

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 2596**  
**101ST GENERAL ASSEMBLY**

5173H.02C

DANA RADEMAN MILLER, Chief Clerk

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**AN ACT**

To repeal section 568.060, RSMo, and to enact in lieu thereof one new section relating to the offense of abuse or neglect of a child, with penalty provisions.

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

Section A. Section 568.060, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 568.060, to read as follows:

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

(1) "Abuse", the infliction of physical, sexual, or mental injury against a child by any person eighteen years of age or older. For purposes of this section, abuse shall not include injury inflicted on a child by accidental means by a person with care, custody, or control of the child, or discipline of a child by a person with care, custody, or control of the child, including spanking, in a reasonable manner;

(2) "Abusive head trauma", a serious physical injury to the head or brain caused by any means, including but not limited to shaking, jerking, pushing, pulling, slamming, hitting, or kicking;

(3) "Mental injury", an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his or her normal range of performance or behavior;

(4) "Neglect", the failure to provide, by those responsible for the care, custody, and control of a child under the age of eighteen years, the care reasonable and necessary to maintain the physical and mental health of the child, when such failure presents a substantial probability that death or physical injury or sexual injury would result;

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.

17 (5) "Physical injury", physical pain, illness, or any impairment of physical condition,  
18 including but not limited to bruising, lacerations, hematomas, welts, or permanent or  
19 temporary disfigurement and impairment of any bodily function or organ;

20 (6) "Serious emotional injury", an injury that creates a substantial risk of temporary or  
21 permanent medical or psychological damage, manifested by impairment of a behavioral,  
22 cognitive, or physical condition. Serious emotional injury shall be established by testimony  
23 of qualified experts upon the reasonable expectation of probable harm to a reasonable degree  
24 of medical or psychological certainty;

25 (7) "Serious physical injury", a physical injury that creates a substantial risk of death  
26 or that causes serious disfigurement or protracted loss or impairment of the function of any  
27 part of the body.

28 2. A person commits the offense of abuse or neglect of a child if such person  
29 knowingly causes a child who is less than eighteen years of age:

30 (1) To suffer physical or mental injury as a result of abuse or neglect; or

31 (2) To be placed in a situation in which the child may suffer physical or mental injury  
32 as the result of abuse or neglect.

33 3. A person commits the offense of abuse or neglect of a child if such person  
34 recklessly causes a child who is less than eighteen years of age to suffer from abusive head  
35 trauma.

36 4. A person does not commit the offense of abuse or neglect of a child by virtue of the  
37 sole fact that the person delivers or allows the delivery of a child to a provider of emergency  
38 services.

39 5. The offense of abuse or neglect of a child is:

40 (1) A class D felony, without eligibility for probation, parole, or conditional release  
41 until the defendant has served no less than one year of such sentence **in the department of**  
42 **corrections or in a county jail, or has been incarcerated no less than one year in a prison**  
43 **or jail of any type within this state while awaiting trial**, unless the person has previously  
44 been found guilty of a violation of this section or of a violation of the law of any other  
45 jurisdiction that prohibits the same or similar conduct or the injury inflicted on the child is a  
46 serious emotional injury or a serious physical injury, in which case abuse or neglect of a child  
47 is a class B felony, without eligibility for probation or parole until the defendant has served  
48 not less than five years of such sentence **in the department of corrections or has been**  
49 **incarcerated no less than five years in a prison or jail of any type within this state while**  
50 **awaiting trial or while serving such sentence**; or

51 (2) A class A felony if the child dies as a result of injuries sustained from conduct  
52 chargeable under the provisions of this section.

53           6. Notwithstanding subsection 5 of this section to the contrary, the offense of abuse or  
54 neglect of a child is a class A felony, without eligibility for probation, parole, or conditional  
55 release until the defendant has served not less than fifteen years of such sentence **in the**  
56 **department of corrections or has been incarcerated no less than fifteen years in a prison**  
57 **or jail of any type within this state while awaiting trial or while serving such sentence, if:**

58           (1) The injury is a serious emotional injury or a serious physical injury;

59           (2) The child is less than fourteen years of age; and

60           (3) The injury is the result of sexual abuse or sexual abuse in the first degree as  
61 defined under section 566.100 or sexual exploitation of a minor as defined under section  
62 573.023.

63           7. The circuit or prosecuting attorney may refer a person who is suspected of abuse or  
64 neglect of a child to an appropriate public or private agency for treatment or counseling so  
65 long as the agency has consented to taking such referrals. Nothing in this subsection shall  
66 limit the discretion of the circuit or prosecuting attorney to prosecute a person who has been  
67 referred for treatment or counseling pursuant to this subsection.

68           8. Nothing in this section shall be construed to alter the requirement that every  
69 element of any crime referred to herein must be proven beyond a reasonable doubt.

70           9. Discipline, including spanking administered in a reasonable manner, shall not be  
71 construed to be abuse under this section.

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