

# HOUSE BILL NO. 938

## 100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MITTEN.

1458H.031

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal section 566.145, RSMo, and to enact in lieu thereof one new section relating to the offense of sexual conduct in the course of public duty, with a penalty provision.

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

Section A. Section 566.145, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 566.145, to read as follows:

566.145. 1. A person commits the offense of sexual conduct **in the course of public duty if the person engages in sexual conduct:**

(1) With a **detainee, a prisoner, or an offender** [~~if he or she~~] **and the person:**

[~~(1)~~] (a) Is an employee of, or assigned to work in, any jail, prison or correctional facility and engages in sexual conduct with a prisoner or an offender who is confined in a jail, prison, or correctional facility; [~~or~~

—(2)] (b) Is a probation and parole officer and engages in sexual conduct with an offender who is under the direct supervision of the officer; **or**

(c) **Is a police officer and engages in sexual conduct with a detainee or prisoner who is in the custody of such officer; or**

(2) **With someone who is not a detainee, a prisoner, or an offender and the person is:**

(a) **A probation and parole officer, a police officer, or an employee of, or assigned to work in, any jail, prison, or correctional facility; and**

(b) **On duty.**

2. For the purposes of this section the following terms shall mean:

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 (1) "**Detainee**", a person deprived of liberty and kept under involuntary restraint,  
18 **confinement, or custody;**

19 (2) "Offender", includes any person in the custody of a prison or correctional facility and  
20 any person who is under the supervision of the state board of probation and parole;

21 [~~2~~] (3) "Prisoner", includes any person who is in the custody of a jail, whether pretrial  
22 or after disposition of a charge.

23 3. The offense of sexual conduct [~~with a prisoner or offender~~] **in the course of public**  
24 **duty** is a class E felony.

25 4. Consent of a **detainee, a prisoner** [~~or~~] , **an offender, or any other person** is not a  
26 defense.

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