

SECOND REGULAR SESSION

SENATE BILL NO. 951

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

4350S.02I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 566, RSMo, by adding thereto one new section relating to 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 sexual trafficking of a child in the first degree is
3 charged but not submitted or where the state waives the
4 death penalty, the submission to the trier and all
5 subsequent proceedings in the case shall proceed as in all
6 other criminal cases.

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

20 defendant is found guilty of such offense and after he finds
21 the defendant to be a prior offender pursuant to chapter 558.

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

30 4. If the trier at the first stage of a trial where
31 the death penalty was not waived finds the defendant guilty
32 of statutory rape in the first degree or sexual trafficking
33 of a child in the first degree, a second stage of the trial
34 shall proceed at which the only issue shall be the
35 punishment to be assessed and declared. Evidence in
36 aggravation and mitigation of punishment, may be presented
37 subject to the rules of evidence at criminal trials. Such
38 evidence may include, within the discretion of the court,
39 evidence concerning the victim and the impact of the offense
40 upon the family of the victim and others. Rebuttal and
41 surrebuttal evidence may be presented. The state shall be
42 the first to proceed. If the trier is a jury it shall be
43 instructed on the law. The attorneys may then argue the
44 issue of punishment to the jury, and the state shall have
45 the right to open and close the argument. The trier shall
46 assess and declare the punishment at life imprisonment
47 without eligibility for probation, parole, or release except
48 by act of the governor:

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

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

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

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

66 5. Upon written agreement of the parties and with
67 leave of the court, the issue of the defendant's
68 intellectual disability may be taken up by the court and
69 decided prior to trial without prejudicing the defendant's
70 right to have the issue submitted to the trier of fact as
71 provided in subsection 4 of this section.

72 6. As used in this section, the terms "intellectual
73 disability" or "intellectually disabled" refer to a
74 condition involving substantial limitations in general
75 functioning characterized by significantly subaverage
76 intellectual functioning with continual extensive related
77 deficits and limitations in two or more adaptive behaviors
78 such as communication, self-care, home living, social
79 skills, community use, self-direction, health and safety,
80 functional academics, or leisure and work, which conditions
81 are manifested and documented before eighteen years of age.

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

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