment for**
63 **the class two steps higher than the offense for which the person was**
64 **found guilty. A person found to be a persistent sexual offender who is**
65 **found guilty of a class B felony shall be sentenced to the authorized**
66 **term of imprisonment for a class A felony. A person found to be a prior**
67 **or persistent sexual offender who is found guilty of a class A felony or**
68 **a felony for which the maximum punishment is thirty years or more**
69 **shall be sentenced to life imprisonment without the eligibility for**
70 **probation or parole.**

589.414. 1. Any person required by sections 589.400 to 589.425 to register
2 shall, not later than three business days after each change of name, residence
3 within the county or city not within a county at which the offender is registered,
4 employment, or student status, appear in person to the chief law enforcement
5 officer of the county or city not within a county and inform such officer of all
6 changes in the information required by the offender. The chief law enforcement
7 officer shall immediately forward the registrant changes to the Missouri state
8 highway patrol within three business days.

9 2. If any person required by sections 589.400 to 589.425 to register
10 changes such person's residence or address to a different county or city not within
11 a county, the person shall appear in person and shall inform both the chief law
12 enforcement official with whom the person last registered and the chief law
13 enforcement official of the county or city not within a county having jurisdiction
14 over the new residence or address in writing within three business days of such
15 new address and phone number, if the phone number is also changed. If any
16 person required by sections 589.400 to 589.425 to register changes their state of
17 residence, the person shall appear in person and shall inform both the chief law

18 enforcement official with whom the person was last registered and the chief law
19 enforcement official of the area in the new state having jurisdiction over the new
20 residence or address within three business days of such new address. Whenever
21 a registrant changes residence, the chief law enforcement official of the county or
22 city not within a county where the person was previously registered shall inform
23 the Missouri state highway patrol of the change within three business
24 days. When the registrant is changing the residence to a new state, the Missouri
25 state highway patrol shall inform the responsible official in the new state of
26 residence within three business days.

27 3. In addition to the requirements of subsections 1 and 2 of this section,
28 the following offenders shall report in person to the chief law enforcement agency
29 every ninety days to verify the information contained in their statement made
30 pursuant to section 589.407:

31 (1) Any offender registered as a predatory **sexual offender as defined**
32 **in section 566.123 or a prior sexual offender** or a persistent sexual offender
33 [under the definitions found in section 566.125] **as defined in section 566.124;**

34 (2) Any offender who is registered for a crime where the victim was less
35 than eighteen years of age at the time of the offense; and

36 (3) Any offender who has pled guilty or been found guilty pursuant to
37 section 589.425 of failing to register or submitting false information when
38 registering.

39 4. In addition to the requirements of subsections 1 and 2 of this section,
40 all registrants shall report semiannually in person in the month of their birth and
41 six months thereafter to the chief law enforcement agency to verify the
42 information contained in their statement made pursuant to section 589.407. All
43 registrants shall allow the chief law enforcement officer to take a current
44 photograph of the offender in the month of his or her birth to the chief law
45 enforcement agency.

46 5. In addition to the requirements of subsections 1 and 2 of this section,
47 all Missouri registrants who work or attend school or training on a full-time or
48 part-time basis in any other state shall be required to report in person to the
49 chief law enforcement officer in the area of the state where they work or attend
50 school or training and register in that state. "Part-time" in this subsection means
51 for more than seven days in any twelve-month period.

52 6. If a person, who is required to register as a sexual offender under
53 sections 589.400 to 589.425, changes or obtains a new online identifier as defined

54 in section 43.651, the person shall report such information in the same manner
55 as a change of residence before using such online identifier.

[566.125. 1. The court shall sentence a person to an
2 extended term of imprisonment if it finds the defendant is a
3 persistent sexual offender and has been found guilty of attempting
4 to commit or committing the following offenses:

5 (1) Statutory rape in the first degree or statutory sodomy
6 in the first degree;

7 (2) Rape in the first degree or sodomy in the first degree;

8 (3) Forcible rape;

9 (4) Forcible sodomy;

10 (5) Rape;

11 (6) Sodomy.

12 2. A "persistent sexual offender" is one who has previously
13 been found guilty of attempting to commit or committing any of the
14 offenses listed in subsection 1 of this section or one who has
15 previously been found guilty of an offense in any other jurisdiction
16 which would constitute any of the offenses listed in subsection 1 of
17 this section.

18 3. The term of imprisonment for one found to be a
19 persistent sexual offender shall be imprisonment for life without
20 eligibility for probation or parole. Subsection 4 of section 558.019
21 shall not apply to any person imprisoned under this subsection,
22 and "imprisonment for life" shall mean imprisonment for the
23 duration of the person's natural life.

24 4. The court shall sentence a person to an extended term of
25 imprisonment as provided for in this section if it finds the
26 defendant is a predatory sexual offender and has been found guilty
27 of committing or attempting to commit any of the offenses listed in
28 subsection 1 of this section or committing child molestation in the
29 first or second degree or sexual abuse when classified as a class B
30 felony.

31 5. For purposes of this section, a "predatory sexual
32 offender" is a person who:

33 (1) Has previously been found guilty of committing or
34 attempting to commit any of the offenses listed in subsection 1 of

35 this section, or committing child molestation in the first or second
36 degree, or sexual abuse when classified as a class B felony; or

37 (2) Has previously committed an act which would constitute
38 an offense listed in subsection 4 of this section, whether or not the
39 act resulted in a conviction; or

40 (3) Has committed an act or acts against more than one
41 victim which would constitute an offense or offenses listed in
42 subsection 4 of this section, whether or not the defendant was
43 charged with an additional offense or offenses as a result of such
44 act or acts.

45 6. A person found to be a predatory sexual offender shall be
46 imprisoned for life with eligibility for parole, however subsection 4
47 of section 558.019 shall not apply to persons found to be predatory
48 sexual offenders for the purposes of determining the minimum
49 prison term or the length of sentence as defined or used in such
50 subsection. Notwithstanding any other provision of law, in no
51 event shall a person found to be a predatory sexual offender receive
52 a final discharge from parole.

53 7. Notwithstanding any other provision of law, the court
54 shall set the minimum time required to be served before a
55 predatory sexual offender is eligible for parole, conditional release
56 or other early release by the department of corrections. The
57 minimum time to be served by a person found to be a predatory
58 sexual offender who:

59 (1) Has previously been found guilty of committing or
60 attempting to commit any of the offenses listed in subsection 1 of
61 this section and is found guilty of committing or attempting to
62 commit any of the offenses listed in subsection 1 of this section
63 shall be any number of years but not less than thirty years;

64 (2) Has previously been found guilty of child molestation in
65 the first or second degree, or sexual abuse when classified as a
66 class B felony and is found guilty of attempting to commit or
67 committing any of the offenses listed in subsection 1 of this section
68 shall be any number of years but not less than fifteen years;

69 (3) Has previously been found guilty of committing or
70 attempting to commit any of the offenses listed in subsection 1 of

71 this section, or committing child molestation in the first or second
72 degree, or sexual abuse when classified as a class B felony shall be
73 any number of years but not less than fifteen years;

74 (4) Has previously been found guilty of child molestation in
75 the first degree or second degree, or sexual abuse when classified
76 as a class B felony, and is found guilty of child molestation in the
77 first or second degree, or sexual abuse when classified as a class B
78 felony shall be any number of years but not less than fifteen years;

79 (5) Is found to be a predatory sexual offender pursuant to
80 subdivision (2) or (3) of subsection 5 of this section shall be any
81 number of years within the range to which the person could have
82 been sentenced pursuant to the applicable law if the person was
83 not found to be a predatory sexual offender.

84 8. Notwithstanding any provision of law to the contrary, the
85 department of corrections, or any division thereof, may not furlough
86 an individual found to be and sentenced as a persistent sexual
87 offender or
88 a predatory sexual offender.]

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