

SENATE BILL NO. 1499

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRATTIN.

5598S.01H

KRISTINA MARTIN, Secretary

AN ACT

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

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

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

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

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

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

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

35 4. If the trier at the first stage of a trial where
36 the death penalty was not waived finds the defendant guilty
37 of statutory rape in the first degree or second degree, rape
38 in the first or second degree, or sexual trafficking of a
39 child in the first degree, a second stage of the trial shall
40 proceed at which the only issue shall be the punishment to
41 be assessed and declared. Evidence in aggravation and
42 mitigation of punishment, may be presented subject to the
43 rules of evidence at criminal trials. Such evidence may
44 include, within the discretion of the court, evidence
45 concerning the victim and the impact of the offense upon the
46 family of the victim and others. Rebuttal and surrebuttal
47 evidence may be presented. The state shall be the first to
48 proceed. If the trier is a jury it shall be instructed on
49 the law. The attorneys may then argue the issue of
50 punishment to the jury, and the state shall have the right

51 to open and close the argument. The trier shall assess and
52 declare the punishment at life imprisonment without
53 eligibility for probation, parole, or release except by act
54 of the governor:

55 (1) If the trier finds by a preponderance of the
56 evidence that the defendant is intellectually disabled;

57 (2) If the trier concludes that there is evidence in
58 mitigation of punishment which is sufficient to outweigh the
59 evidence in aggravation of punishment found by the trier; or

60 (3) If the trier decides under all of the
61 circumstances not to assess and declare the punishment at
62 death. If the trier is a jury it shall be so instructed.

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

72 5. Upon written agreement of the parties and with
73 leave of the court, the issue of the defendant's
74 intellectual disability may be taken up by the court and
75 decided prior to trial without prejudicing the defendant's
76 right to have the issue submitted to the trier of fact as
77 provided in subsection 4 of this section.

78 6. As used in this section, the terms "intellectual
79 disability" or "intellectually disabled" refer to a
80 condition involving substantial limitations in general
81 functioning characterized by significantly subaverage

82 intellectual functioning with continual extensive related
83 deficits and limitations in two or more adaptive behaviors
84 such as communication, self-care, home living, social
85 skills, community use, self-direction, health and safety,
86 functional academics, or leisure and work, which conditions
87 are manifested and documented before eighteen years of age.

88 7. The provisions of this section shall only govern
89 offenses committed on or after August 28, 2024.

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