

SECOND REGULAR SESSION

HOUSE BILL NO. 2640

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SMITH (163).

6372H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 557.036, 558.021, 558.046, 559.115, 559.117, 566.030, 566.032, 566.060, 566.062, 566.125, and 589.414, RSMo, and to enact in lieu thereof twelve new sections relating to sexual offenders, with penalty provisions.

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

Section A. Sections 557.036, 558.021, 558.046, 559.115, 559.117, 566.030, 566.032, 2 566.060, 566.062, 566.125, and 589.414, RSMo, are repealed and twelve new sections enacted 3 in lieu thereof, to be known as sections 557.036, 558.021, 558.046, 559.115, 559.117, 566.030, 4 566.032, 566.060, 566.062, 566.123, 566.124, and 589.414, to read as follows:

557.036. 1. Upon a finding of guilt, the court shall decide the extent or duration of 2 sentence or other disposition to be imposed under all the circumstances, having regard to the 3 nature and circumstances of the offense and the history and character of the defendant and render 4 judgment accordingly.

5 2. Where an offense is submitted to the jury, the trial shall proceed in two stages. At the 6 first stage, the jury shall decide only whether the defendant is guilty or not guilty of any 7 submitted offense. The issue of punishment shall not be submitted to the jury at the first stage.

8 3. If the jury at the first stage of a trial finds the defendant guilty of the submitted 9 offense, the second stage of the trial shall proceed. The issue at the second stage of the trial shall 10 be the punishment to be assessed and declared. Evidence supporting or mitigating punishment 11 may be presented. Such evidence may include, within the discretion of the court, evidence 12 concerning the impact of the offense upon the victim, the victim's family and others, the nature 13 and circumstances of the offense, and the history and character of the defendant. Rebuttal and 14 surrebuttal evidence may be presented. The state shall be the first to proceed. The court shall

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.

15 instruct the jury as to the range of punishment authorized by statute for each submitted offense.
16 The attorneys may argue the issue of punishment to the jury, and the state shall have the right to
17 open and close the argument. The jury shall assess and declare the punishment as authorized by
18 statute.

19 4. A second stage of the trial shall not proceed and the court, and not the jury, shall
20 assess punishment if:

21 (1) The defendant requests in writing, prior to voir dire, that the court assess the
22 punishment in case of a finding of guilt; or

23 (2) The state pleads and proves the defendant is a prior offender, persistent offender,
24 dangerous offender, or persistent misdemeanor offender as defined in section 558.016~~[, or a~~
25 ~~persistent sexual offender or predatory sexual offender as defined in section 566.125]~~. If the jury
26 cannot agree on the punishment to be assessed, the court shall proceed as provided in subsection
27 1 of this section. If, after due deliberation by the jury, the court finds the jury cannot agree on
28 punishment, then the court may instruct the jury that if it cannot agree on punishment that the
29 court will assess punishment.

30 5. If the jury returns a verdict of guilty in the first stage and declares a term of
31 imprisonment in the second stage, the court shall proceed as provided in subsection 1 of this
32 section except that any term of imprisonment imposed cannot exceed the term declared by the
33 jury unless the term declared by the jury is less than the authorized lowest term for the offense,
34 in which event the court cannot impose a term of imprisonment greater than the lowest term
35 provided for the offense.

36 6. If the defendant is found to be a prior offender, persistent offender, dangerous offender
37 or persistent misdemeanor offender as defined in section 558.016:

38 (1) If he has been found guilty of an offense, the court shall proceed as provided in
39 section 558.016; or

40 (2) If he has been found guilty of a class A felony, the court may impose any sentence
41 authorized for the class A felony.

42 7. The court shall not seek an advisory verdict from the jury in cases of prior offenders,
43 persistent offenders, **or** dangerous offenders~~[, persistent sexual offenders or predatory sexual~~
44 ~~offenders]~~; if an advisory verdict is rendered, the court shall not deem it advisory, but shall
45 consider it as mere surplusage.

558.021. 1. The court shall find the defendant to be a prior offender, persistent offender,
2 **or** dangerous offender~~[, persistent sexual offender or predatory sexual offender]~~ if:

3 (1) The indictment or information, original or amended, or the information in lieu of an
4 indictment pleads all essential facts warranting a finding that the defendant is a prior offender,

5 persistent offender, **or** dangerous offender[, ~~persistent sexual offender or predatory sexual~~
6 ~~offender~~]; and

7 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding
8 beyond a reasonable doubt that the defendant is a prior offender, persistent offender, **or**
9 dangerous offender[, ~~persistent sexual offender or predatory sexual offender~~]; and

10 (3) The court makes findings of fact that warrant a finding beyond a reasonable doubt
11 by the court that the defendant is a prior offender, persistent offender, **or** dangerous offender[;
12 ~~persistent sexual offender or predatory sexual offender~~].

13 2. In a jury trial, the facts shall be pleaded, established and found prior to submission to
14 the jury outside of its hearing, except the facts required by subdivision (1) of subsection 4 of
15 section 558.016 may be established and found at a later time, but prior to sentencing, and may
16 be established by judicial notice of prior testimony before the jury.

17 3. In a trial without a jury or upon a plea of guilty, the court may defer the proof and
18 findings of such facts to a later time, but prior to sentencing. The facts required by subdivision
19 (1) of subsection 4 of section 558.016 may be established by judicial notice of prior testimony
20 or the plea of guilty.

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

23 5. The defendant may waive proof of the facts alleged.

24 6. Nothing in this section shall prevent the use of presentence investigations or
25 commitments under sections 557.026 and 557.031.

26 7. At the sentencing hearing both the state and the defendant shall be permitted to present
27 additional information bearing on the issue of sentence.

558.046. The sentencing court may, upon petition, reduce any term of sentence or
2 probation pronounced by the court or a term of conditional release or parole pronounced by the
3 state board of probation and parole if the court determines that:

4 (1) The convicted person was:

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

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

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

9 (3) The convicted person is not:

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

12 (b) A **predatory sexual offender as defined in section 566.123, or a prior sexual**
13 **offender or a persistent sexual offender as defined in section [566.125] 566.124;** or

14 (c) A prior offender, a persistent offender or a class X offender as defined in section
15 558.019.

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

4 2. Unless otherwise prohibited by subsection 8 of this section, a circuit court only upon
5 its own motion and not that of the state or the offender shall have the power to grant probation
6 to an offender anytime up to one hundred twenty days after such offender has been delivered to
7 the department of corrections but not thereafter. The court may request information and a
8 recommendation from the department concerning the offender and such offender's behavior
9 during the period of incarceration. Except as provided in this section, the court may place the
10 offender on probation in a program created pursuant to section 217.777, or may place the
11 offender on probation with any other conditions authorized by law.

12 3. The court may recommend placement of an offender in a department of corrections
13 one hundred twenty-day program under this subsection or order such placement under subsection
14 4 of section 559.036. Upon the recommendation or order of the court, the department of
15 corrections shall assess each offender to determine the appropriate one hundred twenty-day
16 program in which to place the offender, which may include placement in the shock incarceration
17 program or institutional treatment program. When the court recommends and receives placement
18 of an offender in a department of corrections one hundred twenty-day program, the offender shall
19 be released on probation if the department of corrections determines that the offender has
20 successfully completed the program except as follows. Upon successful completion of a
21 program under this subsection, the board of probation and parole shall advise the sentencing
22 court of an offender's probationary release date thirty days prior to release. The court shall
23 follow the recommendation of the department unless the court determines that probation is not
24 appropriate. If the court determines that probation is not appropriate, the court may order the
25 execution of the offender's sentence only after conducting a hearing on the matter within ninety
26 to one hundred twenty days from the date the offender was delivered to the department of
27 corrections. If the department determines the offender has not successfully completed a one
28 hundred twenty-day program under this subsection, the offender shall be removed from the
29 program and the court shall be advised of the removal. The department shall report on the
30 offender's participation in the program and may provide recommendations for terms and
31 conditions of an offender's probation. The court shall then have the power to grant probation or
32 order the execution of the offender's sentence.

33 4. If the court is advised that an offender is not eligible for placement in a one hundred
34 twenty-day program under subsection 3 of this section, the court shall consider other authorized

35 dispositions. If the department of corrections one hundred twenty-day program under subsection
36 3 of this section is full, the court may place the offender in a private program approved by the
37 department of corrections or the court, the expenses of such program to be paid by the offender,
38 or in an available program offered by another organization. If the offender is convicted of a class
39 C, class D, or class E nonviolent felony, the court may order probation while awaiting
40 appointment to treatment.

41 5. Except when the offender has been found to be a predatory sexual offender pursuant
42 to section ~~[566.125]~~ **566.123**, the court shall request the department of corrections to conduct a
43 sexual offender assessment if the defendant has been found guilty of sexual abuse when
44 classified as a class B felony. Upon completion of the assessment, the department shall provide
45 to the court a report on the offender and may provide recommendations for terms and conditions
46 of an offender's probation. The assessment shall not be considered a one hundred twenty-day
47 program as provided under subsection 3 of this section. The process for granting probation to
48 an offender who has completed the assessment shall be as provided under subsections 2 and 6
49 of this section.

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

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

60 8. Notwithstanding any other provision of law, probation may not be granted pursuant
61 to this section to offenders who have been convicted of murder in the second degree pursuant
62 to section 565.021; forcible rape pursuant to section 566.030 as it existed prior to August 28,
63 2013; rape in the first degree under section 566.030; forcible sodomy pursuant to section 566.060
64 as it existed prior to August 28, 2013; sodomy in the first degree under section 566.060; statutory
65 rape in the first degree pursuant to section 566.032; statutory sodomy in the first degree pursuant
66 to section 566.062; child molestation in the first degree pursuant to section 566.067 when
67 classified as a class A felony; abuse **or neglect** of a child pursuant to section 568.060 when
68 classified as a class A felony; or an offender who has been found to be a predatory sexual
69 offender pursuant to section ~~[566.125]~~ **566.123**; or any offense in which there exists a statutory
70 prohibition against either probation or parole.

559.117. 1. The director of the department of corrections is authorized to establish, as
2 a three-year pilot program, a mental health assessment process.

3 2. Only upon a motion filed by the prosecutor in a criminal case, the judge who is
4 hearing the criminal case in a participating county may request that an offender be placed in the
5 department of corrections for one hundred twenty days for a mental health assessment and for
6 treatment if it appears that the offender has a mental disorder or mental illness such that the
7 offender may qualify for probation including community psychiatric rehabilitation (CPR)
8 programs and such probation is appropriate and not inconsistent with public safety. Before the
9 judge rules upon the motion, the victim shall be given notice of such motion and the opportunity
10 to be heard. Upon recommendation of the court, the department shall determine the offender's
11 eligibility for the mental health assessment process.

12 3. Following this assessment and treatment period, an assessment report shall be sent to
13 the sentencing court and the sentencing court may, if appropriate, release the offender on
14 probation. The offender shall be supervised on probation by a state probation and parole officer,
15 who shall work cooperatively with the department of mental health to enroll eligible offenders
16 in community psychiatric rehabilitation (CPR) programs.

17 4. Notwithstanding any other provision of law, probation shall not be granted under this
18 section to offenders who:

19 (1) Have been found guilty of, or plead guilty to, murder in the second degree under
20 section 565.021;

21 (2) Have been found guilty of, or plead guilty to, rape in the first degree under section
22 566.030 or forcible rape under section 566.030 as it existed prior to August 28, 2013;

23 (3) Have been found guilty of, or plead guilty to, statutory rape in the first degree under
24 section 566.032;

25 (4) Have been found guilty of, or plead guilty to, sodomy in the first degree under section
26 566.060 or forcible sodomy under section 566.060 as it existed prior to August 28, 2013;

27 (5) Have been found guilty of, or plead guilty to, statutory sodomy in the first degree
28 under section 566.062;

29 (6) Have been found guilty of, or plead guilty to, child molestation in the first degree
30 under section 566.067 when classified as a class A felony;

31 (7) Have been found to be a predatory sexual offender under section ~~[566.125]~~ **566.123**;
32 or

33 (8) Have been found guilty of, or plead guilty to, any offense for which there exists a
34 statutory prohibition against either probation or parole.

35 5. At the end of the three-year pilot, the director of the department of corrections and the
36 director of the department of mental health shall jointly submit recommendations to the governor
37 and to the general assembly by December 31, 2015, on whether to expand the process statewide.

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

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

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

12 (2) The person is **a prior sexual offender** or a persistent **sexual offender as defined**
13 **in section 566.124** or a predatory sexual offender as defined in section ~~[566.125]~~ **566.123** and
14 subjected to an extended term of imprisonment under said section;

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

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

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

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

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

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

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

9 (2) The person is **a prior sexual offender** or a persistent **sexual offender as defined**
10 **in section 566.124** or a predatory sexual offender as defined in section ~~[566.125 and subjected~~
11 ~~to an extended term of imprisonment under said section]~~ **566.123**.

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

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

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

12 (2) The person is **a prior sexual offender** or a persistent **sexual offender as defined**
13 **in section 566.124** or a predatory sexual offender as defined in section ~~[566.125 and subjected~~
14 ~~to an extended term of imprisonment under said section]~~ **566.123**;

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

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

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

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

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

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

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

 (2) The person is **a prior sexual offender** or a persistent **sexual offender as defined**
7 **in section 566.124** or a predatory sexual offender as defined in section ~~[566.125 and subjected~~
8 ~~to an extended term of imprisonment under said section]~~ **566.123**.

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

 (1) **"Predatory sexual offense", statutory rape in the first degree, statutory sodomy**
2 **in the first degree, rape in the first degree, sodomy in the first degree, forcible rape,**
3 **forcible sodomy, rape, sodomy, child molestation in the first degree when classified as a**
4 **class A or B felony, child molestation in the second degree when classified as a class A or**
5 **B felony, sexual abuse when classified as a class B felony, sexual abuse in the first degree**
6 **when classified as a class B felony, or an attempt to commit any of these offenses, or the**
7 **commission of an offense in another jurisdiction that if committed in this state would**
8 **constitute the commission of any of the listed offenses;**

 (2) **"Predatory sexual offender", any person who has been found guilty of**
9 **committing or attempting to commit a predatory sexual offense and who has, prior to that**
10 **finding:**

 (a) **Committed another act that would constitute a predatory sexual offense,**
11 **regardless of whether the other act was charged or resulted in a finding of guilt; or**

 (b) **Committed an act or acts against more than one victim that would constitute**
12 **a predatory sexual offense, whether the defendant was charged with an additional offense**
13 **or offenses as a result of such act or acts.**

 2. **The court shall sentence a person to life without eligibility for probation or**
14 **parole if it finds the defendant is a predatory sexual offender. Subsection 4 of section**
15 **558.019 shall not apply to any person imprisoned under this subsection for the purposes**
16 **of determining the minimum prison term or the length of sentence as defined or used in**
17

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

24 3. Notwithstanding any provision of law, the department of corrections, or any
25 division thereof, shall not furlough an individual found to be and sentenced as a persistent
26 sexual offender as defined in section 566.124 or a predatory sexual offender.

27 4. The punishment imposed under this section shall be in addition to any
28 punishment provided by law for the offense, of which the defendant has been previously
29 found guilty, or the act which would constitute an offense, whether the act was charged or
30 resulted in a finding of guilt.

31 5. In determining whether a defendant is a predatory sexual offender:

32 (1) Prior findings of guilt shall be pleaded and proven in the same manner required
33 by the provisions of section 558.021;

34 (2) Acts that would constitute an offense that were not charged or did not result in
35 a finding of guilt shall be pleaded and proven as follows:

36 (a) In a trial without a jury or upon a plea of guilty, the acts shall be pleaded and
37 proven in the same manner required under section 558.021. The court may defer the proof
38 and findings establishing the defendant is a predatory sexual offender to a later time, but
39 prior to sentencing. The facts required to prove the defendant is a predatory sexual
40 offender may be established by judicial notice of prior testimony or the plea of guilty;

41 (b) Notwithstanding any other provision of law, if an offense is submitted to the
42 jury, the trial shall proceed in multiple stages. If the jury at the first stage of a trial finds
43 the defendant guilty of the submitted offense, the second stage of the trial shall proceed.
44 The issue at the second stage of the trial shall be whether the defendant is a predatory
45 sexual offender. The state shall be the first to proceed. The court shall instruct the jury.
46 The attorneys may argue the issue of whether the defendant is a predatory sexual offender
47 to the jury, and the state shall have the right to open and close the argument. The jury
48 shall determine whether the defendant is a predatory sexual offender beyond a reasonable
49 doubt. If the jury determines that the defendant is a predatory sexual offender, the court
50 shall not seek an advisory verdict from the jury. If the jury determines that the defendant
51 is not a predatory sexual offender, a third stage of the trial shall proceed, unless jury
52 sentencing is removed under section 557.036. The issue at the third stage of the trial shall
53 be the punishment to be assessed and declared. The third stage of the trial shall proceed
54 in the same manner required under section 557.036. The parties may present additional
55 evidence in this stage and may argue evidence presented at the first stage or the second
56 stage.

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

2 (1) "Sexual offense", any offense under chapter 566, or an attempt to commit any
3 of these offenses, or the commission of an offense in another jurisdiction that if committed
4 in this state would constitute the commission of any of the listed offenses, or any offense
5 that requires registration under section 589.400;

6 (2) "Persistent sexual offender", a person who has been found guilty of two or more
7 sexual offenses;

8 (3) "Prior sexual offender", a person who has been found guilty of one sexual
9 offense.

10 2. No court shall suspend the imposition of sentence as to a prior or persistent
11 sexual offender under this section nor sentence such person to pay a fine in lieu of a term
12 of imprisonment, section 557.011 to the contrary notwithstanding, nor shall such person
13 be eligible for parole or probation until such person has served a minimum of three years'
14 imprisonment.

15 3. The court shall find the defendant to be a prior sexual offender or persistent
16 sexual offender, if:

17 (1) The indictment or information, original or amended, or the information in lieu
18 of an indictment pleads all essential facts warranting a finding that the defendant is a prior
19 sexual offender or persistent sexual offender;

20 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a
21 finding beyond a reasonable doubt the defendant is a prior sexual offender or persistent
22 sexual offender; and

23 (3) The court makes findings of fact that warrant a finding beyond a reasonable
24 doubt by the court that the defendant is a prior sexual offender or persistent sexual
25 offender.

26 4. In a jury trial, such facts shall be pleaded, established, and found prior to
27 submission to the jury outside of its hearing.

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

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

32 7. The defendant may waive proof of the facts alleged.

33 8. Nothing in this section shall prevent the use of presentence investigations or
34 commitments.

35 9. At the sentencing hearing both the state and the defendant shall be permitted to
36 present additional information bearing on the issue of sentence.

37 **10. The findings of guilt shall be prior to the date of commission of the present**
38 **offense.**

39 **11. The court shall not instruct the jury as to the range of punishment or allow the**
40 **jury, upon a finding of guilt, to assess and declare the punishment as part of its verdict in**
41 **cases of prior sexual offenders or persistent sexual offenders.**

42 **12. Evidence of prior findings of guilt shall be heard and determined by the trial**
43 **court out of the hearing of the jury prior to the submission of the case to the jury and shall**
44 **include, but not be limited to, evidence of findings of guilt received by a search of the**
45 **records of the Missouri uniform law enforcement system maintained by the Missouri state**
46 **highway patrol. After hearing the evidence, the court shall enter its findings thereon.**

47 **13. The court shall sentence a person who has been found to be a prior sexual**
48 **offender to the authorized term of imprisonment for the class one class step higher than**
49 **the offense for which the person was found guilty.**

50 **14. The court shall sentence a person who has been found to be a persistent sexual**
51 **offender to the authorized term of imprisonment for the class two steps higher than the**
52 **offense for which the person was found guilty. A person found to be a persistent sexual**
53 **offender who is found guilty of a class B felony shall be sentenced to the authorized term**
54 **of imprisonment for a class A felony. A person found to be a prior or persistent sexual**
55 **offender who is found guilty of a class A felony or a felony for which the maximum**
56 **punishment is thirty years or more shall be sentenced to life imprisonment without the**
57 **eligibility for probation or parole.**

589.414. 1. Any person required by sections 589.400 to 589.425 to register shall, not
2 later than three business days after each change of name, residence within the county or city not
3 within a county at which the offender is registered, employment, or student status, appear in
4 person to the chief law enforcement officer of the county or city not within a county and inform
5 such officer of all changes in the information required by the offender. The chief law
6 enforcement officer shall immediately forward the registrant changes to the Missouri state
7 highway patrol within three business days.

8 2. If any person required by sections 589.400 to 589.425 to register changes such
9 person's residence or address to a different county or city not within a county, the person shall
10 appear in person and shall inform both the chief law enforcement official with whom the person
11 last registered and the chief law enforcement official of the county or city not within a county
12 having jurisdiction over the new residence or address in writing within three business days of
13 such new address and phone number, if the phone number is also changed. If any person
14 required by sections 589.400 to 589.425 to register changes their state of residence, the person
15 shall appear in person and shall inform both the chief law enforcement official with whom the

16 person was last registered and the chief law enforcement official of the area in the new state
17 having jurisdiction over the new residence or address within three business days of such new
18 address. Whenever a registrant changes residence, the chief law enforcement official of the
19 county or city not within a county where the person was previously registered shall inform the
20 Missouri state highway patrol of the change within three business days. When the registrant is
21 changing the residence to a new state, the Missouri state highway patrol shall inform the
22 responsible official in the new state of residence within three business days.

23 3. In addition to the requirements of subsections 1 and 2 of this section, the following
24 offenders shall report in person to the chief law enforcement agency every ninety days to verify
25 the information contained in their statement made pursuant to section 589.407:

26 (1) Any offender registered as a predatory **sexual offender as defined in section**
27 **566.123** or a **prior sexual offender or a persistent sexual offender** [~~under the definitions found~~
28 ~~in section 566.125~~] **as defined in section 566.124**;

29 (2) Any offender who is registered for a crime where the victim was less than eighteen
30 years of age at the time of the offense; and

31 (3) Any offender who has pled guilty or been found guilty pursuant to section 589.425
32 of failing to register or submitting false information when registering.

33 4. In addition to the requirements of subsections 1 and 2 of this section, all registrants
34 shall report semiannually in person in the month of their birth and six months thereafter to the
35 chief law enforcement agency to verify the information contained in their statement made
36 pursuant to section 589.407. All registrants shall allow the chief law enforcement officer to take
37 a current photograph of the offender in the month of his or her birth to the chief law enforcement
38 agency.

39 5. In addition to the requirements of subsections 1 and 2 of this section, all Missouri
40 registrants who work or attend school or training on a full-time or part-time basis in any other
41 state shall be required to report in person to the chief law enforcement officer in the area of the
42 state where they work or attend school or training and register in that state. "Part-time" in this
43 subsection means for more than seven days in any twelve-month period.

44 6. If a person, who is required to register as a sexual offender under sections 589.400 to
45 589.425, changes or obtains a new online identifier as defined in section 43.651, the person shall
46 report such information in the same manner as a change of residence before using such online
47 identifier.

48

2 ~~[566.125. 1. The court shall sentence a person to an extended term of~~
3 ~~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:~~

- 4 ~~_____ (1) Statutory rape in the first degree or statutory sodomy in the first~~
5 ~~degree;~~
- 6 ~~_____ (2) Rape in the first degree or sodomy in the first degree;~~
- 7 ~~_____ (3) Forecible rape;~~
- 8 ~~_____ (4) Forecible sodomy;~~
- 9 ~~_____ (5) Rape;~~
- 10 ~~_____ (6) Sodomy.~~
- 11 ~~_____ 2. A "persistent sexual offender" is one who has previously been found~~
12 ~~guilty of attempting to commit or committing any of the offenses listed in~~
13 ~~subsection 1 of this section or one who has previously been found guilty of an~~
14 ~~offense in any other jurisdiction which would constitute any of the offenses listed~~
15 ~~in subsection 1 of this section.~~
- 16 ~~_____ 3. The term of imprisonment for one found to be a persistent sexual~~
17 ~~offender shall be imprisonment for life without eligibility for probation or parole.~~
18 ~~Subsection 4 of section 558.019 shall not apply to any person imprisoned under~~
19 ~~this subsection, and "imprisonment for life" shall mean imprisonment for the~~
20 ~~duration of the person's natural life.~~
- 21 ~~_____ 4. The court shall sentence a person to an extended term of imprisonment~~
22 ~~as provided for in this section if it finds the defendant is a predatory sexual~~
23 ~~offender and has been found guilty of committing or attempting to commit any~~
24 ~~of the offenses listed in subsection 1 of this section or committing child~~
25 ~~molestation in the first or second degree or sexual abuse when classified as a~~
26 ~~class B felony.~~
- 27 ~~_____ 5. For purposes of this section, a "predatory sexual offender" is a person~~
28 ~~who:~~
- 29 ~~_____ (1) Has previously been found guilty of committing or attempting to~~
30 ~~commit any of the offenses listed in subsection 1 of this section, or committing~~
31 ~~child molestation in the first or second degree, or sexual abuse when classified~~
32 ~~as a class B felony; or~~
- 33 ~~_____ (2) Has previously committed an act which would constitute an offense~~
34 ~~listed in subsection 4 of this section, whether or not the act resulted in a~~
35 ~~conviction; or~~
- 36 ~~_____ (3) Has committed an act or acts against more than one victim which~~
37 ~~would constitute an offense or offenses listed in subsection 4 of this section;~~
38 ~~whether or not the defendant was charged with an additional offense or offenses~~
39 ~~as a result of such act or acts.~~
- 40 ~~_____ 6. A person found to be a predatory sexual offender shall be imprisoned~~
41 ~~for life with eligibility for parole, however subsection 4 of section 558.019 shall~~
42 ~~not apply to persons found to be predatory sexual offenders for the purposes of~~
43 ~~determining the minimum prison term or the length of sentence as defined or~~
44 ~~used in such subsection. Notwithstanding any other provision of law, in no event~~
45 ~~shall a person found to be a predatory sexual offender receive a final discharge~~
46 ~~from parole.~~

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

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

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

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

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

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

75 ~~8. Notwithstanding any provision of law to the contrary, the department~~
76 ~~of corrections, or any division thereof, may not furlough an individual found to~~
77 ~~be and sentenced as a persistent sexual offender or a predatory sexual offender.]~~

✓