

SENATE AMENDMENT NO. _____
TO
SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend SA# _____ SS/Senate Bill No. 225, Page 1, Section _____, Line 1,

2 by inserting immediately after the word "Page" the
 3 following: "1, Section TITLE, Line 4, by striking "the
 4 offense of murder in the first degree" and inserting in lieu
 5 thereof the following: "capital offenses"; and

6 Further amend said bill, page"; and

7 Further amend said amendment, line 5, by inserting
 8 immediately after "follow"" the following: "; and

9 Further amend said bill and section, page 4, line 89,
 10 by inserting after all of said line the following:

11 "565.045. 1. Where statutory rape in the first degree
 12 or sexual trafficking of a child in the first degree is
 13 charged but not submitted or where the state waives the
 14 death penalty, the submission to the trier and all
 15 subsequent proceedings in the case shall proceed as in all
 16 other criminal cases.

17 2. Where statutory rape in the first degree or sexual
 18 trafficking of a child in the first degree is submitted to
 19 the trier without a waiver of the death penalty, the trial
 20 shall proceed in two stages before the same trier. At the
 21 first stage the trier shall decide only whether the
 22 defendant is guilty or not guilty of any submitted offense.

23 The issue of punishment shall not be submitted to the trier
24 at the first stage. If an offense is charged other than
25 statutory rape in the first degree or sexual trafficking of
26 a child in the first degree in a count together with a count
27 of statutory rape in the first degree or sexual trafficking
28 of a child in the first degree, the trial judge shall assess
29 punishment on any such offense according to law, after the
30 defendant is found guilty of such offense and after he finds
31 the defendant to be a prior offender pursuant to chapter 558.

32 3. If statutory rape in the first degree or sexual
33 trafficking of a child in the first degree is submitted and
34 the death penalty was not waived but the trier finds the
35 defendant guilty of a lesser sexual offense, a second stage
36 of the trial shall proceed as in all other criminal cases.
37 The attorneys may then argue as in other criminal cases the
38 issue of punishment, after which the trier shall assess and
39 declare the punishment as in all other criminal cases.

40 4. If the trier at the first stage of a trial where
41 the death penalty was not waived finds the defendant guilty
42 of statutory rape in the first degree or sexual trafficking
43 of a child in the first degree, a second stage of the trial
44 shall proceed at which the only issue shall be the
45 punishment to be assessed and declared. Evidence in
46 aggravation and mitigation of punishment, may be presented
47 subject to the rules of evidence at criminal trials. Such
48 evidence may include, within the discretion of the court,
49 evidence concerning the victim and the impact of the offense
50 upon the family of the victim and others. Rebuttal and
51 surrebuttal evidence may be presented. The state shall be
52 the first to proceed. If the trier is a jury it shall be
53 instructed on the law. The attorneys may then argue the
54 issue of punishment to the jury, and the state shall have
55 the right to open and close the argument. The trier shall

56 assess and declare the punishment at life imprisonment
57 without eligibility for probation, parole, or release except
58 by act of the governor:

59 (1) If the trier finds by a preponderance of the
60 evidence that the defendant is intellectually disabled;

61 (2) If the trier concludes that there is evidence in
62 mitigation of punishment which is sufficient to outweigh the
63 evidence in aggravation of punishment found by the trier; or

64 (3) If the trier decides under all of the
65 circumstances not to assess and declare the punishment at
66 death. If the trier is a jury it shall be so instructed.

67 If the trier is a jury it shall be instructed before the
68 case is submitted that if it is unable to decide or agree
69 upon the punishment the court shall assess and declare the
70 punishment at life imprisonment without eligibility for
71 probation, parole, or release except by act of the governor,
72 or death if a majority of the jury agree upon the punishment
73 of death. The court shall follow the same procedure as set
74 out in this section whenever it is required to determine
75 punishment for statutory rape in the first degree or sexual
76 trafficking of a child in the first degree.

77 5. Upon written agreement of the parties and with
78 leave of the court, the issue of the defendant's
79 intellectual disability may be taken up by the court and
80 decided prior to trial without prejudicing the defendant's
81 right to have the issue submitted to the trier of fact as
82 provided in subsection 4 of this section.

83 6. As used in this section, the terms "intellectual
84 disability" or "intellectually disabled" refer to a
85 condition involving substantial limitations in general
86 functioning characterized by significantly subaverage
87 intellectual functioning with continual extensive related
88 deficits and limitations in two or more adaptive behaviors

89 such as communication, self-care, home living, social
90 skills, community use, self-direction, health and safety,
91 functional academics, or leisure and work, which conditions
92 are manifested and documented before eighteen years of age.

93 7. The provisions of this section shall only govern
94 offenses committed on or after August 28, 2025.

95 Section 1. Notwithstanding the provisions of section
96 1.140 to the contrary, in the event that any section,
97 provision, clause, phrase, or word of this act or the
98 application thereof is declared invalid under the
99 Constitution of the United States or the Constitution of the
100 State of Missouri, it is the intent of the general assembly
101 that the remaining sections of this act be nonseverable and
102 such decision shall invalidate the remaining sections of
103 this act. The general assembly hereby declares that it
104 would not have passed each section, provision, clause,
105 phrase, or word thereof, if any one or more sections,
106 provisions, clauses, phrases, or words of this act or the
107 application of this act would be declared unenforceable,
108 unconstitutional, or invalid."; and

109 Further amend the title and enacting clause
110 accordingly".