

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 356, Pages 2-4, Section 217.690, Lines
2 1-78, by deleting all of said lines and inserting in lieu thereof the following:

3 "217.690. 1. When in its opinion there is reasonable probability that an offender of a
4 correctional center can be released without detriment to the community or to himself, the board may
5 in its discretion release or parole such person except as otherwise prohibited by law. All paroles
6 shall issue upon order of the board, duly adopted.

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

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

27 4.] The board shall adopt rules not inconsistent with law, in accordance with section
28 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or
29 conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall
30 recite the conditions of such parole.

31 [5.] 4. When considering parole for an offender with consecutive sentences, the minimum
32 term for eligibility for parole shall be calculated by adding the minimum terms for parole eligibility
33 for each of the consecutive sentences, except the minimum term for parole eligibility shall not
34 exceed the minimum term for parole eligibility for an ordinary life sentence.

35 [6.] 5. Any offender under a sentence for first degree murder who has been denied release on
36 parole after a parole hearing shall not be eligible for another parole hearing until at least three years

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1 from the month of the parole denial; however, this subsection shall not prevent a release pursuant to
2 subsection 4 of section 558.011.

3 [7.] 6. Parole hearings shall, at a minimum, contain the following procedures:

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

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

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

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

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

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

19 [8.] 7. The board shall notify any person of the results of a parole eligibility hearing if the
20 person indicates to the board a desire to be notified.

21 [9.] 8. The board may, at its discretion, require any offender seeking parole to meet certain
22 conditions during the term of that parole so long as said conditions are not illegal or impossible for
23 the offender to perform. These conditions may include an amount of restitution to the state for the
24 cost of that offender's incarceration.

25 [10.] 9. Nothing contained in this section shall be construed to require the release of an
26 offender on parole nor to reduce the sentence of an offender heretofore committed.

27 [11.] 10. Beginning January 1, 2001, the board shall not order a parole unless the offender
28 has obtained a high school diploma or its equivalent, or unless the board is satisfied that the offender,
29 while committed to the custody of the department, has made an honest good-faith effort to obtain a
30 high school diploma or its equivalent; provided that the director may waive this requirement by
31 certifying in writing to the board that the offender has actively participated in mandatory education
32 programs or is academically unable to obtain a high school diploma or its equivalent.

33 [12.] 11. Any rule or portion of a rule, as that term is defined in section 536.010, that is
34 created under the authority delegated in this section shall become effective only if it complies with
35 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
36 and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant
37 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
38 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or
39 adopted after August 28, 2005, shall be invalid and void.

40 *217.692. 1. Notwithstanding any other provision of law to the contrary, any offender
41 incarcerated in a correctional institution serving any sentence of life with no parole for fifty years or
42 life without parole, whose plea of guilt was entered or whose trial commenced prior to December 31,
43 1990, and who:

44 (1) Pleaded guilty to or was found guilty of a homicide of a spouse or domestic partner;

45 (2) Has no prior violent felony convictions;

46 (3) No longer has a cognizable legal claim or legal recourse; and

47 (4) Has a history of being a victim of continual and substantial physical or sexual domestic
48 violence that was not presented as an affirmative defense at trial or sentencing and such history can

1 be corroborated with evidence of facts or circumstances which existed at the time of the alleged
2 physical or sexual domestic violence of the offender, including but not limited to witness statements,
3 hospital records, social services records, and law enforcement records; shall be eligible for parole
4 after having served fifteen years of such sentence when the board determines by using the guidelines
5 established by this section that there is a strong and reasonable probability that the person will not
6 thereafter violate the law.

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

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

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

15 (1) Length of time served;

16 (2) Prison record and self-rehabilitation efforts;

17 (3) Whether the history of the case included corroborative material of physical, sexual,
18 mental, or emotional abuse of the offender, including but not limited to witness statements, hospital
19 records, social service records, and law enforcement records;

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

22 (5) Any victim information outlined in subsection [7] 6 of section 217.690 and section
23 595.209;

24 (6) The offender's continued claim of innocence;

25 (7) The age and maturity of the offender at the time of the board's decision;

26 (8) The age and maturity of the offender at the time of the crime and any contributing
27 influence affecting the offender's judgment;

28 (9) The presence of a workable parole plan; and

29 (10) Community and family support.

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

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

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

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

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

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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 31,
48 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.

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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 the
27 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.

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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.

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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 C
45 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

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

3 217.870. In an effort to reduce the recidivism rate of offenders who are incarcerated in the
4 state of Missouri, the department of corrections shall, prior to the release of any working inmate, do
5 the following:

6 (1) Subject to appropriation, participate in the Federal Bonding Program so that all inmates
7 are bonded prior to release;

8 (2) Review the types of jobs available for inmates while incarcerated to determine which
9 jobs would be eligible for certification and ensure that any inmate who has completed the necessary
10 requirements for certification in a particular field does receive certification;

11 (3) Issue a worker certificate to any inmate who has worked in one or more jobs while
12 incarcerated which were the type of jobs that are not eligible for certification. This worker
13 certificate shall indicate the number of hours the inmate has worked or training the inmate has
14 received in each job which the inmate held. It shall also specify the duties required for each job and
15 list the skills acquired or demonstrated on the job.

16 577.023. 1. For purposes of this section, unless the context clearly indicates otherwise:

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

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

20 (b) Has pleaded guilty to or has been found guilty of one or more intoxication-related traffic
21 offense and, in addition, any of the following: involuntary manslaughter under subdivision (2) or (3)
22 of subsection 1 of section 565.024; murder in the second degree under section 565.021, where the
23 underlying felony is an intoxication-related traffic offense; or assault in the second degree under
24 subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in the
25 second degree under subdivision (4) of subsection 1 of section 565.082;

26 (2) A "chronic offender" is:

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

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

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

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

46 (4) An "intoxication-related traffic offense" is driving while intoxicated, driving with
47 excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of
48 subsection 1 of section 565.024, murder in the second degree under section 565.021, where the

1 underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to
2 subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement officer in the second
3 degree pursuant to subdivision (4) of subsection 1 of section 565.082, or driving under the influence
4 of alcohol or drugs in violation of state law or a county or municipal ordinance;

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

6 (a) A person who has pleaded guilty to or has been found guilty of two or more
7 intoxication-related traffic offenses;

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

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

15 2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or
16 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

17 3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or
18 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

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

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

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

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

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

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

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

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

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

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

1 (4) No chronic offender shall be eligible for parole or probation until he or she has served a
2 minimum of two years imprisonment. In addition to any other terms or conditions of probation, the
3 court shall consider, as a condition of probation for any person who pleads guilty to or is found
4 guilty of an intoxication-related traffic offense, requiring the offender to abstain from consuming or
5 using alcohol or any products containing alcohol as demonstrated by continuous alcohol monitoring
6 or by verifiable breath alcohol testing performed a minimum of four times per day as scheduled by
7 the court for such duration as determined by the court, but not less than ninety days. The court may,
8 in addition to imposing any other fine, costs, or assessments provided by law, require the offender to
9 bear any costs associated with continuous alcohol monitoring or verifiable breath alcohol testing.

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

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

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

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

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

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

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

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

28 12. Nothing in this section shall prevent the use of presentence investigations or
29 commitments.

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

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

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

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

- 1
- 2
- 3 Further amend said bill by amending the title, enacting clause, and intersectional references
- 4 accordingly.