

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 1584, Page 1, In the Title, Line 5, by
2 deleting the words "private probation services for misdemeanor" and inserting in lieu thereof the
3 words "supervision of"; and
4

5 Further amend said bill and page, Section A, Line 4, by inserting in lieu thereof the following:
6

7 "217.690. 1. When in its opinion there is reasonable probability that an offender of a
8 correctional center can be released without detriment to the community or to himself, the board may
9 in its discretion release or parole such person except as otherwise prohibited by law. All paroles
10 shall issue upon order of the board, duly adopted.

11 2. Before ordering the parole of any offender, the board shall have the offender appear
12 before a hearing panel and shall conduct a personal interview with him or her, unless waived by the
13 offender. A parole shall be ordered only for the best interest of society, not as an award of
14 clemency; it shall not be considered a reduction of sentence or a pardon. An offender shall be
15 placed on parole only when the board believes that he or she is able and willing to fulfill the
16 obligations of a law-abiding citizen. Every offender while on parole shall remain in the legal
17 custody of the department but shall be subject to the orders of the board.

18 3. [The board has discretionary authority to require the payment of a fee, not to exceed sixty
19 dollars per month, from every offender placed under board supervision on probation, parole, or
20 conditional release, to waive all or part of any fee, to sanction offenders for willful nonpayment of
21 fees, and to contract with a private entity for fee collections services. All fees collected shall be
22 deposited in the inmate fund established in section 217.430. Fees collected may be used to pay the
23 costs of contracted collections services. The fees collected may otherwise be used to provide
24 community corrections and intervention services for offenders. Such services include substance
25 abuse assessment and treatment, mental health assessment and treatment, electronic monitoring
26 services, residential facilities services, employment placement services, and other offender
27 community corrections or intervention services designated by the board to assist offenders to
28 successfully complete probation, parole, or conditional release. The board shall adopt rules not
29 inconsistent with law, in accordance with section 217.040, with respect to sanctioning offenders and
30 with respect to establishing, waiving, collecting, and using fees.

31 4.] The board shall adopt rules not inconsistent with law, in accordance with section
32 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or
33 conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall
34 recite the conditions of such parole.

35 [5.] 4. When considering parole for an offender with consecutive sentences, the minimum
36 term for eligibility for parole shall be calculated by adding the minimum terms for parole eligibility

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1 for each of the consecutive sentences, except the minimum term for parole eligibility shall not
2 exceed the minimum term for parole eligibility for an ordinary life sentence.

3 [6.] 5. Any offender under a sentence for first degree murder who has been denied release
4 on parole after a parole hearing shall not be eligible for another parole hearing until at least three
5 years from the month of the parole denial; however, this subsection shall not prevent a release
6 pursuant to subsection 4 of section 558.011.

7 [7.] 6. Parole hearings shall, at a minimum, contain the following procedures:

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

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

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

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

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

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

23 [8.] 7. The board shall notify any person of the results of a parole eligibility hearing if the
24 person indicates to the board a desire to be notified.

25 [9.] 8. The board may, at its discretion, require any offender seeking parole to meet certain
26 conditions during the term of that parole so long as said conditions are not illegal or impossible for
27 the offender to perform. These conditions may include an amount of restitution to the state for the
28 cost of that offender's incarceration.

29 [10.] 9. Nothing contained in this section shall be construed to require the release of an
30 offender on parole nor to reduce the sentence of an offender heretofore committed.

31 [11.] 10. Beginning January 1, 2001, the board shall not order a parole unless the offender
32 has obtained a high school diploma or its equivalent, or unless the board is satisfied that the
33 offender, while committed to the custody of the department, has made an honest good-faith effort to
34 obtain a high school diploma or its equivalent; provided that the director may waive this
35 requirement by certifying in writing to the board that the offender has actively participated in
36 mandatory education programs or is academically unable to obtain a high school diploma or its
37 equivalent.

38 [12.] 11. Any rule or portion of a rule, as that term is defined in section 536.010, that is
39 created under the authority delegated in this section shall become effective only if it complies with
40 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This
41 section and chapter 536 are nonseverable and if any of the powers vested with the general assembly
42 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
43 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
44 adopted after August 28, 2005, shall be invalid and void.

45 217.692. 1. Notwithstanding any other provision of law to the contrary, any offender
46 incarcerated in a correctional institution serving any sentence of life with no parole for fifty years or
47 life without parole, whose plea of guilt was entered or whose trial commenced prior to December
48 31, 1990, and who:

1 (1) Pleaded guilty to or was found guilty of a homicide of a spouse or domestic partner;
2 (2) Has no prior violent felony convictions;
3 (3) No longer has a cognizable legal claim or legal recourse; and
4 (4) Has a history of being a victim of continual and substantial physical or sexual domestic
5 violence that was not presented as an affirmative defense at trial or sentencing and such history can
6 be corroborated with evidence of facts or circumstances which existed at the time of the alleged
7 physical or sexual domestic violence of the offender, including but not limited to witness statements,
8 hospital records, social services records, and law enforcement records;

9
10 shall be eligible for parole after having served fifteen years of such sentence when the board
11 determines by using the guidelines established by this section that there is a strong and reasonable
12 probability that the person will not thereafter violate the law.

13 2. The board of probation and parole shall give a thorough review of the case history and
14 prison record of any offender described in subsection 1 of this section. At the end of the board's
15 review, the board shall provide the offender with a copy of a statement of reasons for its parole
16 decision.

17 3. Any offender released under the provisions of this section shall be under the supervision
18 of the parole board for an amount of time to be determined by the board.

19 4. The parole board shall consider, but not be limited to the following criteria when making
20 its parole decision:

21 (1) Length of time served;
22 (2) Prison record and self-rehabilitation efforts;
23 (3) Whether the history of the case included corroborative material of physical, sexual,
24 mental, or emotional abuse of the offender, including but not limited to witness statements, hospital
25 records, social service records, and law enforcement records;

26 (4) If an offer of a plea bargain was made and if so, why the offender rejected or accepted
27 the offer;

28 (5) Any victim information outlined in subsection [7] 6 of section 217.690 and section
29 595.209;

30 (6) The offender's continued claim of innocence;
31 (7) The age and maturity of the offender at the time of the board's decision;
32 (8) The age and maturity of the offender at the time of the crime and any contributing
33 influence affecting the offender's judgment;
34 (9) The presence of a workable parole plan; and
35 (10) Community and family support.

36 5. Nothing in this section shall limit the review of any offender's case who is eligible for
37 parole prior to fifteen years, nor shall it limit in any way the parole board's power to grant parole
38 prior to fifteen years.

39 6. Nothing in this section shall limit the review of any offender's case who has applied for
40 executive clemency, nor shall it limit in any way the governor's power to grant clemency.

41 7. It shall be the responsibility of the offender to petition the board for a hearing under this
42 section.

43 8. A person commits the crime of perjury if he or she, with the purpose to deceive,
44 knowingly makes a false witness statement to the board. Perjury under this section shall be a class
45 D felony.

46 9. In cases where witness statements alleging physical or sexual domestic violence are in
47 conflict as to whether such violence occurred or was continual and substantial in nature, the history
48 of such alleged violence shall be established by other corroborative evidence in addition to witness

statements, as provided by subsection 1 of this section. A contradictory statement of the victim shall not be deemed a conflicting statement for purposes of this section.

217.692. 1. Notwithstanding any other provision of law to the contrary, any offender incarcerated in a correctional institution serving any sentence of life with no parole for fifty years or life without parole, whose plea of guilt was entered or whose trial commenced prior to December 31, 1990, and who:

- (1) Pleaded guilty to or was found guilty of a homicide of a spouse or domestic partner;
- (2) Has no prior violent felony convictions;
- (3) No longer has a cognizable legal claim or legal recourse; and
- (4) Has a history of being a victim of continual and substantial physical or sexual domestic violence that was not presented as an affirmative defense at trial or sentencing and such history can be corroborated with evidence of facts or circumstances which existed at the time of the alleged physical or sexual domestic violence of the offender, including but not limited to witness statements, hospital records, social services records, and law enforcement records;

shall be eligible for parole after having served fifteen years of such sentence when the board determines by using the guidelines established by this section that there is a strong and reasonable probability that the person will not thereafter violate the law.

2. The board of probation and parole shall give a thorough review of the case history and prison record of any offender described in subsection 1 of this section. At the end of the board's review, the board shall provide the offender with a copy of a statement of reasons for its parole decision.

3. Any offender released under the provisions of this section shall be under the supervision of the parole board for an amount of time to be determined by the board.

4. The parole board shall consider, but not be limited to the following criteria when making its parole decision:

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- (2) Prison record and self-rehabilitation efforts;
- (3) Whether the history of the case included corroborative material of physical, sexual, mental, or emotional abuse of the offender, including but not limited to witness statements, hospital records, social service records, and law enforcement records;
- (4) If an offer of a plea bargain was made and if so, why the offender rejected or accepted the offer;
- (5) Any victim information outlined in subsection [7] 6 of section 217.690 and section 595.209;
- (6) The offender's continued claim of innocence;
- (7) The age and maturity of the offender at the time of the board's decision;
- (8) The age and maturity of the offender at the time of the crime and any contributing influence affecting the offender's judgment;
- (9) The presence of a workable parole plan; and
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6. Nothing in this section shall limit the review of any offender's case who has applied for executive clemency, nor shall it limit in any way the governor's power to grant clemency.

7. It shall be the responsibility of the offender to petition the board for a hearing under this section.

1 8. A person commits the crime of perjury if he or she, with the purpose to deceive,
2 knowingly makes a false witness statement to the board. Perjury under this section shall be a class
3 C felony.

4 9. In cases where witness statements alleging physical or sexual domestic violence are in
5 conflict as to whether such violence occurred or was continual and substantial in nature, the history
6 of such alleged violence shall be established by other corroborative evidence in addition to witness
7 statements, as provided by subsection 1 of this section. A contradictory statement of the victim
8 shall not be deemed a conflicting statement for purposes of this section.

9 577.023. 1. For purposes of this section, unless the context clearly indicates otherwise:

10 (1) An "aggravated offender" is a person who:

11 (a) Has pleaded guilty to or has been found guilty of three or more intoxication-related
12 traffic offenses; or

13 (b) Has pleaded guilty to or has been found guilty of one or more intoxication-related traffic
14 offense and, in addition, any of the following: involuntary manslaughter under subdivision (2) or
15 (3) of subsection 1 of section 565.024; murder in the second degree under section 565.021, where
16 the underlying felony is an intoxication-related traffic offense; [or] assault in the second degree
17 under subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in
18 the second degree under subdivision (4) of subsection 1 of section 565.082;

19 (2) A "chronic offender" is:

20 (a) A person who has pleaded guilty to or has been found guilty of four or more
21 intoxication-related traffic offenses; or

22 (b) A person who has pleaded guilty to or has been found guilty of, on two or more separate
23 occasions, any combination of the following: involuntary manslaughter under subdivision (2) or (3)
24 of subsection 1 of section 565.024; murder in the second degree under section 565.021, where the
25 underlying felony is an intoxication-related traffic offense; assault in the second degree under
26 subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in the
27 second degree under subdivision (4) of subsection 1 of section 565.082; or

28 (c) A person who has pleaded guilty to or has been found guilty of two or more
29 intoxication-related traffic offenses and, in addition, any of the following: involuntary manslaughter
30 under subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under
31 section 565.021, where the underlying felony is an intoxication-related traffic offense; assault in the
32 second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law
33 enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082;

34
35 (3) "Continuous alcohol monitoring", automatically testing breath, blood, or transdermal
36 alcohol concentration levels and tampering attempts at least once every hour, regardless of the
37 location of the person who is being monitored, and regularly transmitting the data[. Continuous
38 alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of
39 section 217.690];

40 (4) An "intoxication-related traffic offense" is driving while intoxicated, driving with
41 excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of
42 subsection 1 of section 565.024, murder in the second degree under section 565.021, where the
43 underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to
44 subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement officer in the
45 second degree pursuant to subdivision (4) of subsection 1 of section 565.082, or driving under the
46 influence of alcohol or drugs in violation of state law or a county or municipal ordinance;

47 (5) A "persistent offender" is one of the following:

48 (a) A person who has pleaded guilty to or has been found guilty of two or more

1 intoxication-related traffic offenses;

2 (b) A person who has pleaded guilty to or has been found guilty of involuntary
3 manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, assault in the
4 second degree pursuant to subdivision (4) of subsection 1 of section 565.060, assault of a law
5 enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section
6 565.082; and

7 (6) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one
8 intoxication-related traffic offense, where such prior offense occurred within five years of the
9 occurrence of the intoxication-related traffic offense for which the person is charged.

10 2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or
11 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

12 3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or
13 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

14 4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or
15 section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C
16 felony.

17 5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or
18 section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B
19 felony.

20 6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior
21 offender, persistent offender, aggravated offender, or chronic offender under this section nor
22 sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary
23 notwithstanding.

24 (1) No prior offender shall be eligible for parole or probation until he or she has served a
25 minimum of ten days imprisonment:

26 (a) Unless as a condition of such parole or probation such person performs at least thirty
27 days involving at least two hundred forty hours of community service under the supervision of the
28 court in those jurisdictions which have a recognized program for community service; or

29 (b) The offender participates in and successfully completes a program established pursuant
30 to section 478.007 or other court-ordered treatment program, if available, and as part of either
31 program, the offender performs at least thirty days of community service under the supervision of
32 the court.

33 (2) No persistent offender shall be eligible for parole or probation until he or she has served
34 a minimum of thirty days imprisonment:

35 (a) Unless as a condition of such parole or probation such person performs at least sixty
36 days involving at least four hundred eighty hours of community service under the supervision of the
37 court; or

38 (b) The offender participates in and successfully completes a program established pursuant
39 to section 478.007 or other court-ordered treatment program, if available, and as part of either
40 program, the offender performs at least sixty days of community service under the supervision of
41 the court.

42 (3) No aggravated offender shall be eligible for parole or probation until he or she has
43 served a minimum of sixty days imprisonment.

44 (4) No chronic offender shall be eligible for parole or probation until he or she has served a
45 minimum of two years imprisonment. In addition to any other terms or conditions of probation, the
46 court shall consider, as a condition of probation for any person who pleads guilty to or is found
47 guilty of an intoxication-related traffic offense, requiring the offender to abstain from consuming or
48 using alcohol or any products containing alcohol as demonstrated by continuous alcohol monitoring

1 or by verifiable breath alcohol testing performed a minimum of four times per day as scheduled by
2 the court for such duration as determined by the court, but not less than ninety days. The court may,
3 in addition to imposing any other fine, costs, or assessments provided by law, require the offender to
4 bear any costs associated with continuous alcohol monitoring or verifiable breath alcohol testing.

5 7. The state, county, or municipal court shall find the defendant to be a prior offender,
6 persistent offender, aggravated offender, or chronic offender if:

7 (1) The indictment or information, original or amended, or the information in lieu of an
8 indictment pleads all essential facts warranting a finding that the defendant is a prior offender or
9 persistent offender; and

10 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding
11 beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated
12 offender, or chronic offender; and

13 (3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by
14 the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic
15 offender.

16 8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the
17 jury outside of its hearing.

18 9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings
19 of such facts to a later time, but prior to sentencing.

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

22 11. The defendant may waive proof of the facts alleged.

23 12. Nothing in this section shall prevent the use of presentence investigations or
24 commitments.

25 13. At the sentencing hearing both the state, county, or municipality and the defendant shall
26 be permitted to present additional information bearing on the issue of sentence.

27 14. The pleas or findings of guilt shall be prior to the date of commission of the present
28 offense.

29 15. The court shall not instruct the jury as to the range of punishment or allow the jury,
30 upon a finding of guilt, to assess and declare the punishment as part of its verdict in cases of prior
31 offenders, persistent offenders, aggravated offenders, or chronic offenders.

32 16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an intoxication-
33 related traffic offense shall be heard and determined by the trial court out of the hearing of the jury
34 prior to the submission of the case to the jury, and shall include but not be limited to evidence
35 received by a search of the records of the Missouri uniform law enforcement system, including
36 criminal history records from the central repository or records from the driving while intoxicated
37 tracking system (DWITS) maintained by the Missouri state highway patrol, or the certified driving
38 record maintained by the Missouri department of revenue. After hearing the evidence, the court
39 shall enter its findings thereon. A plea of guilty or a finding of guilt followed by incarceration, a
40 fine, a suspended imposition of sentence, suspended execution of sentence, probation or parole or
41 any combination thereof in any intoxication-related traffic offense in a state, county or municipal
42 court or any combination thereof shall be treated as a prior plea of guilty or finding of guilt for
43 purposes of this section."; and

44
45 Further amend said bill by amending the title, enacting clause, and intersectional references
46 accordingly.