

FIRST REGULAR SESSION

HOUSE BILL NO. 1177

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FOGLE.

0859H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 566.010, 566.115, 566.116, and 589.414, RSMo, and to enact in lieu thereof four new sections relating to sexual offenses, with penalty provisions.

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

Section A. Sections 566.010, 566.115, 566.116, and 589.414, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 566.010, 566.115, 566.116,
3 and 589.414, to read as follows:

566.010. As used in this chapter and chapter 568, the following terms mean:

2 (1) "Aggravated sexual offense", any sexual offense, in the course of which, the actor:

3 (a) Inflicts serious physical injury on the victim;

4 (b) Displays a deadly weapon or dangerous instrument in a threatening manner;

5 (c) Subjects the victim to sexual intercourse or deviate sexual intercourse with more
6 than one person;

7 (d) Had previously been found guilty of an offense under this chapter or under section
8 573.200, child used in sexual performance; section 573.205, promoting sexual performance
9 by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child
10 pornography in the first degree; section 573.035, promoting child pornography in the second
11 degree; section 573.037, possession of child pornography; or section 573.040, furnishing
12 pornographic materials to minors; or has previously been found guilty of an offense in
13 another jurisdiction which would constitute an offense under this chapter or said sections;

14 (e) Commits the offense as part of an act or series of acts performed by two or more
15 persons as part of an established or prescribed pattern of activity; or

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.

16 (f) Engages in the act that constitutes the offense with a person the actor knows to be,
17 without regard to legitimacy, the actor's:

- 18 a. Ancestor or descendant by blood or adoption;
- 19 b. Stepchild while the marriage creating that relationship exists;
- 20 c. Brother or sister of the whole or half blood; or
- 21 d. Uncle, aunt, nephew, or niece of the whole blood;

22 (2) "Commercial sex act", any sex act on account of which anything of value is given
23 to or received by any person;

24 (3) "Deviate sexual intercourse", any act involving the genitals of one person and the
25 hand, mouth, tongue, or anus of another person or a sexual act involving the penetration,
26 however slight, of the penis, female genitalia, or the anus by a finger, instrument or object
27 done for the purpose of arousing or gratifying the sexual desire of any person or for the
28 purpose of terrorizing the victim;

29 (4) "Forced labor", a condition of servitude induced by means of:

30 (a) Any scheme, plan, or pattern of behavior intended to cause a person to believe
31 that, if the person does not enter into or continue the servitude, such person or another person
32 will suffer substantial bodily harm or physical restraint; or

33 (b) The abuse or threatened abuse of the legal process;

34 (5) "**Mental health treatment**", any effort to accomplish a significant change in
35 the mental or emotional conditions or the behavior of the patient consistent with
36 generally recognized principles or standards in the mental health professions;

37 (6) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;

38 [~~6~~] (7) "Sexual contact", any touching of another person with the genitals or any
39 touching of the genitals or anus of another person, or the breast of a female person, or such
40 touching through the clothing, or causing semen, seminal fluid, or other ejaculate to come
41 into contact with another person, for the purpose of arousing or gratifying the sexual desire of
42 any person or for the purpose of terrorizing the victim;

43 [~~7~~] (8) "Sexual intercourse", any penetration, however slight, of the female genitalia
44 by the penis.

566.115. 1. A person commits the offense of sexual conduct with a nursing facility
2 resident [~~or~~], vulnerable person, or recipient of mental health treatment in the first degree
3 if he or she:

4 (1) Being an owner or employee of a skilled nursing facility, as defined in section
5 198.006, or an Alzheimer's special care unit or program, as defined in section 198.505, has
6 sexual intercourse or deviate sexual intercourse with a resident; [~~or~~]

7 (2) Being a vender, provider, agent, or employee of a certified program operated,
8 funded, licensed, or certified by the department of mental health, has sexual intercourse or
9 deviate sexual intercourse with a vulnerable person; **or**

10 **(3) Being a mental health professional licensed to practice under chapter 334,**
11 **335, or 337 or any other mental health professional providing mental health treatment,**
12 **has sexual intercourse or deviate sexual intercourse with a person who is currently**
13 **receiving mental health treatment from the professional or received mental health**
14 **treatment from the professional at any time within the previous five years.**

15 2. The offense of sexual conduct with a nursing facility resident [~~or~~], vulnerable
16 person, **or recipient of mental health treatment** in the first degree is a class A misdemeanor.
17 Any second or subsequent violation of this section is a class E felony.

18 3. The provisions of this section shall not apply to any person who is married to the
19 resident [~~or~~], vulnerable person, **or recipient of mental health treatment.**

20 4. Consent of the victim is not a defense to a prosecution under this section.

566.116. 1. A person commits the offense of sexual conduct with a nursing facility
2 resident [~~or~~], vulnerable person, **or recipient of mental health treatment** in the second
3 degree if he or she:

4 (1) Being an owner or employee of a skilled nursing facility as defined in section
5 198.006, or an Alzheimer's special care unit program as defined in section 198.505, has
6 sexual contact with a resident; [~~or~~]

7 (2) Being a vender, provider, agent, or employee of a certified program operated,
8 funded, licensed, or certified by the department of mental health, has sexual contact with a
9 vulnerable person; **or**

10 **(3) Being a mental health professional licensed under chapter 334, 335, or 337 or**
11 **any other mental health professional providing mental health treatment, has sexual**
12 **contact with a person who is currently receiving mental health treatment from the**
13 **professional or received mental health treatment from the professional at any time**
14 **within the previous five years.**

15 2. The offense of sexual conduct with a nursing facility resident [~~or~~], vulnerable
16 person, **or recipient of mental health treatment** in the second degree is a class B
17 misdemeanor. Any second or subsequent violation of this section is a class A misdemeanor.

18 3. The provisions of this section shall not apply to any person who is married to the
19 resident [~~or~~], vulnerable person, **or recipient of mental health treatment.**

20 4. Consent of the victim is not a defense to a prosecution pursuant to this section.

589.414. 1. Any person required by sections 589.400 to 589.425 to register shall,
2 within three business days, appear in person to the chief law enforcement officer of the
3 county or city not within a county if there is a change to any of the following information:

- 4 (1) Name;
- 5 (2) Residence;
- 6 (3) Employment, including status as a volunteer or intern;
- 7 (4) Student status; or
- 8 (5) A termination to any of the items listed in this subsection.

9 2. Any person required to register under sections 589.400 to 589.425 shall, within
10 three business days, notify the chief law enforcement official of the county or city not within
11 a county of any changes to the following information:

- 12 (1) Vehicle information;
- 13 (2) Temporary lodging information;
- 14 (3) Temporary residence information;
- 15 (4) Email addresses, instant messaging addresses, and any other designations used in
16 internet communications, postings, or telephone communications; or
- 17 (5) Telephone or other cellular number, including any new forms of electronic
18 communication.

19 3. The chief law enforcement official in the county or city not within a county shall
20 immediately forward the registration changes described under subsections 1 and 2 of this
21 section to the Missouri state highway patrol within three business days.

22 4. If any person required by sections 589.400 to 589.425 to register changes such
23 person's residence or address to a different county or city not within a county, the person shall
24 appear in person and shall inform both the chief law enforcement official with whom the
25 person last registered and the chief law enforcement official of the county or city not within a
26 county having jurisdiction over the new residence or address in writing within three business
27 days of such new address and phone number, if the phone number is also changed. If any
28 person required by sections 589.400 to 589.425 to register changes his or her state, territory,
29 the District of Columbia, or foreign country, or federal, tribal, or military jurisdiction of
30 residence, the person shall appear in person and shall inform both the chief law enforcement
31 official with whom the person was last registered and the chief law enforcement official of the
32 area in the new state, territory, the District of Columbia, or foreign country, or federal, tribal,
33 or military jurisdiction having jurisdiction over the new residence or address within three
34 business days of such new address. Whenever a registrant changes residence, the chief law
35 enforcement official of the county or city not within a county where the person was
36 previously registered shall inform the Missouri state highway patrol of the change within
37 three business days. When the registrant is changing the residence to a new state, territory,
38 the District of Columbia, or foreign country, or federal, tribal, or military jurisdiction, the
39 Missouri state highway patrol shall inform the responsible official in the new state, territory,

40 the District of Columbia, or foreign country, or federal, tribal, or military jurisdiction of
41 residence within three business days.

42 5. Tier I sexual offenders, in addition to the requirements of subsections 1 to 4 of this
43 section, shall report in person to the chief law enforcement official annually in the month of
44 their birth to verify the information contained in their statement made pursuant to section
45 589.407. Tier I sexual offenders include:

46 (1) Any offender who has been adjudicated for the offense of:

47 (a) Sexual abuse in the first degree under section 566.100 if the victim is eighteen
48 years of age or older;

49 (b) Sexual misconduct involving a child under section 566.083 if it is a first offense
50 and the punishment is less than one year;

51 (c) Sexual abuse in the second degree under section 566.101 if the punishment is less
52 than a year;

53 (d) Kidnapping in the second degree under section 565.120 with sexual motivation;

54 (e) Kidnapping in the third degree under section 565.130;

55 (f) Sexual conduct with a nursing facility resident ~~[or]~~, vulnerable person, **or**
56 **recipient of mental health treatment** in the first degree under section 566.115 if the
57 punishment is less than one year;

58 (g) Sexual conduct under section 566.116 with a nursing facility resident ~~[or]~~,
59 vulnerable person, **or recipient of mental health treatment**;

60 (h) Sexual ~~[contact with a prisoner or offender]~~ **conduct in the course of public duty**
61 under section 566.145 if the victim is eighteen years of age or older;

62 (i) Sex with an animal under section 566.111;

63 (j) Trafficking for the purpose of sexual exploitation under section 566.209 if the
64 victim is eighteen years of age or older;

65 (k) Possession of child pornography under section 573.037;

66 (l) Sexual misconduct in the first degree under section 566.093;

67 (m) Sexual misconduct in the second degree under section 566.095;

68 (n) Child molestation in the second degree under section 566.068 as it existed prior to
69 January 1, 2017, if the punishment is less than one year; or

70 (o) Invasion of privacy under section 565.252 if the victim is less than eighteen years
71 of age;

72 (2) Any offender who is or has been adjudicated in any other state, territory, the
73 District of Columbia, or foreign country, or under federal, tribal, or military jurisdiction of an
74 offense of a sexual nature or with a sexual element that is comparable to the tier I sexual
75 offenses listed in this subsection or, if not comparable to those in this subsection, comparable

76 to those described as tier I offenses under the Sex Offender Registration and Notification Act,
77 Title I of the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248.

78 6. Tier II sexual offenders, in addition to the requirements of subsections 1 to 4 of this
79 section, shall report semiannually in person in the month of their birth and six months
80 thereafter to the chief law enforcement official to verify the information contained in their
81 statement made pursuant to section 589.407. Tier II sexual offenders include:

82 (1) Any offender who has been adjudicated for the offense of:

83 (a) Statutory sodomy in the second degree under section 566.064 if the victim is
84 sixteen to seventeen years of age;

85 (b) Child molestation in the third degree under section 566.069 if the victim is
86 between thirteen and fourteen years of age;

87 (c) Sexual contact with a student under section 566.086 if the victim is thirteen to
88 seventeen years of age;

89 (d) Enticement of a child under section 566.151;

90 (e) Abuse of a child under section 568.060 if the offense is of a sexual nature and the
91 victim is thirteen to seventeen years of age;

92 (f) Sexual exploitation of a minor under section 573.023;

93 (g) Promoting child pornography in the first degree under section 573.025;

94 (h) Promoting child pornography in the second degree under section 573.035;

95 (i) Patronizing prostitution under section 567.030;

96 (j) Sexual ~~[contact with a prisoner or offender]~~ **conduct in the course of public duty**
97 under section 566.145 if the victim is thirteen to seventeen years of age;

98 (k) Child molestation in the fourth degree under section 566.071 if the victim is
99 thirteen to seventeen years of age;

100 (l) Sexual misconduct involving a child under section 566.083 if it is a first offense
101 and the penalty is a term of imprisonment of more than a year; or

102 (m) Age misrepresentation with intent to solicit a minor under section 566.153;

103 (2) Any person who is adjudicated of an offense comparable to a tier I offense listed
104 in this section or failure to register offense under section 589.425 or comparable out-of-state
105 failure to register offense and who is already required to register as a tier I offender due to
106 having been adjudicated of a tier I offense on a previous occasion; or

107 (3) Any person who is or has been adjudicated in any other state, territory, the District
108 of Columbia, or foreign country, or under federal, tribal, or military jurisdiction for an offense
109 of a sexual nature or with a sexual element that is comparable to the tier II sexual offenses
110 listed in this subsection or, if not comparable to those in this subsection, comparable to those
111 described as tier II offenses under the Sex Offender Registration and Notification Act, Title I
112 of the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248.

113 7. Tier III sexual offenders, in addition to the requirements of subsections 1 to 4 of
114 this section, shall report in person to the chief law enforcement official every ninety days to
115 verify the information contained in their statement made under section 589.407. Tier III
116 sexual offenders include:

117 (1) Any offender registered as a predatory sexual offender as defined in section
118 566.123 or a persistent sexual offender as defined in section 566.124;

119 (2) Any offender who has been adjudicated for the crime of:

120 (a) Rape in the first degree under section 566.030;

121 (b) Statutory rape in the first degree under section 566.032;

122 (c) Rape in the second degree under section 566.031;

123 (d) Endangering the welfare of a child in the first degree under section 568.045 if the
124 offense is sexual in nature;

125 (e) Sodomy in the first degree under section 566.060;

126 (f) Statutory sodomy under section 566.062;

127 (g) Statutory sodomy under section 566.064 if the victim is under sixteen years of
128 age;

129 (h) Sodomy in the second degree under section 566.061;

130 (i) Sexual misconduct involving a child under section 566.083 if the offense is a
131 second or subsequent offense;

132 (j) Sexual abuse in the first degree under section 566.100 if the victim is under
133 thirteen years of age;

134 (k) Kidnapping in the first degree under section 565.110 if the victim is under
135 eighteen years of age, excluding kidnapping by a parent or guardian;

136 (l) Child kidnapping under section 565.115;

137 (m) Sexual conduct with a nursing facility resident ~~[or]~~, vulnerable person, **or**
138 **recipient of mental health treatment** in the first degree under section 566.115 if the
139 punishment is greater than a year;

140 (n) Incest under section 568.020;

141 (o) Endangering the welfare of a child in the first degree under section 568.045 with
142 sexual intercourse or deviate sexual intercourse with a victim under eighteen years of age;

143 (p) Child molestation in the first degree under section 566.067;

144 (q) Child molestation in the second degree under section 566.068;

145 (r) Child molestation in the third degree under section 566.069 if the victim is under
146 thirteen years of age;

147 (s) Promoting prostitution in the first degree under section 567.050 if the victim is
148 under eighteen years of age;

- 149 (t) Promoting prostitution in the second degree under section 567.060 if the victim is
150 under eighteen years of age;
- 151 (u) Promoting prostitution in the third degree under section 567.070 if the victim is
152 under eighteen years of age;
- 153 (v) Promoting travel for prostitution under section 567.085 if the victim is under
154 eighteen years of age;
- 155 (w) Trafficking for the purpose of sexual exploitation under section 566.209 if the
156 victim is under eighteen years of age;
- 157 (x) Sexual trafficking of a child in the first degree under section 566.210;
- 158 (y) Sexual trafficking of a child in the second degree under section 566.211;
- 159 (z) Genital mutilation of a female child under section 568.065;
- 160 (aa) Statutory rape in the second degree under section 566.034;
- 161 (bb) Child molestation in the fourth degree under section 566.071 if the victim is
162 under thirteen years of age;
- 163 (cc) Sexual abuse in the second degree under section 566.101 if the penalty is a term
164 of imprisonment of more than a year;
- 165 (dd) Patronizing prostitution under section 567.030 if the offender is a persistent
166 offender;
- 167 (ee) Abuse of a child under section 568.060 if the offense is of a sexual nature and the
168 victim is under thirteen years of age;
- 169 (ff) Sexual ~~[contact with a prisoner or offender]~~ **conduct in the course of public**
170 **duty** under section 566.145 if the victim is under thirteen years of age;
- 171 (gg) ~~[Sexual intercourse with a prisoner or offender under section 566.145;~~
- 172 ~~(hh)~~ **(hh)** Sexual contact with a student under section 566.086 if the victim is under
173 thirteen years of age;
- 174 ~~[(ii)]~~ **(hh)** Use of a child in a sexual performance under section 573.200; or
- 175 ~~[(jj)]~~ **(ii)** Promoting a sexual performance by a child under section 573.205;
- 176 (3) Any offender who is adjudicated for a crime comparable to a tier I or tier II
177 offense listed in this section or failure to register offense under section 589.425, or other
178 comparable out-of-state failure to register offense, who has been or is already required to
179 register as a tier II offender because of having been adjudicated for a tier II offense, two tier I
180 offenses, or combination of a tier I offense and failure to register offense, on a previous
181 occasion;
- 182 (4) Any offender who is adjudicated in any other state, territory, the District of
183 Columbia, or foreign country, or under federal, tribal, or military jurisdiction for an offense of
184 a sexual nature or with a sexual element that is comparable to a tier III offense listed in this

185 section or a tier III offense under the Sex Offender Registration and Notification Act, Title I
186 of the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248; or

187 (5) Any offender who is adjudicated in Missouri for any offense of a sexual nature
188 requiring registration under sections 589.400 to 589.425 that is not classified as a tier I or tier
189 II offense in this section.

190 8. In addition to the requirements of subsections 1 to 7 of this section, all Missouri
191 registrants who work, including as a volunteer or unpaid intern, or attend any school whether
192 public or private, including any secondary school, trade school, professional school, or
193 institution of higher education, on a full-time or part-time basis or have a temporary residence
194 in this state shall be required to report in person to the chief law enforcement officer in the
195 area of the state where they work, including as a volunteer or unpaid intern, or attend any
196 school or training and register in that state. "Part-time" in this subsection means for more
197 than seven days in any twelve-month period.

198 9. If a person who is required to register as a sexual offender under sections 589.400
199 to 589.425 changes or obtains a new online identifier as defined in section 43.651, the person
200 shall report such information in the same manner as a change of residence before using such
201 online identifier.

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