

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILLS NOS. 882, 894 & 1294

AN ACT

To repeal sections 217.362, 217.655, 217.690, 217.760, 556.061, 557.011, 557.021, 558.011, 558.019, 558.026, 558.031, 558.046, 559.115, 566.030, 566.032, 566.060, 566.067, 566.103, 566.125, 566.151, 566.203, 566.209, 566.210, 566.211, 568.060, 571.015, and 589.425, RSMo, and to enact in lieu thereof twenty-seven new sections relating to criminal offenses, with penalty provisions and an effective date for certain sections.

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

Section A. Sections 217.362, 217.655, 217.690, 217.760, 556.061, 557.011, 557.021, 558.011, 558.019, 558.026, 558.031, 558.046, 559.115, 566.030, 566.032, 566.060, 566.067, 566.103, 566.125, 566.151, 566.203, 566.209, 566.210, 566.211, 568.060, 571.015, and 589.425, RSMo, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as sections 217.362, 217.655, 217.690, 217.760, 556.061, 557.011, 557.021, 558.011, 558.019, 558.026, 558.031, 558.046, 559.115, 566.030, 566.032, 566.060, 566.067, 566.103, 566.125, 566.151, 566.203, 566.209, 566.210, 566.211, 568.060, 571.015, and 589.425, to read as follows:

217.362. 1. The department of corrections shall design and implement an intensive long-term program for the treatment of chronic nonviolent offenders with serious substance abuse addictions who have not **[pleaded]** pled guilty to or been convicted of a dangerous felony as defined in section 556.061.

2. Prior to sentencing, any judge considering an offender for this program shall notify the department. The potential candidate for the program shall be screened by the department to determine eligibility. The department shall, by regulation, establish eligibility criteria and inform the court of such criteria. The department shall notify the court as to the offender's eligibility and the availability of space in the program. Notwithstanding any other provision of law to the contrary, except as provided for in section 558.019, if an offender is eligible and there is adequate space, the court may sentence a person to the program which shall consist of institutional drug or alcohol treatment for a period of at least twelve and no more than twenty-four months, as well as a term of incarceration. The department shall determine the nature, intensity, duration, and completion criteria of the education, treatment, and aftercare portions of any program services provided. Execution of the offender's term of incarceration shall be suspended pending completion of said program. Allocation of space in the program may be distributed by the department in proportion to drug arrest patterns in the state. If the court is advised that an offender is not eligible or that there is no space available, the court shall consider other authorized dispositions.

3. Upon successful completion of the program, the division of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. If the court determines that probation is not appropriate the court may order the execution of the offender's sentence.

4. If it is determined by the department that the offender has not successfully completed the program, or that the offender is not cooperatively participating in the

program, the offender shall be removed from the program and the court shall be advised. Failure of an offender to complete the program shall cause the offender to serve the sentence prescribed by the court and void the right to be considered for probation on this sentence.

[5. An offender's first incarceration in a department of corrections program pursuant to this section prior to release on probation shall not be considered a previous prison commitment for the purpose of determining a minimum prison term pursuant to the provisions of section 558.019.]

217.655. 1. Subject to other applicable provisions, the parole board shall be responsible for determining whether a person confined in the department shall be paroled [or released conditionally as provided by section 558.011]. The parole board shall receive administrative support from the division of probation and parole. The division of probation and parole shall provide supervision to all persons referred by the circuit courts of the state as provided by sections 217.750 and 217.760. The parole board shall exercise independence in making decisions about individual cases, but operate cooperatively within the department and with other agencies, officials, courts, and stakeholders to achieve systemic improvement including the requirements of this section.

2. The parole board shall adopt parole guidelines to:

- (1) Preserve finite prison capacity for the most serious and violent offenders;
- (2) Release supervision-manageable cases consistent with section 217.690;
- (3) Use finite resources guided by validated risk and needs assessments;
- (4) Support a seamless reentry process;
- (5) Set appropriate conditions of supervision; and

(6) Develop effective strategies for responding to violation behaviors.

3. The parole board shall collect, analyze, and apply data in carrying out its responsibilities to achieve its mission and end goals. The parole board shall establish agency performance and outcome measures that are directly responsive to statutory responsibilities and consistent with agency goals for release decisions, supervision, revocation, recidivism, and caseloads.

4. The parole board shall publish parole data, including grant rates, revocation and recidivism rates, length of time served, and successful supervision completions, and other performance metrics.

5. The chairperson of the parole board shall employ such employees as necessary to carry out its responsibilities, serve as the appointing authority over such employees, and provide for appropriate training to members and staff, including communication skills.

6. The division of probation and parole shall provide such programs as necessary to carry out its responsibilities consistent with its goals and statutory obligations.

217.690. 1. All releases or paroles shall issue upon order of the parole board, duly adopted.

2. Before ordering the parole of any offender, the parole board shall conduct a validated risk and needs assessment and evaluate the case under the rules governing parole that are promulgated by the parole board. The parole board shall then have the offender appear before a hearing panel and shall conduct a personal interview with him or her, unless waived by the offender, or if the guidelines indicate the offender may be paroled without need for an interview. The guidelines and rules shall not allow for the waiver of a hearing if a victim requests a hearing. The

appearance or presence may occur by means of a videoconference at the discretion of the parole board. A parole may be ordered for the best interest of society when there is a reasonable probability, based on the risk assessment and indicators of release readiness, that the person can be supervised under parole supervision and successfully reintegrated into the community, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. Every offender while on parole shall remain in the legal custody of the department but shall be subject to the orders of the parole board.

3. The division of probation and parole has discretionary authority to require the payment of a fee, not to exceed sixty dollars per month, from every offender placed under division supervision on probation, parole, or conditional release, to waive all or part of any fee, to sanction offenders for willful nonpayment of fees, and to contract with a private entity for fee collections services. All fees collected shall be deposited in the inmate fund established in section 217.430. Fees collected may be used to pay the costs of contracted collections services. The fees collected may otherwise be used to provide community corrections and intervention services for offenders. Such services include substance abuse assessment and treatment, mental health assessment and treatment, electronic monitoring services, residential facilities services, employment placement services, and other offender community corrections or intervention services designated by the division of probation and parole to assist offenders to successfully complete probation, parole, or conditional release. The division of probation and parole shall adopt rules not inconsistent with law, in accordance with section

217.040, with respect to sanctioning offenders and with respect to establishing, waiving, collecting, and using fees.

4. The parole board shall adopt rules not inconsistent with law, in accordance with section 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall recite the conditions of such parole.

5. When considering parole for an offender with consecutive sentences, the minimum term for eligibility for parole shall be calculated by adding the minimum terms for parole eligibility for each of the consecutive sentences, except the minimum term for parole eligibility shall not exceed the minimum term for parole eligibility for an ordinary life sentence.

6. Any offender sentenced to a term of imprisonment amounting to fifteen years or more or multiple terms of imprisonment that, taken together, amount to fifteen or more years who was under eighteen years of age at the time of the commission of the offense or offenses may be eligible for parole after serving fifteen years of incarceration, regardless of whether the case is final for the purposes of appeal, and may be eligible for reconsideration hearings in accordance with regulations promulgated by the parole board.

7. The provisions of subsection 6 of this section shall not apply to an offender found guilty of capital murder, murder in the first degree or murder in the second degree, when murder in the second degree is committed pursuant to subdivision (1) of subsection 1 of section 565.021, who was under eighteen years of age when the offender committed the offense or offenses who may be found ineligible for parole or whose parole eligibility may be controlled by section 558.047 or 565.033.

8. Any offender under a sentence for first degree murder who has been denied release on parole after a parole hearing shall not be eligible for another parole hearing until at least three years from the month of the parole denial[; however, this subsection shall not prevent a release pursuant to subsection 4 of section 558.011].

9. A victim who has requested an opportunity to be heard shall receive notice that the parole board is conducting an assessment of the offender's risk and readiness for release and that the victim's input will be particularly helpful when it pertains to safety concerns and specific protective measures that may be beneficial to the victim should the offender be granted release.

10. Parole hearings shall, at a minimum, contain the following procedures:

(1) The victim or person representing the victim who attends a hearing may be accompanied by one other person;

(2) The victim or person representing the victim who attends a hearing shall have the option of giving testimony in the presence of the inmate or to the hearing panel without the inmate being present;

(3) The victim or person representing the victim may call or write the parole board rather than attend the hearing;

(4) The victim or person representing the victim may have a personal meeting with a parole board member at the parole board's central office;

(5) The judge, prosecuting attorney or circuit attorney and a representative of the local law enforcement agency investigating the crime shall be allowed to attend the hearing or provide information to the hearing panel in regard to the parole consideration; and

(6) The parole board shall evaluate information listed in the juvenile sex offender registry pursuant to section 211.425, provided the offender is between the ages of seventeen and twenty-one, as it impacts the safety of the community.

11. The parole board shall notify any person of the results of a parole eligibility hearing if the person indicates to the parole board a desire to be notified.

12. The parole board may, at its discretion, require any offender seeking parole to meet certain conditions during the term of that parole so long as said conditions are not illegal or impossible for the offender to perform. These conditions may include an amount of restitution to the state for the cost of that offender's incarceration.

13. Special parole conditions shall be responsive to the assessed risk and needs of the offender or the need for extraordinary supervision, such as electronic monitoring. The parole board shall adopt rules to minimize the conditions placed on low-risk cases, to frontload conditions upon release, and to require the modification and reduction of conditions based on the person's continuing stability in the community. Parole board rules shall permit parole conditions to be modified by parole officers with review and approval by supervisors.

14. Nothing contained in this section shall be construed to require the release of an offender on parole nor to reduce the sentence of an offender heretofore committed.

15. Beginning January 1, 2001, the parole board shall not order a parole unless the offender has obtained a high school diploma or its equivalent, or unless the parole board is satisfied that the offender, while committed to the custody of the department, has made an honest good-faith

effort to obtain a high school diploma or its equivalent; provided that the director may waive this requirement by certifying in writing to the parole board that the offender has actively participated in mandatory education programs or is academically unable to obtain a high school diploma or its equivalent.

16. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

17. When concurrent sentences are imposed by a court, the person shall serve the minimum required percentage for each offense prior to parole eligibility.

217.760. 1. In all felony cases and class A misdemeanor cases, the basis of which misdemeanor cases are contained in chapters 565 and 566 and section 577.023, at the request of a [circuit] sentencing judge of any circuit court, the division of probation and parole shall assign one or more state probation and parole officers to make an investigation of the person convicted of the crime or offense before sentence is imposed. In all felony cases in which the recommended sentence established by the sentencing advisory commission pursuant to subsection [7] 1 of section 558.019 includes probation but the recommendation of the prosecuting attorney or circuit attorney does not include

probation, the division of probation and parole shall, prior to sentencing, provide the judge with a report on available alternatives to incarceration. If a presentence investigation report is completed then the available alternatives shall be included in the presentence investigation report.

2. The report of the presentence investigation or preparole investigation shall contain any prior criminal record of the defendant and such information about his or her characteristics, his or her financial condition, his or her social history, the circumstances affecting his or her behavior as may be helpful in imposing sentence or in granting probation or in the correctional treatment of the defendant, information concerning the impact of the crime upon the victim, the recommended sentence established by the sentencing advisory commission and available alternatives to incarceration including opportunities for restorative justice, as well as a recommendation by the probation and parole officer. The officer shall secure such other information as may be required by the court and, whenever it is practicable and needed, such investigation shall include a physical and mental examination of the defendant.

556.061. In this code, unless the context requires a different definition, the following terms shall mean:

(1) "Access", to instruct, communicate with, store data in, retrieve or extract data from, or otherwise make any use of any resources of, a computer, computer system, or computer network;

(2) "Affirmative defense":

(a) The defense referred to is not submitted to the trier of fact unless supported by evidence; and

(b) If the defense is submitted to the trier of fact the defendant has the burden of persuasion that the defense is more probably true than not;

(3) "Burden of injecting the issue":

(a) The issue referred to is not submitted to the trier of fact unless supported by evidence; and

(b) If the issue is submitted to the trier of fact any reasonable doubt on the issue requires a finding for the defendant on that issue;

(4) "Commercial film and photographic print processor", any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term commercial film and photographic print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency;

(5) "Computer", the box that houses the central processing unit (CPU), along with any internal storage devices, such as internal hard drives, and internal communication devices, such as internal modems capable of sending or receiving [electronic mail] email or fax cards, along with any other hardware stored or housed internally. Thus, computer refers to hardware, software and data contained in the main unit. Printers, external modems attached by cable to the main unit, monitors, and other external attachments will be referred to collectively as peripherals and discussed individually when appropriate. When the computer and all peripherals are referred to as a package, the term "computer system" is used. Information refers to all the information on a computer system including both software applications and data;

(6) "Computer equipment", computers, terminals, data storage devices, and all other computer hardware associated with a computer system or network;

(7) "Computer hardware", all equipment which can collect, analyze, create, display, convert, store, conceal or transmit electronic, magnetic, optical or similar computer impulses or data. Hardware includes, but is not limited to, any data processing devices, such as central processing units, memory typewriters and self-contained laptop or notebook computers; internal and peripheral storage devices, transistor-like binary devices and other memory storage devices, such as floppy disks, removable disks, compact disks, digital video disks, magnetic tape, hard drive, optical disks and digital memory; local area networks, such as two or more computers connected together to a central computer server via cable or modem; peripheral input or output devices, such as keyboards, printers, scanners, plotters, video display monitors and optical readers; and related communication devices, such as modems, cables and connections, recording equipment, RAM or ROM units, acoustic couplers, automatic dialers, speed dialers, programmable telephone dialing or signaling devices and electronic tone-generating devices; as well as any devices, mechanisms or parts that can be used to restrict access to computer hardware, such as physical keys and locks;

(8) "Computer network", two or more interconnected computers or computer systems;

(9) "Computer program", a set of instructions, statements, or related data that directs or is intended to direct a computer to perform certain functions;

(10) "Computer software", digital information which can be interpreted by a computer and any of its related components to direct the way they work. Software is stored

in electronic, magnetic, optical or other digital form. The term commonly includes programs to run operating systems and applications, such as word processing, graphic, or spreadsheet programs, utilities, compilers, interpreters and communications programs;

(11) "Computer-related documentation", written, recorded, printed or electronically stored material which explains or illustrates how to configure or use computer hardware, software or other related items;

(12) "Computer system", a set of related, connected or unconnected, computer equipment, data, or software;

(13) "Confinement":

(a) A person is in confinement when such person is held in a place of confinement pursuant to arrest or order of a court, and remains in confinement until:

a. A court orders the person's release; or

b. The person is released on bail, bond, or recognizance, personal or otherwise; or

c. A public servant having the legal power and duty to confine the person authorizes his release without guard and without condition that he return to confinement;

(b) A person is not in confinement if:

a. The person is on probation or parole, temporary or otherwise; or

b. The person is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport the person to or from a place of confinement;

(14) "Consent": consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

(a) It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or

(b) It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

(c) It is induced by force, duress or deception;

(15) "Controlled substance", a drug, substance, or immediate precursor in Schedules I through V as defined in chapter 195;

(16) "Criminal negligence", failure to be aware of a substantial and unjustifiable risk that circumstances exist or a result will follow, and such failure constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation;

(17) "Custody", a person is in custody when he or she has been arrested but has not been delivered to a place of confinement;

(18) "Damage", when used in relation to a computer system or network, means any alteration, deletion, or destruction of any part of the computer system or network;

(19) "Dangerous felony", the felonies [of] requiring eighty-five percent of the imposed sentenced to be served prior to parole eligibility, which are arson in the first degree, assault in the first degree, attempted rape in the first degree if physical injury results, attempted forcible rape if physical injury results, attempted sodomy in the first degree if physical injury results, attempted forcible sodomy if physical injury results, rape in the first degree,

forcible rape, sodomy in the first degree, forcible sodomy, assault in the second degree if the victim of such assault is a special victim as defined in subdivision (14) of section 565.002, kidnapping in the first degree, kidnapping, murder in the second degree, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, armed criminal action, conspiracy to commit an offense when the offense is a dangerous felony, vehicle hijacking when punished as a class A felony, statutory rape in the first degree [when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense], statutory sodomy in the first degree [when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense], child molestation in the first or second degree, abuse of a child if the child dies as a result of injuries sustained from conduct chargeable under section 568.060, child kidnapping, parental kidnapping committed by detaining or concealing the whereabouts of the child for not less than one hundred twenty days under section 565.153, bus hijacking when punished as a class A felony, planting a bomb or explosive in or near a bus or terminal, [and] an "intoxication-related traffic offense" or "intoxication-related boating offense" if the person is found to be a "habitual offender" or "habitual boating offender" as such terms are defined in section 577.001, abuse through forced labor when punished under subsection 4 of section 566.203, trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor or the attempt of such when punished under subsection 4 of section 566.206, trafficking for the purposes of sexual exploitation or the attempt of such when the offense was effected by force,

abduction, or coercion, sexual trafficking of a child in the first degree, sexual trafficking of a child in the second degree, and a third violation of failure to register as a sexual offender;

(20) "Dangerous instrument", any instrument, article or substance, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury;

(21) "Data", a representation of information, facts, knowledge, concepts, or instructions prepared in a formalized or other manner and intended for use in a computer or computer network. Data may be in any form including, but not limited to, printouts, microfiche, magnetic storage media, punched cards and as may be stored in the memory of a computer;

(22) "Deadly weapon", any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a switchblade knife, dagger, billy club, blackjack or metal knuckles;

(23) "Digital camera", a camera that records images in a format which enables the images to be downloaded into a computer;

(24) "Disability", a mental, physical, or developmental impairment that substantially limits one or more major life activities or the ability to provide adequately for one's care or protection, whether the impairment is congenital or acquired by accident, injury or disease, where such impairment is verified by medical findings;

(25) "Elderly person", a person sixty years of age or older;

(26) "Felony", an offense so designated or an offense for which persons found guilty thereof may be sentenced to death or imprisonment for a term of more than one year;

(27) "Forcible compulsion" either:

(a) Physical force that overcomes reasonable resistance; or

(b) A threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person;

(28) "Incapacitated", a temporary or permanent physical or mental condition in which a person is unconscious, unable to appraise the nature of his or her conduct, or unable to communicate unwillingness to an act;

(29) "Infraction", a violation defined by this code or by any other statute of this state if it is so designated or if no sentence other than a fine, or fine and forfeiture or other civil penalty, is authorized upon conviction;

(30) "Inhabitable structure", a vehicle, vessel or structure:

(a) Where any person lives or carries on business or other calling; or

(b) Where people assemble for purposes of business, government, education, religion, entertainment, or public transportation; or

(c) Which is used for overnight accommodation of persons.

Any such vehicle, vessel, or structure is inhabitable regardless of whether a person is actually present. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an inhabitable structure of another;

(31) "Knowingly", when used with respect to:

(a) Conduct or attendant circumstances, means a person is aware of the nature of his or her conduct or that those circumstances exist; or

(b) A result of conduct, means a person is aware that his or her conduct is practically certain to cause that result;

(32) "Law enforcement officer", any public servant having both the power and duty to make arrests for violations of the laws of this state, and federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States;

(33) "Misdemeanor", an offense so designated or an offense for which persons found guilty thereof may be sentenced to imprisonment for a term of which the maximum is one year or less;

(34) "Of another", property that any entity, including but not limited to any natural person, corporation, limited liability company, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement;

(35) "Offense", any felony or misdemeanor;

(36) "Physical injury", slight impairment of any function of the body or temporary loss of use of any part of the body;

(37) "Place of confinement", any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held;

(38) "Possess" or "possessed", having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if such person has the object on his or her person or within easy reach and convenient control. A person has constructive possession if such person has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one person alone has possession of an object, possession is sole. If two or more persons share possession of an object, possession is joint;

(39) "Property", anything of value, whether real or personal, tangible or intangible, in possession or in action;

(40) "Public servant", any person employed in any way by a government of this state who is compensated by the government by reason of such person's employment, any person appointed to a position with any government of this state, or any person elected to a position with any government of this state. It includes, but is not limited to, legislators, jurors, members of the judiciary and law enforcement officers. It does not include witnesses;

(41) "Purposely", when used with respect to a person's conduct or to a result thereof, means when it is his or her conscious object to engage in that conduct or to cause that result;

(42) "Recklessly", consciously disregarding a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation;

(43) "Serious emotional injury", an injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a

behavioral, cognitive or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty;

(44) "Serious physical injury", physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body;

(45) "Services", when used in relation to a computer system or network, means use of a computer, computer system, or computer network and includes, but is not limited to, computer time, data processing, and storage or retrieval functions;

(46) "Sexual orientation", male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, or having a self-image or identity not traditionally associated with one's gender;

(47) "Vehicle", a self-propelled mechanical device designed to carry a person or persons, excluding vessels or aircraft;

(48) "Vessel", any boat or craft propelled by a motor or by machinery, whether or not such motor or machinery is a principal source of propulsion used or capable of being used as a means of transportation on water, or any boat or craft more than twelve feet in length which is powered by sail alone or by a combination of sail and machinery, and used or capable of being used as a means of transportation on water, but not any boat or craft having, as the only means of propulsion, a paddle or oars;

(49) "Voluntary act":

(a) A bodily movement performed while conscious as a result of effort or determination. Possession is a voluntary act if the possessor knowingly procures or receives the thing possessed, or having acquired control of it was aware of his or her control for a sufficient time to have enabled him or her to dispose of it or terminate his or her control; or

(b) An omission to perform an act of which the actor is physically capable. A person is not guilty of an offense based solely upon an omission to perform an act unless the law defining the offense expressly so provides, or a duty to perform the omitted act is otherwise imposed by law;

(50) "Vulnerable person", any person in the custody, care, or control of the department of mental health who is receiving services from an operated, funded, licensed, or certified program.

557.011. 1. Every person found guilty of an offense shall be dealt with by the court in accordance with the provisions of this chapter, except that for offenses defined outside this code and not repealed, the term of imprisonment or the fine that may be imposed is that provided in the statute defining the offense[; however, the conditional release term of any sentence of a term of years shall be determined as provided in subsection 4 of section 558.011].

2. Whenever any person has been found guilty of a felony or a misdemeanor the court shall make one or more of the following dispositions of the offender in any appropriate combination. The court may:

(1) Sentence the person to a term of imprisonment as authorized by chapter 558;

(2) Sentence the person to pay a fine as authorized by chapter 560;

(3) Suspend the imposition of sentence, with or without placing the person on probation;

(4) Pronounce sentence and suspend its execution, placing the person on probation;

(5) Impose a period of detention as a condition of probation, as authorized by section 559.026.

3. Whenever any person has been found guilty of an infraction, the court shall make one or more of the following dispositions of the offender in any appropriate combination. The court may:

(1) Sentence the person to pay a fine as authorized by chapter 560;

(2) Suspend the imposition of sentence, with or without placing the person on probation;

(3) Pronounce sentence and suspend its execution, placing the person on probation.

4. Whenever any organization has been found guilty of an offense, the court shall make one or more of the following dispositions of the organization in any appropriate combination. The court may:

(1) Sentence the organization to pay a fine as authorized by chapter 560;

(2) Suspend the imposition of sentence, with or without placing the organization on probation;

(3) Pronounce sentence and suspend its execution, placing the organization on probation;

(4) Impose any special sentence or sanction authorized by law.

5. This chapter shall not be construed to deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. An

appropriate order exercising such authority may be included as part of any sentence.

6. In the event a sentence of confinement is ordered executed, a court may order that an individual serve all or any portion of such sentence on electronic monitoring; except that all costs associated with the electronic monitoring shall be charged to the person on house arrest. If the judge finds the person unable to afford the costs associated with electronic monitoring, the judge may order that the person be placed on house arrest with electronic monitoring if the county commission agrees to pay the costs of such monitoring. If the person on house arrest is unable to afford the costs associated with electronic monitoring and the county commission does not agree to pay from the general revenue of the county the costs of such electronic monitoring, the judge shall not order that the person be placed on house arrest with electronic monitoring.

557.021. 1. Any offense defined outside this code [which] that is declared to be a misdemeanor without specification of the penalty therefor is a class A misdemeanor.

2. Any offense defined outside this code [which] that is declared to be a felony without specification of the penalty therefor is a class E felony and subject to the terms as provided in chapter 558.

3. For the purpose of applying the extended term provisions of section 558.016 [and the minimum prison term provisions of], the parole eligibility provisions pursuant to section [558.019] 558.011 and for determining the penalty for attempts, offenses defined outside of this code shall be classified as follows:

(1) If the offense is a felony:

(a) It is a class A felony if the authorized penalty includes death, life imprisonment or imprisonment for a term of twenty years or more;

(b) It is a class B felony if the maximum term of imprisonment authorized exceeds ten years but is less than twenty years;

(c) It is a class C felony if the maximum term of imprisonment authorized is ten years;

(d) It is a class D felony if the maximum term of imprisonment exceeds four years but is less than ten years;

(e) It is a class E felony if the maximum term of imprisonment is four years or less;

(2) If the offense is a misdemeanor:

(a) It is a class A misdemeanor if the authorized imprisonment exceeds six months in jail;

(b) It is a class B misdemeanor if the authorized imprisonment exceeds thirty days but is not more than six months;

(c) It is a class C misdemeanor if the authorized imprisonment is thirty days or less;

(d) It is a class D misdemeanor if it includes a mental state as an element of the offense and there is no authorized imprisonment;

(e) It is an infraction if there is no authorized imprisonment.

558.011. 1. The authorized terms of imprisonment, including both prison and conditional release terms, for all offenses are as follows:

(1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment, for which an offender shall serve seventy percent of the imposed sentence prior to parole eligibility;

(2) For a class B felony, a term of years not less than five years and not to exceed fifteen years, for which an offender shall serve fifty percent of the imposed sentence prior to parole eligibility;

(3) For a class C felony, a term of years not less than three years and not to exceed ten years, for which an offender shall serve forty percent of the imposed sentence prior to parole eligibility;

(4) For a class D felony, a term of years not to exceed seven years, for which an offender shall serve twenty-five percent of the imposed sentence prior to parole eligibility;

(5) For a class E felony, a term of years not to exceed four years, for which an offender shall serve twenty-five percent of the imposed sentence prior to parole eligibility;

(6) For a class A misdemeanor, a term not to exceed one year;

(7) For a class B misdemeanor, a term not to exceed six months;

(8) For a class C misdemeanor, a term not to exceed fifteen days.

2. When a person is sentenced to the authorized term of imprisonment for a higher class than the offense for which the person was found guilty under sections 558.016, 565.079, and 579.170, the person shall also be sentenced to the parole eligibility percentage of the higher class.

3. The authorized terms of imprisonment under subsections 1 and 2 of this section shall apply to all offenses, except if the terms for parole eligibility otherwise provided by statute result in a higher parole eligibility percentage, in which case the statute resulting in the higher parole eligibility percentage shall apply.

4. In cases of class D and E felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class D or E felony, it shall commit the person to the custody of the department of corrections.

[3.] 5. (1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the person to the custody of the department of corrections for the term imposed under section 557.036, or until released under procedures established elsewhere by law.

(2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the person to the county jail or other authorized penal institution for the term of his or her sentence or until released under procedure established elsewhere by law.

[4.] 6. (1) Except as otherwise provided, a sentence of imprisonment for a term of years for felonies other than dangerous felonies as defined in section 556.061, and other than sentences of imprisonment which involve the individual's fourth or subsequent remand to the department of corrections shall consist of a prison term and a conditional release term. The conditional release term of any term imposed under section 557.036 shall be:

(a) One-third for terms of nine years or less;

(b) Three years for terms between nine and fifteen years;

(c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the parole board pursuant to subsection 5 of this section.

(2) "Conditional release" means the conditional discharge of an offender by the parole board, subject to conditions of release that the parole board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the division of probation and parole. The conditions of release shall include avoidance by the offender of any other offense, federal or state, and other conditions that the parole board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.

[5.] 7. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the parole board. The director of any division of the department of corrections except the division of probation and parole may file with the parole board a petition to extend the conditional release date when an offender fails to follow the rules and regulations of the division or commits an act in violation of such rules. Within ten working days of receipt of the petition to extend the conditional release date, the parole board shall convene a hearing on the petition. The offender shall be present and may call witnesses in his or her behalf and cross-examine witnesses appearing against the offender. The hearing shall be conducted as provided in section 217.670. If the violation occurs in close proximity to the conditional release date, the conditional release may be held for a maximum of fifteen working days to permit necessary time for the division director to file a petition for an extension with the parole board and for the parole board to conduct a hearing, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date. If at the end of a fifteen-working-day period a parole board

decision has not been reached, the offender shall be released conditionally. The decision of the parole board shall be final.

8. Conditional release shall only apply to offenses committed prior to January 1, 2028. Any person who commits an offense on or after January 1, 2028, shall not be eligible for conditional release for that offense.

9. Other provisions of the law to the contrary notwithstanding, any offender who has been found guilty of a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve eighty-five percent of the sentence imposed by the court prior to parole eligibility.

10. For the purpose of determining the minimum time required to be served by the offender before he or she is eligible for parole, the following calculations shall apply:

(1) A sentence of life shall be calculated to be thirty years; and

(2) Any sentence either alone or in the aggregate with other consecutive sentences for offenses committed at or near the same time that is over seventy-five years shall be calculated to be seventy-five years.

11. Regardless of whether a sentence is served concurrently or consecutively, the minimum percentage for each respective felony shall be met prior to parole eligibility.

558.019. 1. [This section shall not be construed to affect the powers of the governor under Article IV, Section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020 or section 566.125, which set minimum terms of sentences, or the provisions of section 559.115, relating to probation.]

2. The provisions of subsections 2 to 5 of this section shall only be applicable to the offenses contained in sections 565.021, 565.023, 565.024, 565.027, 565.050, 565.052, 565.054, 565.072, 565.073, 565.074, 565.090, 565.110, 565.115, 565.120, 565.153, 565.156, 565.225, 565.300, 566.030, 566.031, 566.032, 566.034, 566.060, 566.061, 566.062, 566.064, 566.067, 566.068, 566.069, 566.071, 566.083, 566.086, 566.100, 566.101, 566.103, 566.111, 566.115, 566.145, 566.151, 566.153, 566.203, 566.206, 566.209, 566.210, 566.211, 566.215, 568.030, 568.045, 568.060, 568.065, 568.175, 569.040, 569.160, 570.023, 570.025, 570.030 when punished as a class A, B, or C felony, 570.145 when punished as a class A or B felony, 570.223 when punished as a class B or C felony, 571.020, 571.030, 571.070, 573.023, 573.025, 573.035, 573.037, 573.200, 573.205, 574.070, 574.080, 574.115, 575.030, 575.150, 575.153, 575.155, 575.157, 575.200 when punished as a class A felony, 575.210, 575.230 when punished as a class B felony, 575.240 when punished as a class B felony, 576.070, 576.080, 577.010, 577.013, 577.078, 577.703, 577.706, 579.065, and 579.068 when punished as a class A or B felony. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of an offender after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include an offender's first incarceration prior to release on probation under section 217.362 or 559.115. Other provisions of the law to the contrary notwithstanding, any offender who has been found guilty of a felony other than a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the offender has one previous prison commitment to the department of corrections for a felony offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age, and has served at least thirty percent of the sentence imposed, whichever occurs first;

(2) If the offender has two previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the offender has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be eighty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

3. Other provisions of the law to the contrary notwithstanding, any offender who has been found guilty of a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

4. For the purpose of determining the minimum prison term to be served, the following calculations shall apply:

(1) A sentence of life shall be calculated to be thirty years;

(2) Any sentence either alone or in the aggregate with other consecutive sentences for offenses committed at or near the same time which is over seventy-five years shall be calculated to be seventy-five years.

5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the offender before he or she is eligible for parole, conditional release or other early release by the department of corrections.

6. An offender who was convicted of, or pled guilty to, a felony offense other than those offenses listed in subsection 2 of this section prior to August 28, 2019, shall no longer be subject to the minimum prison term provisions under subsection 2 of this section, and shall be eligible for parole, conditional release, or other early release by the department of corrections according to the rules and regulations of the department.

7.] (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members shall be appointed to a four-year term. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for offenders convicted of the same or similar offenses and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor, if sentences are comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report the feasibility of these options in Missouri.

(4) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

(5) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.

(6) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing

information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

[8.] 2. Courts shall retain discretion to lower or exceed the sentence recommended by the commission as otherwise allowable by law, and to order restorative justice methods, when applicable.

[9.] 3. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:

(1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the offender's actions;

(2) Offender treatment programs;

(3) Mandatory community service;

(4) Work release programs in local facilities; and

(5) Community-based residential and nonresidential programs.

[10.] 4. Pursuant to subdivision (1) of subsection **[9]** 3 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565. Such contribution shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565.

[11.] 5. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not have any direct supervisory

authority or administrative control over any fund to which the judge is ordering a person to make payment.

[12.] 6. A person who fails to make a payment to a county law enforcement restitution fund may not have his or her probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the person either willfully refused to make the payment or that the person willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

[13.] 7. Nothing in this section shall be construed to allow the sentencing advisory commission to issue recommended sentences in specific cases pending in the courts of this state.

558.026. 1. Multiple sentences of imprisonment shall run concurrently unless the court specifies that they shall run consecutively; except in the case of multiple sentences of imprisonment imposed for any offense committed during or at the same time as, or multiple offenses of, the following felonies:

- (1) Rape in the first degree, forcible rape, or rape;
- (2) Statutory rape in the first degree;
- (3) Sodomy in the first degree, forcible sodomy, or sodomy;
- (4) Statutory sodomy in the first degree; or
- (5) An attempt to commit any of the felonies listed in this subsection. In such case, the sentence of imprisonment imposed for any felony listed in this subsection or an attempt to commit any of the aforesaid shall run consecutively to the other sentences. The sentences imposed for any other offense may run concurrently.

2. If a person who is on probation[,] or parole [or conditional release] is sentenced to a term of imprisonment for an offense committed after the granting of probation or parole [or after the start of his or her conditional release term], the court shall direct the manner in which the sentence or sentences imposed by the court shall run with respect to any resulting probation[,] or parole [or conditional release] revocation term or terms. If the subsequent sentence to imprisonment is in another jurisdiction, the court shall specify how any resulting probation, parole or conditional release revocation term or terms shall run with respect to the foreign sentence of imprisonment.

3. A court may cause any sentence it imposes to run concurrently with a sentence an individual is serving or is to serve in another state or in a federal correctional center. If the Missouri sentence is served in another state or in a federal correctional center, [subsection 4 of section 558.011 and] section 217.690 shall apply as if the individual were serving his or her sentence within the department of corrections of the state of Missouri, except that a personal hearing before the parole board shall not be required for parole consideration.

558.031. 1. A sentence of imprisonment shall commence when a person convicted of an offense in this state is received into the custody of the department of corrections or other place of confinement where the offender is sentenced.

2. [Such] The court shall, when pronouncing sentence, executing a suspended sentence, or suspending the imposition of a sentence, record, as part of the judgment, the number of days the person [shall receive credit toward the service of a sentence of imprisonment for all time] was in prison,

jail, or custody, that was related to the offense, after the offense occurred and before the [commencement] pronouncement of the sentence[, when the time in custody was related to that offense] or suspension of imposition of the sentence, and award credit towards the service of a sentence of imprisonment for that number of days. [This] The jail time credit calculation shall be based upon the certification of the sheriff as provided in subdivision (3) of subsection 2 of section 217.305 and may be supplemented by a certificate of a sheriff or other custodial officer from another jurisdiction having held the person on the charge of the offense for which the sentence of imprisonment is ordered and shall be pronounced at the time of the judgment, the execution of a suspended sentence, or the suspension of imposition of sentence, shall be included in the record, and shall include both the dates the person was in custody and the number of days to be credited toward the service of the sentence.

3. For purposes of this section, time in custody related to an offense includes time during which the offense was charged in a criminal proceeding, there was an arrest warrant issued in said criminal proceeding, and the arrest warrant was served upon the person. The person shall not be entitled to any credit toward the service of a sentence of imprisonment for any time such person was not being held on said arrest warrant because such person posted bond, the arrest warrant was recalled, or the person was otherwise released.

4. The court may take judicial notice of all time the person has served in prison, jail, or custody for a criminal proceeding by comparing dates of service on arrest warrants with evidence contained within the court file of dates of release and the prosecution and defense attorney may enter

into a stipulation with regard to credit for the service of a sentence of imprisonment for all time in prison, jail, or custody, except in no event may the court approve a stipulation that is greater than or less than the time in custody related to an offense.

5. Upon motion and notice by defendant or defense counsel, for any such person who was held in a juvenile detention facility for an offense for which such person was subsequently adjudicated to stand trial as an adult, the court may also award credit toward the service of a sentence of imprisonment for any time such person was confined in a juvenile detention facility.

6. In the event a criminal proceeding related to an offense is dismissed without prejudice by a court or nolle prossed by the state, upon motion and notice by defendant or defense counsel, the proceeding may be consolidated into the present matter for purposes of calculating credit for the service of a sentence of imprisonment.

7. The officer required by law to deliver a person convicted of an offense in this state to the department of corrections shall endorse upon the papers required by section 217.305 both the dates the offender was in custody and the period of time to be credited toward the service of the sentence of imprisonment, [except as endorsed by such officer] included in the judgment or suspended imposition of sentence and such additional days after the pronouncement of sentence and before the delivery of the person to the department of corrections.

[4.] 8. If a person convicted of an offense escapes from custody, such escape shall interrupt the sentence. The interruption shall continue until such person is returned to the correctional center where the sentence was being served, or in the case of a person committed to the custody of the

department of corrections, to any correctional center operated by the department of corrections. An escape shall also interrupt the jail time credit to be applied to a sentence which had not commenced when the escape occurred.

[5.] 9. If a sentence of imprisonment is vacated and a new sentence imposed upon the offender for that offense, all time served under the vacated sentence shall be credited against the new sentence, unless the time has already been credited to another sentence as provided in subsection 1 of this section.

[6.] 10. If a person released from imprisonment on parole or serving a conditional release term violates any of the conditions of his or her parole or release, he or she may be treated as a parole violator. If the parole board revokes the parole or conditional release, the paroled person shall serve the remainder of the prison term and conditional release term, as an additional prison term, and the conditionally released person shall serve the remainder of the conditional release term as a prison term, unless released on parole.

[7.] 11. Subsection 2 of this section shall be applicable to offenses for which the offender was sentenced on or after August 28, [2023] 2026.

[8. The total amount of credit given shall not exceed the number of days spent in prison, jail, or custody after the offense occurred and before the commencement of the sentence.]

12. The court shall retain jurisdiction to rule on any motion challenging the number of days of jail time credit awarded in the pronouncement of a sentence.

558.046. The sentencing court may, upon petition, reduce any term of sentence or probation pronounced by the

court or a term of conditional release or parole pronounced by the parole board if the court determines that:

(1) The convicted person was:

(a) Convicted of an offense that did not involve violence or the threat of violence; and

(b) Convicted of an offense that involved alcohol or illegal drugs; and

(2) Since the commission of such offense, the convicted person has successfully completed a detoxification and rehabilitation program; and

(3) The convicted person is not:

(a) A prior offender, a persistent offender, a dangerous offender or a persistent misdemeanor offender as defined by section 558.016; or

(b) A persistent sexual offender as defined in section 566.125[; or

(c) A prior offender, a persistent offender or a class X offender as defined in section 558.019].

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

2. Unless otherwise prohibited by subsection [8] 7 of this section, a circuit court only upon its own motion and not that of the state or the offender shall have the power to grant probation to an offender anytime up to one hundred twenty days after such offender has been delivered to the department of corrections but not thereafter. The court may request information and a recommendation from the department concerning the offender and such offender's behavior during the period of incarceration. Except as provided in this section, the court may place the offender on probation in a

program created pursuant to section 217.777, or may place the offender on probation with any other conditions authorized by law.

3. The court may recommend placement of an offender in a department of corrections one hundred twenty-day program under this subsection. The department of corrections shall assess each offender to determine the appropriate one hundred twenty-day program in which to place the offender, which may include placement in the structured cognitive behavioral intervention program or institutional treatment program. The placement of an offender in the structured cognitive behavioral intervention program or institutional treatment program shall be at the sole discretion of the department based on the assessment of the offender and available bed space. When the court recommends and receives placement of an offender in a department of corrections one hundred twenty-day program, the offender shall be released on probation if the department of corrections determines that the offender has successfully completed the program except as follows. Upon successful completion of a program under this subsection, the division of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. The court shall follow the recommendation of the department unless the court determines that probation is not appropriate. If the court determines that probation is not appropriate, the court may order the execution of the offender's sentence only after conducting a hearing on the matter within ninety to one hundred twenty days from the date the offender was delivered to the department of corrections. If the department determines the offender has not successfully completed a one hundred twenty-day program under this subsection, the division of probation and parole

shall advise the prosecuting attorney and the sentencing court of the defendant's unsuccessful program exit and the defendant shall be removed from the program. The department shall report on the offender's participation in the program and may provide recommendations for terms and conditions of an offender's probation. The court shall then have the power to grant probation or order the execution of the offender's sentence.

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

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

assessment shall be as provided under subsections 2 and 6 of this section.

6. Unless the offender is being granted probation pursuant to successful completion of a one hundred twenty-day program the circuit court shall notify the state in writing when the court intends to grant probation to the offender pursuant to the provisions of this section. The state may, in writing, request a hearing within ten days of receipt of the court's notification that the court intends to grant probation. Upon the state's request for a hearing, the court shall grant a hearing as soon as reasonably possible. If the state does not respond to the court's notice in writing within ten days, the court may proceed upon its own motion to grant probation.

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

8.] Notwithstanding any other provision of law, probation may not be granted pursuant to this section to offenders who have been convicted of murder in the second degree pursuant to section 565.021; forcible rape pursuant to section 566.030 as it existed prior to August 28, 2013; rape in the first degree under section 566.030; forcible sodomy pursuant to section 566.060 as it existed prior to August 28, 2013; sodomy in the first degree under section 566.060; statutory rape in the first degree pursuant to section 566.032; statutory sodomy in the first degree pursuant to section 566.062; child molestation in the first degree pursuant to section 566.067 when classified as a class A felony; abuse of a child pursuant to section 568.060 when classified as a class A felony; or an offender who has

been found to be a predatory sexual offender pursuant to section 566.125; any offense under section 557.045; or any offense in which there exists a statutory prohibition against either probation or parole.

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

2. The offense of rape in the first degree or an attempt to commit rape in the first degree is a class A felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than **[five]** ten years, not to exceed thirty years, unless:

(1) The offense is an aggravated sexual offense, in which case the authorized term of imprisonment is life imprisonment as defined in section 558.011 or [a term of years not less than fifteen years] life imprisonment without eligibility for probation or parole;

(2) The person is a persistent or predatory sexual offender as defined in section 566.125 and subjected to an extended term of imprisonment under said section;

(3) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment as defined in section 558.011 or life imprisonment without eligibility for probation or parole **[until the offender has served not less than thirty years of such sentence or unless the offender has reached the age of seventy-five years and has served at least fifteen years of**

such sentence, unless such rape in the first degree is described under subdivision (4) of this subsection]; or

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

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

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

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

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

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

(2) The person is a persistent or predatory sexual offender as defined in section 566.125 and subjected to an extended term of imprisonment under said section.

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

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

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

(2) The person is a persistent or predatory sexual offender as defined in section 566.125 and subjected to an extended term of imprisonment under said section;

(3) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment as defined in section 558.011 or life imprisonment without eligibility for probation or parole [until the offender has served not less than thirty years of such sentence or unless the offender has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such sodomy in the first degree is described under subdivision (4) of this subsection]; or

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

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

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

566.067. 1. A person commits the offense of child molestation in the first degree if he or she subjects another person who is less than fourteen years of age to sexual contact and the offense is an aggravated sexual offense.

2. The offense of child molestation in the first degree is a class A felony and, if the victim is a child less than twelve years of age, the person shall serve his or her term of imprisonment without eligibility for probation[,] or parole[, or conditional release].

566.103. 1. A person or entity commits the offense of promoting online sexual solicitation if such person or entity knowingly permits a web-based classified service owned or operated by such person or entity to be used by individuals to post advertisements promoting prostitution,

enticing a child to engage in sexual conduct, or promoting sexual trafficking of a child after receiving notice under this section.

2. As used in this section, the term "web-based classified service" means a person or entity in whose name a specific URL or internet domain name is registered which has advertisements for goods and services or personal advertisements.

3. An advertisement may be deemed to promote prostitution, entice a child to engage in sexual conduct, or promote sexual trafficking of a child, if the content of such advertisement would be interpreted by a reasonable person as offering to exchange sexual conduct for goods or services in violation of chapter 567, as seeking a child for the purpose of sexual conduct or commercial sex act, or as offering a child as a participant in sexual conduct or commercial sex act in violation of section 566.151, 566.210, or 566.211.

4. It shall be prima facie evidence that a person or entity acts knowingly if an advertisement is not removed from the web-based classified service within seventy-two hours of that person or entity being notified that an advertisement has been posted on that service which is prohibited under this section.

5. Notice under this section may be provided by certified mail or facsimile transmission by the attorney general or any prosecuting attorney or circuit attorney.

6. A violation of this section shall be a class E felony, punishable by imprisonment or a fine in the amount of five thousand dollars per day that the advertisement remains posted on the web-based classified service after seventy-two hours of when notice has been provided pursuant to this section, or by both such fine and imprisonment.

7. Original jurisdiction for prosecution of a violation of this section shall be with the local prosecuting attorney or circuit attorney.

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

- (1) Statutory rape in the first degree or statutory sodomy in the first degree;
- (2) Rape in the first degree or sodomy in the first degree;
- (3) Forcible rape;
- (4) Forcible sodomy;
- (5) Rape;
- (6) Sodomy.

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

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

4. The court shall sentence a person to an extended term of imprisonment as provided for in this section if it finds the defendant is a predatory sexual offender and has been found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section or

committing child molestation in the first or second degree or sexual abuse when classified as a class B felony.

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

(1) Has previously been found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section, or committing child molestation in the first or second degree, or sexual abuse when classified as a class B felony; or

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

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

6. A person found to be a predatory sexual offender shall be imprisoned for life with eligibility for parole[, however subsection 4 of section 558.019 shall not apply to persons found to be predatory sexual offenders for the purposes of determining the minimum prison term or the length of sentence as defined or used in such subsection].

Notwithstanding any other provision of law, in no event shall a person found to be a predatory sexual offender receive a final discharge from parole.

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

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

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

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

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

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

8. Notwithstanding any provision of law to the contrary, the department of corrections, or any division thereof, may not furlough an individual found to be and

sentenced as a persistent sexual offender or a predatory sexual offender.

566.151. 1. A person twenty-one years of age or older commits the offense of enticement of a child if he or she persuades, solicits, coaxes, entices, or lures whether by words, actions or through communication via the internet or any electronic communication, any person who is less than seventeen years of age for the purpose of engaging in sexual conduct.

2. It is not a defense to a prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

3. Enticement of a child or an attempt to commit enticement of a child is a felony for which the authorized term of imprisonment shall be not less than five years and not more than thirty years. No person convicted under this section shall be eligible for parole, probation, [conditional release,] or suspended imposition or execution of sentence for a period of five calendar years.

566.203. 1. A person commits the offense of abusing an individual through forced labor by knowingly providing or obtaining the labor or services of a person:

(1) By causing or threatening to cause serious physical injury to any person;

(2) By physically restraining or threatening to physically restrain another person;

(3) By blackmail;

(4) By means of any scheme, plan, or pattern of behavior intended to cause such person to believe that, if the person does not perform the labor services, the person or another person will suffer serious physical injury, physical restraint, or financial harm; or

(5) By means of the abuse or threatened abuse of the law or the legal process.

2. A person who is found guilty of the crime of abuse through forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless such person is otherwise required to register pursuant to the provisions of such section.

3. The offense of abuse through forced labor is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred fifty thousand dollars.

4. If death results from a violation of this section, or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony, or an attempt to commit sexual abuse when punishable as a class B felony, or an attempt to kill, it shall be punishable for a term of years not less than [five] ten years or life and a fine not to exceed two hundred fifty thousand dollars.

566.209. 1. A person commits the [crime] offense of trafficking for the purposes of sexual exploitation if a person knowingly recruits, entices, harbors, transports, provides, advertises the availability of or obtains by any means, including but not limited to through the use of force, intoxicating or inhibiting substances, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, another person for the use or employment of such person in a commercial sex act, sexual conduct, a sexual performance, or the production of explicit sexual material as defined in section 573.010, without his or her consent, or benefits, financially or by receiving anything of value, from participation in such activities.

2. The [crime] offense of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred fifty thousand dollars. If a violation of this section was effected by force, abduction, or coercion, the crime of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars.

566.210. 1. A person commits the offense of sexual trafficking of a child in the first degree if he or she knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, a person under the age of fourteen to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010, or benefits, financially or by receiving anything of value, from participation in such activities;

(2) Causes a person under the age of fourteen to engage in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010; or

(3) Advertises the availability of a person under the age of fourteen to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010.

2. It shall not be a defense that the defendant believed that the person was fourteen years of age or older.

3. The offense of sexual trafficking of a child in the first degree is a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the offender has served not less than thirty years of such sentence. [Subsection 4 of section 558.019 shall not apply to the sentence of a person who has been found guilty of sexual trafficking of a child less than fourteen years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.]

566.211. 1. A person commits the offense of sexual trafficking of a child in the second degree if he or she knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, a person under the age of eighteen to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010, or benefits, financially or by receiving anything of value, from participation in such activities;

(2) Causes a person under the age of eighteen to engage in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010; or

(3) Advertises the availability of a person under the age of eighteen to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010.

2. It shall not be a defense that the defendant believed that the person was eighteen years of age or older.

3. The offense of sexual trafficking of a child in the second degree is a felony punishable by imprisonment for a term of years not less than twenty years or life and a fine not to exceed two hundred fifty thousand dollars if the child is under the age of eighteen. If a violation of this section was effected by force, abduction, or coercion, the [crime] offense of sexual trafficking of a child shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served [not less than twenty-five years] eighty-five percent of such sentence as provided under section 558.011.

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

(1) "Abuse", the infliction of physical, sexual, or mental injury against a child by any person eighteen years of age or older. For purposes of this section, abuse shall not include injury inflicted on a child by accidental means by a person with care, custody, or control of the child, or discipline of a child by a person with care, custody, or control of the child, including spanking, in a reasonable manner;

(2) "Abusive head trauma", a serious physical injury to the head or brain caused by any means, including but not limited to shaking, jerking, pushing, pulling, slamming, hitting, or kicking;

(3) "Mental injury", an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his or her normal range of performance or behavior;

(4) "Neglect", the failure to provide, by those responsible for the care, custody, and control of a child

under the age of eighteen years, the care reasonable and necessary to maintain the physical and mental health of the child, when such failure presents a substantial probability that death or physical injury or sexual injury would result;

(5) "Physical injury", physical pain, illness, or any impairment of physical condition, including but not limited to bruising, lacerations, hematomas, welts, or permanent or temporary disfigurement and impairment of any bodily function or organ;

(6) "Serious emotional injury", an injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive, or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty;

(7) "Serious physical injury", a physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

2. A person commits the offense of abuse or neglect of a child if such person knowingly causes a child who is less than eighteen years of age:

(1) To suffer physical or mental injury as a result of abuse or neglect; or

(2) To be placed in a situation in which the child may suffer physical or mental injury as the result of abuse or neglect.

3. A person commits the offense of abuse or neglect of a child if such person recklessly causes a child who is less than eighteen years of age to suffer from abusive head trauma.

4. A person does not commit the offense of abuse or neglect of a child by virtue of the sole fact that the person delivers or allows the delivery of a child to a provider of emergency services.

5. (1) A person does not commit the offense of abuse or neglect of a child by virtue of the sole fact that the person allows the child to engage in independent activities without adult supervision and the person is a parent to the child or is responsible for the child's care, provided that the:

(a) Independent activities are appropriate based on the child's age, maturity, and physical and mental abilities; and

(b) Lack of adult supervision does not constitute conduct that is so grossly negligent as to endanger the health or safety of the child.

(2) As used in this subsection, "independent activities" shall include traveling to or from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a reasonable period of time without adult supervision.

6. The offense of abuse or neglect of a child is:

(1) A class D felony[, without eligibility for probation, parole, or conditional release until the defendant has served no less than one year of such sentence], unless the person has previously been found guilty of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct or the injury inflicted on the child is a serious emotional injury or a serious physical injury, in which case abuse or neglect of a child is a class B felony, without eligibility for probation or parole until the

defendant has served not less than five years of such sentence; or

(2) A class A felony if the child dies as a result of injuries sustained from conduct chargeable under the provisions of this section.

7. Notwithstanding subsection 6 of this section to the contrary, the offense of abuse or neglect of a child is a class A felony, without eligibility for probation[,] or parole[, or conditional release] until the defendant has served not less than fifteen years of such sentence, if:

- (1) The injury is a serious emotional injury or a serious physical injury;
- (2) The child is less than fourteen years of age; and
- (3) The injury is the result of sexual abuse or sexual abuse in the first degree as defined under section 566.100 or sexual exploitation of a minor as defined under section 573.023.

8. The circuit or prosecuting attorney may refer a person who is suspected of abuse or neglect of a child to an appropriate public or private agency for treatment or counseling so long as the agency has consented to taking such referrals. Nothing in this subsection shall limit the discretion of the circuit or prosecuting attorney to prosecute a person who has been referred for treatment or counseling pursuant to this subsection.

9. Nothing in this section shall be construed to alter the requirement that every element of any crime referred to herein must be proven beyond a reasonable doubt.

10. Discipline, including spanking administered in a reasonable manner, shall not be construed to be abuse under this section.

571.015. 1. Any person who commits any felony under the laws of this state by, with, or through the use,

assistance, or aid of a dangerous instrument or deadly weapon is also guilty of the offense of armed criminal action; the offense of armed criminal action shall be an unclassified felony and, upon conviction, shall be punished by imprisonment by the department of corrections for a term of not less than three years and not to exceed fifteen years, unless the person is unlawfully possessing a firearm, in which case the term of imprisonment shall be for a term of not less than five years. The punishment imposed pursuant to this subsection shall be in addition to and consecutive to any punishment provided by law for the crime committed by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon. No person convicted under this subsection shall be eligible for parole, probation, [conditional release,] or suspended imposition or execution of sentence for a period of three calendar years.

2. Any person convicted of a second offense of armed criminal action under subsection 1 of this section shall be punished by imprisonment by the department of corrections for a term of not less than five years and not to exceed thirty years, unless the person is unlawfully possessing a firearm, in which case the term of imprisonment shall be for a term not less than fifteen years. The punishment imposed pursuant to this subsection shall be in addition to and consecutive to any punishment provided by law for the crime committed by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon. No person convicted under this subsection shall be eligible for parole, probation, [conditional release,] or suspended imposition or execution of sentence for a period of five calendar years.

3. Any person convicted of a third or subsequent offense of armed criminal action under subsection 1 of this section shall be punished by imprisonment by the department of corrections for a term of not less than ten years, unless the person is unlawfully possessing a firearm, in which case the term of imprisonment shall be no less than fifteen years. The punishment imposed pursuant to this subsection shall be in addition to and consecutive to any punishment provided by law for the crime committed by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon. No person convicted under this subsection shall be eligible for parole, probation, [conditional release,] or suspended imposition or execution of sentence for a period of ten calendar years.

589.425. 1. A person commits the crime of failing to register as a sex offender when the person is required to register under sections 589.400 to 589.425 and fails to comply with any requirement of sections 589.400 to 589.425. Failing to register as a sex offender is a class E felony unless the person is required to register based on having committed an offense in chapter 566 which was an unclassified felony, a class A or B felony, or a felony involving a child under the age of fourteen, in which case it is a class D felony.

2. A person commits the crime of failing to register as a sex offender as a second offense by failing to comply with any requirement of sections 589.400 to 589.425 and he or she has previously pled guilty to or has previously been found guilty of failing to register as a sex offender. Failing to register as a sex offender as a second offense is a class E felony unless the person is required to register based on having committed an offense in chapter 566, or an offense in any other state or foreign country, or under

federal, tribal, or military jurisdiction, which if committed in this state would be an offense under chapter 566 which was an unclassified felony, a class A or B felony, or a felony involving a child under the age of fourteen, in which case it is a class D felony.

3. (1) A person commits the crime of failing to register as a sex offender as a third offense by failing to meet the requirements of sections 589.400 to 589.425 and he or she has, on two or more occasions, previously pled guilty to or has previously been found guilty of failing to register as a sex offender. Failing to register as a sex offender as a third offense is a class A felony, which shall be punished by a term of imprisonment of not less than ten years and not more than thirty years.

(2) No court may suspend the imposition or execution of sentence of a person who pleads guilty to or is found guilty of failing to register as a sex offender as a third offense. No court may sentence such person to pay a fine in lieu of a term of imprisonment.

(3) [A person sentenced under this subsection shall not be eligible for conditional release or parole until he or she has served at least two years of imprisonment.

(4)] Upon release, an offender who has committed failing to register as a sex offender as a third offense shall be electronically monitored as a mandatory condition of supervision. Electronic monitoring may be based on a global positioning system or any other technology which identifies and records the offender's location at all times.

Section B The repeal and reenactment of sections 558.011, 558.019, and 558.031 of this act shall become effective on January 1, 2028.