

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1055

92ND GENERAL ASSEMBLY

Reported from the Committee on Crime Prevention and Public Safety, February 25, 2004, with recommendation that the House Committee Substitute for House Bill No. 1055 Do Pass.

Taken up for Perfection March 10, 2004. House Committee Substitute for House Bill No. 1055 ordered Perfected and printed, as amended.

STEPHEN S. DAVIS, Chief Clerk

3722L.02P

AN ACT

To repeal sections 556.037, 566.083, 566.093, 566.095, 566.140, 566.141, 573.037, 573.040, 589.400 and 589.425, RSMo, and to enact in lieu thereof thirteen new sections relating to sexual offenses, with a penalty provision.

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

Section A. Sections 556.037, 566.083, 566.093, 566.095, 566.140, 566.141, 573.037,
2 573.040, 589.400 and 589.425, RSMo, are repealed and thirteen new sections enacted in lieu
3 thereof, to be known as sections 43.651, 556.037, 566.083, 566.093, 566.095, 566.140, 566.141,
4 566.147, 573.037, 573.040, 589.400, 589.415, and 589.425, RSMo, to read as follows:

**43.651. The patrol shall, subject to appropriation, maintain a one page web page
2 on the Internet which shall be open to the public and shall include links to all sex offender
3 registry web sites maintained by any county in the state.**

556.037. **Notwithstanding** the provisions of section 556.036, [to the contrary
2 notwithstanding,] prosecutions for unlawful sexual offenses involving a person eighteen years
3 of age or under must be commenced within [ten] **twenty** years after the victim reaches the age
4 of eighteen **unless the prosecutions are for forcible rape, attempted forcible rape, forcible
5 sodomy, or attempted forcible sodomy in which case such prosecutions may be commenced
6 at any time.**

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

566.083. 1. A person commits the crime of sexual misconduct involving a child if the
2 person:

3 (1) Knowingly exposes the person's genitals to a child less than fourteen years of age in
4 a manner that would cause a reasonable adult to believe that the conduct is likely to cause affront
5 or alarm to a child less than fourteen years of age;

6 (2) Knowingly exposes the person's genitals to a child less than fourteen years of age for
7 the purpose of arousing or gratifying the sexual desire of any person, including the child; or

8 (3) Coerces **or induces** a child less than fourteen years of age to expose the child's
9 genitals for the purpose of arousing or gratifying the sexual desire of any person, including the
10 child.

11 2. As used in this section, the term "sexual act" means any of the following, whether
12 performed or engaged in either with any other person or alone: sexual or anal intercourse,
13 masturbation, bestiality, sadism, masochism, fetishism, fellatio, cunnilingus, any other sexual
14 activity or nudity, if such nudity is to be depicted for the purpose of sexual stimulation or
15 gratification of any individual who may view such depiction.

16 3. Violation of this section is a class D felony **unless the actor has previously pleaded**
17 **guilty to or been convicted of an offense pursuant to this chapter or the actor has**
18 **previously pleaded guilty to or has been convicted of an offense against the laws of another**
19 **state or jurisdiction which would constitute an offense under chapter 566.**

566.093. 1. A person commits the crime of sexual misconduct in the second degree if
2 he:

3 (1) Exposes his genitals under circumstances in which he **or she** knows that [his] **such**
4 conduct is likely to cause affront or alarm; or

5 (2) Has sexual contact in the presence of a third person or persons under circumstances
6 in which he **or she** knows that such conduct is likely to cause affront or alarm **or while being**
7 **in a public place in the presence of another person or persons.**

8 2. Sexual misconduct in the second degree is a class B misdemeanor unless the actor has
9 previously been convicted of an offense under this chapter, in which case it is a class A
10 misdemeanor.

566.095. 1. A person commits the crime of sexual misconduct in the third degree if he
2 **or she** solicits or requests another person to engage in sexual conduct under circumstances in
3 which he **or she** knows that [his] **such** requests or solicitation is likely to cause affront or alarm
4 **or while being in a public place in the presence of another person or persons.**

5 2. Sexual misconduct in the third degree is a class C misdemeanor.

566.140. Any person who has pleaded guilty to or been found guilty of violating the
2 provisions of this chapter, and is granted a suspended imposition or execution of sentence or

3 placed under the supervision of the board of probation and parole shall be required to participate
4 in **and successfully complete** a program of treatment, education and rehabilitation designed for
5 perpetrators of sexual offenses. **Any person participating in such a program shall be**
6 **required to follow all directives of the treatment program provider.** Persons required to
7 attend a program pursuant to this section may be charged a reasonable fee to cover the costs of
8 such program.

566.141. Any person who is convicted of or pleads guilty or nolo contendere to any
2 sexual offense involving a child shall be required as a condition of probation or parole to be
3 involved in **and successfully complete** an appropriate treatment program. **Any person involved**
4 **in such a program shall be required to follow all directives of the treatment program**
5 **provider.**

566.147. 1. Any person who has pleaded guilty or nolo contendere to, or been
2 convicted of, or been found guilty of violating any of the provisions of this chapter or the
3 provisions of section 565.253, RSMo, invasion of privacy; subsection 2 of section 568.020,
4 RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first
5 degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance;
6 section 568.090, RSMo, promoting a sexual performance by a child; section 573.023,
7 RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child
8 pornography in the first degree; section 573.035, RSMo, promoting child pornography in
9 the second degree; section 573.037, RSMo, possession of child pornography, or section
10 573.040, RSMo, furnishing pornographic material to minors; shall not establish residency
11 within one thousand feet of any public school as defined in section 160.011, RSMo, or any
12 private school giving instruction in a grade or grades not higher than the twelfth grade, or
13 child care facility as defined in section 210.201, RSMo, which is in existence at the time
14 such residency is established.

15 2. If such person has already established a residence and a public school, a private
16 school, or child care facility is subsequently built or placed within one thousand feet of
17 such person's residence, then such person shall, within one week of the opening of such
18 public school, private school, or child care facility, notify the county sheriff where such
19 public school, private school, or child care facility is located that he or she is now residing
20 within one thousand feet of such public school, private school, or child care facility and
21 shall provide verifiable proof to the sheriff that he or she resided there prior to the opening
22 of such public school, private school, or child care facility.

23 3. Violation of the provisions of subsection 1 of this section is a class D felony except
24 that the second or any subsequent violation is a class B felony. Violation of the provisions
25 of subsection 2 of this section is a class A misdemeanor except that the second or

26 **subsequent violations is a class D felony.**

573.037. 1. A person commits the crime of possession of child pornography if, knowing
2 of its content and character, such person possesses any obscene material that has a child as one
3 of its participants or portrays what appears to be a child as an observer or participant of sexual
4 conduct.

5 2. Possession of child pornography is a class [A misdemeanor]**D felony** unless the
6 person has pleaded guilty to or has been found guilty of an offense under this section, in which
7 case it is a class [D] **C felony**.

573.040. 1. A person commits the crime of furnishing pornographic material to minors
2 if, knowing its content and character, he or she:

3 (1) Furnishes any material pornographic for minors, knowing that the person to whom
4 it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a
5 minor; or

6 (2) Produces, presents, directs or participates in any performance pornographic for
7 minors that is furnished to a minor knowing that any person viewing such performance is a minor
8 or acting in reckless disregard of the likelihood that a minor is viewing the performance; or

9 (3) Furnishes, produces, presents, directs, participates in any performance or otherwise
10 makes available material that is pornographic for minors via computer, electronic transfer,
11 Internet or computer network if the person made the matter available to a specific individual
12 known by the defendant to be a minor.

13 2. Furnishing pornographic material to minors is a class A misdemeanor unless the
14 person has pleaded guilty to or has been found guilty of an offense **committed at a different**
15 **time** pursuant to this [section committed at a different time] **chapter, chapter 566 or chapter**
16 **568, RSMo**, in which case it is a class D felony.

589.400. 1. Sections 589.400 to 589.425 shall apply to:

2 (1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found
3 guilty of, or pled guilty **or nolo contendere** to committing, or attempting to commit, a felony
4 offense of chapter 566, RSMo, or any offense of chapter 566, RSMo, where the victim is a
5 minor; or

6 (2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found
7 guilty of, or pled guilty **or nolo contendere** to committing, or attempting to commit one or more
8 of the following offenses: kidnapping, pursuant to section 565.110, RSMo; felonious restraint;
9 promoting prostitution in the first degree; promoting prostitution in the second degree; promoting
10 prostitution in the third degree; **sexual exploitation of a minor; promoting child pornography**
11 **in the first degree; promoting child pornography in the second degree; possession of child**
12 **pornography; furnishing pornographic material to minors; public display of explicit sexual**

13 **material; coercing acceptance of obscene material; promoting obscenity in the first degree;**
14 **promoting pornography for minors or obscenity in the second degree;** incest; abuse of a
15 child, pursuant to section 568.060, RSMo; use of a child in a sexual performance; or promoting
16 sexual performance by a child; and committed or attempted to commit the offense against a
17 victim who is a minor, defined for the purposes of sections 589.400 to 589.425 as a person under
18 eighteen years of age; or

19 (3) Any person who, since July 1, 1979, has been committed to the department of mental
20 health as a criminal sexual psychopath; or

21 (4) Any person who, since July 1, 1979, has been found not guilty as a result of mental
22 disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

23 (5) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter
24 convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state or under
25 federal jurisdiction to committing, or attempting to commit, an offense which, if committed in
26 this state, would be a violation of chapter 566, RSMo, or a felony violation of any offense listed
27 in subdivision (2) of this subsection or has been or is required to register in another state or has
28 been or is required to register under federal or military law; or

29 (6) Any person who has been or is required to register in another state or has been or is
30 required to register under federal or military law and who works or attends school or training on
31 a full-time or on a part-time basis in Missouri. "Part-time" in this subdivision means for more
32 than fourteen days in any twelve-month period.

33 2. Any person to whom sections 589.400 to 589.425 apply shall, within ten days of
34 conviction, release from incarceration, or placement upon probation, register with the chief law
35 enforcement official of the county in which such person resides unless such person has already
36 registered in that county for the same offense. Any person to whom sections 589.400 to 589.425
37 apply if not currently registered in their county of residence shall register with the chief law
38 enforcement official of such county within ten days of August 28, 2003. The chief law
39 enforcement official shall forward a copy of the registration form required by section 589.407
40 to a city, town, village, or campus law enforcement agency located within the county of the chief
41 law enforcement official, if so requested. Such request may ask the chief law enforcement
42 official to forward copies of all registration forms filed with such official. The chief law
43 enforcement official may forward a copy of such registration form to any city, town, village, or
44 campus law enforcement agency, if so requested.

45 3. The registration requirements of sections 589.400 through 589.425 are lifetime
46 registration requirements unless all offenses requiring registration are reversed, vacated or set
47 aside or unless the registrant is pardoned of the offenses requiring registration.

48 **4. For processing an initial sex offender registration the chief law enforcement**

49 **officer of the county may charge the offender registering a fee of up to ten dollars.**

50 **5. For processing any change in registration required pursuant to section 589.414**
51 **the chief law enforcement official of the county may charge the person changing their**
52 **registration a fee of five dollars for each change made after the initial registration.**

589.415. 1. Any probation officer or parole officer assigned to a sexual offender
2 **who is required to register pursuant to sections 589.400 to 589.425, shall notify the**
3 **appropriate law enforcement officials whenever the officer has reason to believe that the**
4 **offender will be changing his or her residence. Upon obtaining the new address where the**
5 **offender expects to reside, the officer shall report such address to the chief law enforcement**
6 **official with whom the offender last registered and the chief law enforcement official of the**
7 **county having jurisdiction over the new residence, if different. The officer shall also**
8 **inform the offender of the offender’s duty to register. However, nothing in this section**
9 **shall affect the offender’s duty to register, pursuant to sections 589.400 to 589.425.**

10 **2. As used in this section, the term “probation officer” includes any agent of a**
11 **private entity providing probation supervision services.**

589.425. 1. Any person who is required to register pursuant to sections 589.400 to
2 **589.425 and does not meet all requirements of sections 589.400 to 589.425 is guilty of a class**
3 **[A misdemeanor] D felony.**

4 **2. Any person who commits a second or subsequent violation of subsection 1 of this**
5 **section is guilty of a class [D] C felony.**