

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for House Bill No. 301, Pages 1-2, Section 56.110, Lines 1-  
2 19, by deleting said section and lines from the bill; and

3  
4 Further amend said bill, Page 2, Section 56.601, Lines 1-15, by deleting said lines and inserting in  
5 lieu thereof the following:

6  
7 "56.601. 1. If the governor determines that a threat to public safety and health exists in a  
8 circuit or prosecuting attorney's jurisdiction after:

9 (1) Reviewing federal, state, or local crime statistics; or

10 (2) Finding that the number of occurrences of homicide cases in the twelve months  
11 immediately preceding exceeds a rate of thirty-five cases per every one hundred thousand people  
12 within the circuit or prosecuting attorney's jurisdiction,

13  
14 the governor may appoint a special prosecutor who shall serve for a period of up to five years. The  
15 special prosecutor shall be employed at the will of the governor, shall not be required to reside in the  
16 jurisdiction to which he or she was appointed to serve, and shall be an attorney but shall not be the  
17 attorney general or an assistant attorney general."; and

18  
19 Further amend said bill, page, and section, Lines 17-18, by deleting said lines and inserting in lieu  
20 thereof the following:

21 "prosecute the following felony offenses:"; and

22  
23  
24 Further amend said bill and section, Page 3, Lines 50-51, by deleting the phrase "the backlog of  
25 criminal cases in the circuit or prosecuting attorney's office" and inserting in lieu thereof the phrase  
26 "finding that the number of occurrences of homicide cases in the twelve months immediately  
27 preceding exceeds a rate of thirty-five cases per every one hundred thousand people within the  
28 circuit or prosecuting attorney's jurisdiction"; and

29  
30 Further amend said bill, page, and section, Line 52, by deleting the phrase "or a backlog in criminal  
31 cases in the jurisdiction"; and

32  
33 Further amend said bill, Pages 3-10, Section 208.151, Lines 1-261, by deleting said section and lines  
34 from the bill; and

35  
36 Further amend said bill, Page 10, Section 217.830, Line 2, by inserting after the word "offenders"

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1 the phrase "how to apply for Medicaid and"; and

2  
3 Further amend said bill, page, and section, Line 6, by inserting after the word "release." the  
4 following:

5  
6 "Any educational or special training certificate shall be provided to the offender at the time  
7 he or she is released from custody."; and

8  
9 Further amend said bill, Pages 12-15, Section 558.019, Lines 1-144, by deleting said lines and  
10 inserting in lieu thereof the following:

11 "558.019. 1. This section shall not be construed to affect the powers of the governor under  
12 Article IV, Section 7, of the Missouri Constitution. This statute shall not affect those provisions of  
13 section 565.020, section 566.125, or section 571.015, which set minimum terms of sentences, or the  
14 provisions of section 559.115, relating to probation.

15 2. The provisions of subsections 2 to 5 of this section shall ~~[only]~~ be applicable to ~~[the~~  
16 ~~offenses contained in sections 565.021, 565.023, 565.024, 565.027, 565.050, 565.052, 565.054,~~  
17 ~~565.072, 565.073, 565.074, 565.090, 565.110, 565.115, 565.120, 565.153, 565.156, 565.225,~~  
18 ~~565.300, 566.030, 566.031, 566.032, 566.034, 566.060, 566.061, 566.062, 566.064, 566.067,~~  
19 ~~566.068, 566.069, 566.071, 566.083, 566.086, 566.100, 566.101, 566.103, 566.111, 566.115,~~  
20 ~~566.145, 566.151, 566.153, 566.203, 566.206, 566.209, 566.210, 566.211, 566.215, 568.030,~~  
21 ~~568.045, 568.060, 568.065, 568.175, 569.040, 569.160, 570.023, 570.025, 570.030 when punished~~  
22 ~~as a class A, B, or C felony, 570.145 when punished as a class A or B felony, 570.223 when~~  
23 ~~punished as a class B or C felony, 571.020, 571.030, 571.070, 573.023, 573.025, 573.035, 573.037,~~  
24 ~~573.200, 573.205, 574.070, 574.080, 574.115, 575.030, 575.150, 575.153, 575.155, 575.157,~~  
25 ~~575.200 when punished as a class A felony, 575.210, 575.230 when punished as a class B felony,~~  
26 ~~575.240 when punished as a class B felony, 576.070, 576.080, 577.010, 577.013, 577.078, 577.703,~~  
27 ~~577.706, 579.065, and 579.068 when punished as a class A or B felony]~~ all classes of felonies  
28 except those set forth in chapter 579, or in chapter 195 prior to January 1, 2017, and those otherwise  
29 excluded in subsection 1 of this section. For the purposes of this section, "prison commitment"  
30 means and is the receipt by the department of corrections of an offender after sentencing. For  
31 purposes of this section, prior prison commitments to the department of corrections shall not include  
32 an offender's first incarceration prior to release on probation under section 217.362 or 559.115.  
33 Other provisions of the law to the contrary notwithstanding, any offender who has been found guilty  
34 of a felony other than a dangerous felony as defined in section 556.061 and is committed to the  
35 department of corrections shall be required to serve the following minimum prison terms:

36 (1) If the offender has one previous prison commitment to the department of corrections for  
37 a felony offense, the minimum prison term which the offender must serve shall be forty percent of  
38 his or her sentence or until the offender attains seventy years of age, and has served at least thirty  
39 percent of the sentence imposed, whichever occurs first;

40 (2) If the offender has two previous prison commitments to the department of corrections  
41 for felonies unrelated to the present offense, the minimum prison term which the offender must  
42 serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age,  
43 and has served at least forty percent of the sentence imposed, whichever occurs first;

44 (3) If the offender has three or more previous prison commitments to the department of  
45 corrections for felonies unrelated to the present offense, the minimum prison term which the  
46 offender must serve shall be eighty percent of his or her sentence or until the offender attains  
47 seventy years of age, and has served at least forty percent of the sentence imposed, whichever  
48 occurs first.

1           3. Other provisions of the law to the contrary notwithstanding, any offender who has been  
2 found guilty of a dangerous felony as defined in section 556.061 and is committed to the department  
3 of corrections shall be required to serve a minimum prison term of eighty-five percent of the  
4 sentence imposed by the court or until the offender attains seventy years of age, and has served at  
5 least forty percent of the sentence imposed, whichever occurs first.

6           4. For the purpose of determining the minimum prison term to be served, the following  
7 calculations shall apply:

8           (1) A sentence of life shall be calculated to be thirty years;

9           (2) Any sentence either alone or in the aggregate with other consecutive sentences for  
10 offenses committed at or near the same time which is over seventy-five years shall be calculated to  
11 be seventy-five years.

12           5. For purposes of this section, the term "minimum prison term" shall mean time required to  
13 be served by the offender before he or she is eligible for parole, conditional release or other early  
14 release by the department of corrections.

15           6. ~~[An offender who was convicted of, or pled guilty to, a felony offense other than those  
16 offenses listed in subsection 2 of this section prior to August 28, 2019, shall no longer be subject to  
17 the minimum prison term provisions under subsection 2 of this section, and shall be eligible for  
18 parole, conditional release, or other early release by the department of corrections according to the  
19 rules and regulations of the department.~~

20           7.] (1) A sentencing advisory commission is hereby created to consist of eleven members.  
21 One member shall be appointed by the speaker of the house. One member shall be appointed by the  
22 president pro tem of the senate. One member shall be the director of the department of corrections.  
23 Six members shall be appointed by and serve at the pleasure of the governor from among the  
24 following: the public defender commission; private citizens; a private member of the Missouri Bar;  
25 the board of probation and parole; and a prosecutor. Two members shall be appointed by the  
26 supreme court, one from a metropolitan area and one from a rural area. All members shall be  
27 appointed to a four-year term. All members of the sentencing commission appointed prior to  
28 August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of  
29 the governor.

30           (2) The commission shall study sentencing practices in the circuit courts throughout the  
31 state for the purpose of determining whether and to what extent disparities exist among the various  
32 circuit courts with respect to the length of sentences imposed and the use of probation for offenders  
33 convicted of the same or similar offenses and with similar criminal histories. The commission shall  
34 also study and examine whether and to what extent sentencing disparity among economic and social  
35 classes exists in relation to the sentence of death and if so, the reasons therefor, if sentences are  
36 comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation  
37 based on sentence. It shall compile statistics, examine cases, draw conclusions, and perform other  
38 duties relevant to the research and investigation of disparities in death penalty sentencing among  
39 economic and social classes.

40           (3) The commission shall study alternative sentences, prison work programs, work release,  
41 home-based incarceration, probation and parole options, and any other programs and report the  
42 feasibility of these options in Missouri.

43           (4) The governor shall select a chairperson who shall call meetings of the commission as  
44 required or permitted pursuant to the purpose of the sentencing commission.

45           (5) The members of the commission shall not receive compensation for their duties on the  
46 commission, but shall be reimbursed for actual and necessary expenses incurred in the performance  
47 of these duties and for which they are not reimbursed by reason of their other paid positions.

48           (6) The circuit and associate circuit courts of this state, the office of the state courts  
49 administrator, the department of public safety, and the department of corrections shall cooperate

1 with the commission by providing information or access to information needed by the commission.  
 2 The office of the state courts administrator will provide needed staffing resources.

3 ~~[8-]~~ 7. Courts shall retain discretion to lower or exceed the sentence recommended by the  
 4 commission as otherwise allowable by law, and to order restorative justice methods, when  
 5 applicable.

6 ~~[9-]~~ 8. If the imposition or execution of a sentence is suspended, the court may order any or  
 7 all of the following restorative justice methods, or any other method that the court finds just or  
 8 appropriate:

9 (1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the  
 10 offender's actions;

11 (2) Offender treatment programs;

12 (3) Mandatory community service;

13 (4) Work release programs in local facilities; and

14 (5) Community-based residential and nonresidential programs.

15 ~~[40-]~~ 9. Pursuant to subdivision (1) of subsection ~~[9]~~ 8 of this section, the court may order  
 16 the assessment and payment of a designated amount of restitution to a county law enforcement  
 17 restitution fund established by the county commission pursuant to section 50.565. Such contribution  
 18 shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited  
 19 into the county law enforcement restitution fund pursuant to this section shall only be expended  
 20 pursuant to the provisions of section 50.565.

21 ~~[41-]~~ 10. A judge may order payment to a restitution fund only if such fund had been created  
 22 by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not  
 23 have any direct supervisory authority or administrative control over any fund to which the judge is  
 24 ordering a person to make payment.

25 ~~[42-]~~ 11. A person who fails to make a payment to a county law enforcement restitution fund  
 26 may not have his or her probation revoked solely for failing to make such payment unless the judge,  
 27 after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the  
 28 person either willfully refused to make the payment or that the person willfully, intentionally, and  
 29 purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

30 ~~[43-]~~ 12. Nothing in this section shall be construed to allow the sentencing advisory  
 31 commission to issue recommended sentences in specific cases pending in the courts of this state.

32 558.043. Notwithstanding any other provision of law, in sentencing a person convicted of an  
 33 offense for which there is a statutory minimum sentence or a minimum prison term required by  
 34 section 558.019 but that did not:

35 (1) Include the use, attempted use, or threatened use of serious physical force by the  
 36 defendant against another person or result in the serious physical injury of another person by the  
 37 defendant;

38 (2) Involve any sexual offense by the defendant against a minor other than an offense  
 39 involving sexual contact if the victim was fourteen years of age or older and the defendant was not  
 40 more than four years older than the victim and the sexual contact was consensual; or

41 (3) Include the brandishing or discharge of a firearm by the defendant,

42  
 43 the court may depart from the applicable statutory minimum sentence or minimum prison term  
 44 required by section 558.019 if the court finds substantial and compelling reasons on the record that,  
 45 giving due regard to the nature of the offense, the history and character of the defendant, and his or  
 46 her chances of successful rehabilitation, imposition of the statutory minimum sentence or minimum  
 47 prison term required by section 558.019 would result in substantial injustice to the defendant or is  
 48 not necessary for the protection of the public."; and

49

1 Further amend said bill, Pages 21-22, Section 590.060, Lines 14-18, by deleting said lines and  
2 inserting in lieu thereof the following:

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4 "4. Instructors at Missouri police academies shall be approved by the POST commission.";

5 and

6

7 Further amend said bill by amending the title, enacting clause, and intersectional references  
8 accordingly.