

SECOND REGULAR SESSION

HOUSE BILL NO. 2589

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE EVANS.

5294H.031

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 556.046, RSMo, and to enact in lieu thereof one new section relating to convictions of included offenses.

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

Section A. Section 556.046, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 556.046, to read as follows:

556.046. 1. A person may be convicted of an offense included in an offense charged in the indictment or information. An offense is so included when:

(1) It is established by proof of the same or less than all the facts required to establish the commission of the offense charged; or

(2) It is specifically denominated by statute as a lesser degree of the offense charged; or

(3) It consists of an attempt to commit the offense charged or to commit an offense otherwise included therein.

2. The court shall not be obligated to charge the jury with respect to an included offense unless there is a **rational** basis for a verdict acquitting the person of the offense charged and convicting him **or her** of the included offense. An offense is charged for purposes of this section if:

(1) It is in an indictment or information; or

(2) It is an offense submitted to the jury because there is a **rational** basis for a verdict acquitting the person of the offense charged and convicting the person of the included offense.

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 3. The court shall be obligated to instruct the jury with respect to a particular included
18 offense only if **the instruction is requested and** there is a **rational** basis in the evidence for
19 acquitting the person of the immediately higher included offense and [~~there is a basis in the~~
20 ~~evidence for~~] convicting the person of that particular included offense.

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