

# SENATE BILL NO. 1697

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

7310S.011

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapter 566, RSMo, by adding thereto one new section relating to the death penalty for certain sexual offenses.

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

Section A. Chapter 566, RSMo, is amended by adding thereto  
2 one new section, to be known as section 566.250, to read as  
3 follows:

566.250. 1. This section shall be known and may be  
2 cited as the "Anti-Epstein Child Protection Act".

3 2. Where statutory rape in the first degree or sexual  
4 trafficking of a child in the first degree is charged but  
5 not submitted or where the state waives the death penalty,  
6 the submission to the trier and all subsequent proceedings  
7 in the case shall proceed as in all other criminal cases.

8 3. Where statutory rape in the first degree or sexual  
9 trafficking of a child in the first degree is submitted to  
10 the trier without a waiver of the death penalty, the trial  
11 shall proceed in two stages before the same trier. At the  
12 first stage the trier shall decide only whether the  
13 defendant is guilty or not guilty of any submitted offense.  
14 The issue of punishment shall not be submitted to the trier  
15 at the first stage. If an offense is charged other than  
16 statutory rape in the first degree or sexual trafficking of  
17 a child in the first degree in a count together with a count

18 of statutory rape in the first degree or sexual trafficking  
19 of a child in the first degree, the trial judge shall assess  
20 punishment on any such offense according to law, after the  
21 defendant is found guilty of such offense and after he finds  
22 the defendant to be a prior offender pursuant to chapter 558.

23 4. If statutory rape in the first degree or sexual  
24 trafficking of a child in the first degree is submitted and  
25 the death penalty was not waived but the trier finds the  
26 defendant guilty of a lesser sexual offense, a second stage  
27 of the trial shall proceed as in all other criminal cases.  
28 The attorneys may then argue as in other criminal cases the  
29 issue of punishment, after which the trier shall assess and  
30 declare the punishment as in all other criminal cases.

31 5. If the trier at the first stage of a trial where  
32 the death penalty was not waived finds the defendant guilty  
33 of statutory rape in the first degree or sexual trafficking  
34 of a child in the first degree, a second stage of the trial  
35 shall proceed at which the only issue shall be the  
36 punishment to be assessed and declared. Evidence in  
37 aggravation and mitigation of punishment, may be presented  
38 subject to the rules of evidence at criminal trials. Such  
39 evidence may include, within the discretion of the court,  
40 evidence concerning the victim and the impact of the offense  
41 upon the family of the victim and others. Rebuttal and  
42 surrebuttal evidence may be presented. The state shall be  
43 the first to proceed. If the trier is a jury it shall be  
44 instructed on the law. The attorneys may then argue the  
45 issue of punishment to the jury, and the state shall have  
46 the right to open and close the argument. The trier shall  
47 assess and declare the punishment at life imprisonment  
48 without eligibility for probation, parole, or release except  
49 by act of the governor:

- 50           (1) If the trier finds by a preponderance of the  
51 evidence that the defendant is intellectually disabled;  
52           (2) If the trier concludes that there is evidence in  
53 mitigation of punishment which is sufficient to outweigh the  
54 evidence in aggravation of punishment found by the trier; or  
55           (3) If the trier decides under all of the  
56 circumstances not to assess and declare the punishment at  
57 death. If the trier is a jury it shall be so instructed.

58 If the trier is a jury it shall be instructed before the  
59 case is submitted that if it is unable to decide or agree  
60 upon the punishment the court shall assess and declare the  
61 punishment at life imprisonment without eligibility for  
62 probation, parole, or release except by act of the governor  
63 or death. The court shall follow the same procedure as set  
64 out in this section whenever it is required to determine  
65 punishment for statutory rape in the first degree or sexual  
66 trafficking of a child in the first degree.

67           6. Upon written agreement of the parties and with  
68 leave of the court, the issue of the defendant's  
69 intellectual disability may be taken up by the court and  
70 decided prior to trial without prejudicing the defendant's  
71 right to have the issue submitted to the trier of fact as  
72 provided in subsection 4 of this section.

73           7. As used in this section, the terms "intellectual  
74 disability" or "intellectually disabled" refer to a  
75 condition involving substantial limitations in general  
76 functioning characterized by significantly subaverage  
77 intellectual functioning with continual extensive related  
78 deficits and limitations in two or more adaptive behaviors  
79 such as communication, self-care, home living, social  
80 skills, community use, self-direction, health and safety,

81 functional academics, or leisure and work, which conditions  
82 are manifested and documented before eighteen years of age.

83 8. The provisions of this section shall only govern  
84 offenses committed on or after August 28, 2026.

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