

SECOND REGULAR SESSION

SENATE BILL NO. 842

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Read 1st time January 9, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4852S.011

AN ACT

To repeal sections 568.060 and 578.421, RSMo, and to enact in lieu thereof two new sections relating to the offense of abuse or neglect of a child, with penalty provisions.

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

Section A. Sections 568.060 and 578.421, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 568.060 and 578.421, to read as follows: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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 or sexual injury would result;

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

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

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

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

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

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

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

40 4. **A person commits the offense of abuse or neglect of a child if**
41 **such person assists, coerces, or provides for a child who is under**
42 **eighteen years of age to undergo any surgical or hormonal treatment**
43 **for the purpose of gender reassignment.**

44 5. A person does not commit the offense of abuse or neglect of a child by
45 virtue of the sole fact that the person delivers or allows the delivery of a child to
46 a provider of emergency services.

47 [5.] 6. The offense of abuse or neglect of a child is:

48 (1) A class D felony, without eligibility for probation, parole, or conditional
49 release until the defendant has served no less than one year of such sentence,
50 unless the person has previously been found guilty of a violation of this section
51 or of a violation of the law of any other jurisdiction that prohibits the same or
52 similar conduct or the injury inflicted on the child is a serious emotional injury
53 or a serious physical injury, in which case abuse or neglect of a child is a class B

54 felony, without eligibility for probation or parole until the defendant has served
55 not less than five years of such sentence; or

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

58 [6.] 7. Notwithstanding subsection [5] 6 of this section to the contrary,
59 the offense of abuse or neglect of a child is a class A felony, without eligibility for
60 probation, parole, or conditional release until the defendant has served not less
61 than fifteen years of such sentence, if:

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

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

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

67 [7.] 8. The circuit or prosecuting attorney may refer a person who is
68 suspected of abuse or neglect of a child to an appropriate public or private agency
69 for treatment or counseling so long as the agency has consented to taking such
70 referrals. Nothing in this subsection shall limit the discretion of the circuit or
71 prosecuting attorney to prosecute a person who has been referred for treatment
72 or counseling pursuant to this subsection.

73 [8.] 9. Nothing in this section shall be construed to alter the requirement
74 that every element of any crime referred to herein must be proven beyond a
75 reasonable doubt.

76 [9.] 10. Discipline, including spanking administered in a reasonable
77 manner, shall not be construed to be abuse under this section.

578.421. As used in sections 578.421 to 578.437, the following terms
2 mean:

3 (1) "Criminal street gang", any ongoing organization, association, or group
4 of three or more persons, whether formal or informal, having as one of its primary
5 activities the commission of one or more of the criminal acts enumerated in
6 subdivision (2) of this section, which has a common name or common identifying
7 sign or symbol, whose members individually or collectively engage in or have
8 engaged in a pattern of criminal gang activity;

9 (2) "Pattern of criminal street gang activity", the commission, attempted
10 commission, or solicitation of two or more of the following offenses, provided at
11 least one of those offenses occurred after August 28, 1993, and the last of those
12 offenses occurred within three years after a prior offense, and the offenses are

13 committed on separate occasions, or by two or more persons:

14 (a) Assault with a deadly weapon or by means of force likely to cause
15 serious physical injury, as provided in sections 565.050 and 565.052;

16 (b) Robbery, arson and those offenses under chapter 569 which are related
17 to robbery and arson;

18 (c) Murder or manslaughter, as provided in sections 565.020 to 565.024;

19 (d) Any violation of the provisions of chapter 579 which involves the
20 distribution, delivery or manufacture of a substance prohibited by chapter 579;

21 (e) Unlawful use of a weapon which is a felony pursuant to section
22 571.030;

23 (f) Tampering with witnesses and victims, as provided in section 575.270;

24 (g) Promoting online sexual solicitation, as provided in section 566.103;

25 (h) Sexual trafficking of a child in the first degree, as provided in section
26 566.210;

27 (i) Sexual trafficking of a child in the second degree, as provided in
28 section 566.211;

29 (j) Patronizing prostitution, as provided in subsection 4 of section 567.030;

30 (k) Promoting prostitution in the first degree, as provided in section
31 567.050;

32 (l) Promoting prostitution in the second degree, as provided in section
33 567.060;

34 (m) Abuse or neglect of a child, as provided in subsection [6] 7 of section
35 568.060;

36 (n) Sexual exploitation of a minor, as provided in section 573.023;

37 (o) Child used in sexual performance, as provided in section 573.200; or

38 (p) Promoting sexual performance by a child, as provided in section
39 573.205.

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