

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1055

92ND GENERAL ASSEMBLY

3722L.06T

2004

AN ACT

To repeal sections 43.540, 50.550, 537.046, 558.019, 559.021, 565.082, 565.083, 556.037, 566.083, 566.093, 566.140, 566.141, 573.037, 573.040, 589.400, 589.425, and 660.520, RSMo, and to enact in lieu thereof twenty 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 43.540, 50.550, 537.046, 558.019, 559.021, 565.082, 565.083, 556.037, 566.083, 566.093, 566.140, 566.141, 573.037, 573.040, 589.400, 589.425, and 660.520, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 43.540, 50.550, 50.565, 537.046, 556.037, 558.019, 559.021, 565.082, 565.083, 566.083, 566.093, 566.140, 566.141, 566.147, 573.037, 573.040, 589.400, 589.415, 589.425, and 660.520, RSMo, to read as follows:

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

(1) "Authorized state agency", a division of state government or an office of state government designated by the statutes of Missouri to issue or renew a license, permit, certification, or registration of authority to a qualified entity;

(2) "Care", the provision of care, treatment, education, training, instruction, supervision, or recreation;

(3) "Missouri criminal record review", a review of criminal history records [or] **and** sex offender registration records pursuant to sections 589.400 to 589.425, RSMo, maintained by the Missouri state highway patrol in the Missouri criminal records repository;

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.

10 (4) "National criminal record review", a review of the criminal history records
11 maintained by the Federal Bureau of Investigation;

12 (5) "Patient or resident", a person who by reason of age, illness, disease or physical or
13 mental infirmity receives or requires care or services furnished by a provider, as defined in this
14 section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in
15 a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive
16 hours;

17 (6) "Provider", a person who:

18 (a) Has or may have unsupervised access to children, the elderly, or persons with
19 disabilities; and

20 (b) Is employed by or seeks employment with a qualified entity; or

21 (c) Volunteers or seeks to volunteer with a qualified entity; or

22 (d) Owns or operates a qualified entity;

23 (7) "Qualified entity", a person, business, or organization, whether public or private, for
24 profit, not for profit, or voluntary, that provides care, placement, or educational services for
25 children, the elderly, or persons with disabilities as patients or residents, including a business or
26 organization that licenses or certifies others to provide care or placement services;

27 (8) "Youth services agency", any public or private agency, school, or association which
28 provides programs, care or treatment for or which exercises supervision over minors.

29 2. A qualified entity may obtain a Missouri criminal record review of a provider from
30 the highway patrol by furnishing information on forms and in the manner approved by the
31 highway patrol.

32 3. A qualified entity may request a Missouri criminal record review and a national
33 criminal record review of a provider through an authorized state agency. No authorized state
34 agency is required by this section to process Missouri or national criminal record reviews for a
35 qualified entity, however, if an authorized state agency agrees to process Missouri and national
36 criminal record reviews for a qualified entity, the qualified entity shall provide to the authorized
37 state agency on forms and in a manner approved by the highway patrol the following:

38 (1) Two sets of fingerprints of the provider;

39 (2) A statement signed by the provider which contains:

40 (a) The provider's name, address, and date of birth;

41 (b) Whether the provider has been convicted of or has pled guilty to a crime which
42 includes a suspended imposition of sentence;

43 (c) If the provider has been convicted of or has pled guilty to a crime, a description of
44 the crime, and the particulars of the conviction or plea;

45 (d) The authority of the qualified entity to check the provider's criminal history;

46 (e) The right of the provider to review the report received by the qualified entity; and

47 (f) The right of the provider to challenge the accuracy of the report. If the challenge is
48 to the accuracy of the criminal record review, the challenge shall be made to the highway patrol.

49 4. The authorized state agency shall forward the required forms and fees to the highway
50 patrol. The results of the record review shall be forwarded to the authorized state agency who
51 will notify the qualified entity. The authorized state agency may assess a fee to the qualified
52 entity to cover the cost of handling the criminal record review and may establish an account
53 solely for the collection and dissemination of fees associated with the criminal record reviews.

54 5. Any information received by an authorized state agency or a qualified entity pursuant
55 to the provisions of this section shall be used solely for internal purposes in determining the
56 suitability of a provider. The dissemination of criminal history information from the Federal
57 Bureau of Investigation beyond the authorized state agency or related governmental entity is
58 prohibited. All criminal record check information shall be confidential and any person who
59 discloses the information beyond the scope allowed is guilty of a class A misdemeanor.

60 6. The highway patrol shall make available or approve the necessary forms, procedures,
61 and agreements necessary to implement the provisions of this section.

50.550. 1. The annual budget shall present a complete financial plan for the ensuing
2 budget year. It shall set forth all proposed expenditures for the administration, operation and
3 maintenance of all offices, departments, commissions, courts and institutions; the actual or
4 estimated operating deficits or surpluses from prior years; all interest and debt redemption
5 charges during the year and expenditures for capital projects.

6 2. The budget shall contain adequate provisions for the expenditures necessary for the
7 care of insane pauper patients in state hospitals, for the cost of holding elections and for the costs
8 of holding circuit court in the county that are chargeable against the county, for the repair and
9 upkeep of bridges other than on state highways and not in any special road district, and for the
10 salaries, office expenses and deputy and clerical hire of all county officers and agencies.

11 3. In addition, the budget shall set forth in detail the anticipated income and other means
12 of financing the proposed expenditures.

13 4. All receipts of the county for operation and maintenance shall be credited to the
14 general fund, and all expenditures for these purposes shall be charged to this fund; except, that
15 receipts from the special tax levy for roads and bridges shall be kept in a special fund and
16 expenditures for roads and bridges may be charged to the special fund.

17 5. All receipts from the sale of bonds for any purpose shall be credited to the bond fund
18 created for the purpose, and all expenditures for this purpose shall be charged to the fund. All
19 receipts for the retirement of any bond issue shall be credited to a retirement fund for the issue,
20 and all payments to retire the issue shall be charged to the fund. All receipts for interest on

21 outstanding bonds and all premiums and accrued interest on bonds sold shall be credited to the
22 interest fund, and all payments of interest on the bonds shall be charged to the interest fund.

23 **6. Subject to the provisions of section 50.565 the county commission may create a**
24 **fund to be known as "The County Law Enforcement Restitution Fund".**

25 **7. The county commission may create other funds as are necessary from time to time.**

50.565. 1. A county commission may establish by ordinance or order a fund whose
2 **proceeds may be expended only for the purposes provided for in subsection 3 of this**
3 **section. The fund shall be designated as a county law enforcement restitution fund and**
4 **shall be under the supervision of a board of trustees consisting of two citizens of the county**
5 **appointed by the presiding commissioner of the county, two citizens of the county**
6 **appointed by the sheriff of the county, and one citizen of the county appointed by the**
7 **county coroner or medical examiner. The citizens so appointed shall not be current or**
8 **former employees of the sheriff's department, the office of the prosecuting attorney for the**
9 **county, or the county treasurer's office. If a county does not have a coroner or medical**
10 **examiner, the county treasurer shall appoint one citizen to the board of trustees.**

11 **2. Money from the county law enforcement restitution fund shall only be expended**
12 **upon the approval of a majority of the members of the county law enforcement restitution**
13 **fund's board of trustees and only for the purposes provided for by subsection 3 of this**
14 **section.**

15 **3. Money from the county law enforcement restitution fund shall only be expended**
16 **for the following purposes:**

17 **(1) Narcotics investigation, prevention, and intervention;**

18 **(2) Purchase of law enforcement related equipment and supplies for the sheriff's**
19 **office;**

20 **(3) Matching funds for federal or state law enforcement grants;**

21 **(4) Funding for the reporting of all state and federal crime statistics or information;**

22 **and**

23 **(5) Any law enforcement related expense, including those of the prosecuting**
24 **attorney, approved by the board of trustees for the county law enforcement restitution**
25 **fund that is reasonably related to investigation, charging, preparation, trial, and**
26 **disposition of criminal cases before the courts of the state of Missouri.**

27 **4. The county commission may not reduce any law enforcement agency's budget**
28 **as a result of funds the law enforcement agency receives from the county law enforcement**
29 **restitution fund. The restitution fund is to be used only as a supplement to the law**
30 **enforcement agency's funding received from other county, state, or federal funds.**

31 **5. County law enforcement restitution funds shall be audited as are all other county**
32 **funds.**

33 **6. No court may order the assessment and payment authorized by this section if the**
34 **plea of guilty or the finding of guilt is to the charge of speeding, careless and imprudent**
35 **driving, any charge of violating a traffic control signal or sign, or any charge which is a**
36 **class C misdemeanor or an infraction. No assessment and payment ordered pursuant to**
37 **this section may exceed three hundred dollars for any charged offense.**

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

2 (1) "Childhood sexual abuse", any act committed by the defendant against the plaintiff
3 which act occurred when the plaintiff was under the age of eighteen years and which act would
4 have been a violation of section 566.030, 566.040, 566.050, 566.060, 566.070, 566.080, 566.090,
5 566.100, 566.110, or 566.120, RSMo, or section 568.020, RSMo;

6 (2) "Injury" or "illness", either a physical injury or illness or a psychological injury or
7 illness. A psychological injury or illness need not be accompanied by physical injury or illness.

8 2. In any civil action for recovery of damages suffered as a result of childhood sexual
9 abuse, [the time for commencement of the action shall be within five years] **the action shall be**
10 **commenced within ten years** of the date the plaintiff attains the age of [eighteen] **twenty-one**
11 or within three years of the date the plaintiff discovers or reasonably should have discovered that
12 the injury or illness was caused by child sexual abuse, whichever later occurs.

13 3. This section shall apply to any action commenced on or after August 28, 1990,
14 including any action which would have been barred by the application of the statute of limitation
15 applicable prior to that date.

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.**

558.019. 1. This section shall not be construed to affect the powers of the governor
2 under article IV, section 7, of the Missouri Constitution. This statute shall not affect those
3 provisions of section 565.020, RSMo, section 558.018 or section 571.015, RSMo, which set
4 minimum terms of sentences, or the provisions of section 559.115, RSMo, relating to probation.

5 2. The provisions of subsections 2 to 5 of this section shall be applicable to all classes
6 of felonies except those set forth in chapter 195, RSMo, and those otherwise excluded in
7 subsection 1 of this section. For the purposes of this section, "prison commitment" means and
8 is the receipt by the department of corrections of an offender after sentencing. For purposes of

9 this section, prior prison commitments to the department of corrections shall not include
10 commitment to a regimented discipline program established pursuant to section 217.378, RSMo.
11 Other provisions of the law to the contrary notwithstanding, any offender who has pleaded guilty
12 to or has been found guilty of a felony other than a dangerous felony as defined in section
13 556.061, RSMo, and is committed to the department of corrections shall be required to serve the
14 following minimum prison terms:

15 (1) If the offender has one previous prison commitment to the department of corrections
16 for a felony offense, the minimum prison term which the offender must serve shall be forty
17 percent of his or her sentence or until the offender attains seventy years of age, and has served
18 at least thirty percent of the sentence imposed, whichever occurs first;

19 (2) If the offender has two previous prison commitments to the department of corrections
20 for felonies unrelated to the present offense, the minimum prison term which the offender must
21 serve shall be fifty percent of his or her sentence or until the offender attains seventy years of
22 age, and has served at least forty percent of the sentence imposed, whichever occurs first;

23 (3) If the offender has three or more previous prison commitments to the department of
24 corrections for felonies unrelated to the present offense, the minimum prison term which the
25 offender must serve shall be eighty percent of his or her sentence or until the offender attains
26 seventy years of age, and has served at least forty percent of the sentence imposed, whichever
27 occurs first.

28 3. Other provisions of the law to the contrary notwithstanding, any offender who has
29 pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061,
30 RSMo, and is committed to the department of corrections shall be required to serve a minimum
31 prison term of eighty-five percent of the sentence imposed by the court or until the offender
32 attains seventy years of age, and has served at least forty percent of the sentence imposed,
33 whichever occurs first.

34 4. For the purpose of determining the minimum prison term to be served, the following
35 calculations shall apply:

36 (1) A sentence of life shall be calculated to be thirty years;

37 (2) Any sentence either alone or in the aggregate with other consecutive sentences for
38 crimes committed at or near the same time which is over seventy-five years shall be calculated
39 to be seventy-five years.

40 5. For purposes of this section, the term "minimum prison term" shall mean time
41 required to be served by the offender before he or she is eligible for parole, conditional release
42 or other early release by the department of corrections. Except that the board of probation and
43 parole, in the case of consecutive sentences imposed at the same time pursuant to a course of
44 conduct constituting a common scheme or plan, shall be authorized to convert consecutive

45 sentences to concurrent sentences, when the board finds, after hearing with notice to the
46 prosecuting or circuit attorney, that the sum of the terms results in an unreasonably excessive
47 total term, taking into consideration all factors related to the crime or crimes committed and the
48 sentences received by others similarly situated.

49 6. (1) A sentencing advisory commission is hereby created to consist of eleven
50 members. One member shall be appointed by the speaker of the house. One member shall be
51 appointed by the president pro tem of the senate. One member shall be the director of the
52 department of corrections. Six members shall be appointed by and serve at the pleasure of the
53 governor from among the following: the public defender commission; private citizens; a private
54 member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members
55 shall be appointed by the supreme court, one from a metropolitan area and one from a rural area.
56 All members shall be appointed to a four-year term. All members of the sentencing commission
57 appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory
58 commission at the pleasure of the governor.

59 (2) The commission shall study sentencing practices in the circuit courts throughout the
60 state for the purpose of determining whether and to what extent disparities exist among the
61 various circuit courts with respect to the length of sentences imposed and the use of probation
62 for offenders convicted of the same or similar crimes and with similar criminal histories. The
63 commission shall also study and examine whether and to what extent sentencing disparity among
64 economic and social classes exists in relation to the sentence of death and if so, the reasons
65 therefor sentences are comparable to other states, if the length of the sentence is appropriate, and
66 the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw
67 conclusions, and perform other duties relevant to the research and investigation of disparities in
68 death penalty sentencing among economic and social classes.

69 (3) The commission shall establish a system of recommended sentences, within the
70 statutory minimum and maximum sentences provided by law for each felony committed under
71 the laws of this state. This system of recommended sentences shall be distributed to all
72 sentencing courts within the state of Missouri. The recommended sentence for each crime shall
73 take into account, but not be limited to, the following factors:

74 (a) The nature and severity of each offense;

75 (b) The record of prior offenses by the offender;

76 (c) The data gathered by the commission showing the duration and nature of sentences
77 imposed for each crime; and

78 (d) The resources of the department of corrections and other authorities to carry out the
79 punishments that are imposed.

80 (4) The commission shall study alternative sentences, prison work programs, work
81 release, home-based incarceration, probation and parole options, and any other programs and
82 report the feasibility of these options in Missouri.

83 (5) The commission shall publish and distribute its recommendations on or before July
84 1, 2004. The commission shall study the implementation and use of the recommendations until
85 July 1, 2005, and return a report to the governor, the speaker of the house of representatives, and
86 the president pro tem of the senate. Following the July 1, 2005, report, the commission shall
87 revise the recommended sentences every two years.

88 (6) The governor shall select a chairperson who shall call meetings of the commission
89 as required or permitted pursuant to the purpose of the sentencing commission.

90 (7) The members of the commission shall not receive compensation for their duties on
91 the commission, but shall be reimbursed for actual and necessary expenses incurred in the
92 performance of these duties and for which they are not reimbursed by reason of their other paid
93 positions.

94 (8) The circuit and associate circuit courts of this state, the office of the state courts
95 administrator, the department of public safety, and the department of corrections shall cooperate
96 with the commission by providing information or access to information needed by the
97 commission. The office of the state courts administrator will provide needed staffing resources.

98 7. Courts shall retain discretion to lower or exceed the sentence recommended by the
99 commission as otherwise allowable by law, and to order restorative justice methods, when
100 applicable.

101 8. If the imposition or execution of a sentence is suspended, the court may order any or
102 all of the following restorative justice methods, or any other method that the court finds just or
103 appropriate:

104 (1) Restitution to any victim **or a statutorily created fund** for costs incurred as a result
105 of the offender's actions;

106 (2) Offender treatment programs;

107 (3) Mandatory community service;

108 (4) Work release programs in local facilities; and

109 (5) Community-based residential and nonresidential programs.

110 9. The provisions of this section shall apply only to offenses occurring on or after August
111 28, 2003.

112 **10. Pursuant to subdivision (1) of subsection 8 of this section, the court may order**
113 **the assessment and payment of a designated amount of restitution to a county law**
114 **enforcement restitution fund established by the county commission pursuant to section**
115 **50.565, RSMo. Such contribution shall not exceed three hundred dollars for any charged**

116 **offense. Any restitution moneys deposited into the county law enforcement restitution fund**
117 **pursuant to this section shall only be expended pursuant to the provisions of section 50.565,**
118 **RSMo.**

119 **11. A judge may order payment to a restitution fund only if such fund had been**
120 **created by ordinance or resolution of a county of the state of Missouri prior to sentencing.**
121 **A judge shall not have any direct supervisory authority or administrative control over any**
122 **fund to which the judge is ordering a defendant to make payment.**

123 **12. A defendant who fails to make a payment to a county law enforcement**
124 **restitution fund may not have his or her probation revoked solely for failing to make such**
125 **payment unless the judge, after evidentiary hearing, makes a finding supported by a**
126 **preponderance of the evidence that the defendant either willfully refused to make the**
127 **payment or that the defendant willfully, intentionally, and purposefully failed to make**
128 **sufficient bona fide efforts to acquire the resources to pay.**

559.021. 1. The conditions of probation shall be such as the court in its discretion deems
2 reasonably necessary to ensure that the defendant will not again violate the law. When a
3 defendant is placed on probation he shall be given a certificate explicitly stating the conditions
4 on which he is being released.

5 2. In addition to such other authority as exists to order conditions of probation, the court
6 may order such conditions as the court believes will serve to compensate the victim, any
7 dependent of the victim, **any statutorily created fund for costs incurred as a result of the**
8 **offender's actions**, or society. Such conditions may include **restorative justice methods**
9 **pursuant to section 217.777, RSMo, or any other method that the court finds just or**
10 **appropriate including**, but [shall] not [be] limited to:

11 (1) Restitution to the victim or any dependent of the victim, **or statutorily created fund**
12 **for costs incurred as a result of the offender's actions** in an amount to be determined by the
13 judge; [and]

14 (2) The performance of a designated amount of free work for a public or charitable
15 purpose, or purposes, as determined by the judge;

16 (3) **Offender treatment programs;**

17 (4) **Work release programs in local facilities; and**

18 (5) **Community-based residential and nonresidential programs.**

19 3. The defendant may refuse probation conditioned on the performance of free work.
20 If he does so, the court shall decide the extent or duration of sentence or other disposition to be
21 imposed and render judgment accordingly. Any county, city, person, organization, or agency,
22 or employee of a county, city, organization or agency charged with the supervision of such free
23 work or who benefits from its performance shall be immune from any suit by the defendant or

24 any person deriving a cause of action from him if such cause of action arises from such
25 supervision of performance, except for an intentional tort or gross negligence. The services
26 performed by the defendant shall not be deemed employment within the meaning of the
27 provisions of chapter 288, RSMo. A defendant performing services pursuant to this section shall
28 not be deemed an employee within the meaning of the provisions of chapter 287, RSMo.

29 **4. In addition to such other authority as exists to order conditions of probation, in**
30 **the case of a plea of guilty or a finding of guilt, the court may order the assessment and**
31 **payment of a designated amount of restitution to a county law enforcement restitution fund**
32 **established by the county commission pursuant to section 50.565, RSMo. Such**
33 **contribution shall not exceed three hundred dollars for any charged offense. Any**
34 **restitution moneys deposited into the county law enforcement restitution fund pursuant**
35 **to this section shall only be expended pursuant to the provisions of section 50.565, RSMo.**

36 **5. A judge may order payment to a restitution fund only if such fund had been**
37 **created by ordinance or resolution of a county of the state of Missouri prior to sentencing.**
38 **A judge shall not have any direct supervisory authority or administrative control over any**
39 **fund to which the judge is ordering a defendant to make payment.**

40 **6. A defendant who fails to make a payment to a county law enforcement restitution**
41 **fund may not have his or her probation revoked solely for failing to make such payment**
42 **unless the judge, after evidentiary hearing, makes a finding supported by a preponderance**
43 **of the evidence that the defendant either willfully refused to make the payment or that the**
44 **defendant willfully, intentionally, and purposefully failed to make sufficient bona fide**
45 **efforts to acquire the resources to pay.**

46 **7. The court may modify or enlarge the conditions of probation at any time prior to the**
47 **expiration or termination of the probation term.**

565.082. 1. A person commits the crime of assault of a law enforcement officer or
2 emergency personnel in the second degree if such person:

3 (1) Knowingly causes or attempts to cause physical injury to a law enforcement officer
4 or emergency personnel by means of a deadly weapon or dangerous instrument;

5 (2) **Knowingly causes or attempts to cause physical injury to a law enforcement**
6 **officer or emergency personnel by means other than a deadly weapon or dangerous**
7 **instrument;**

8 (3) Recklessly causes serious physical injury to a law enforcement officer or emergency
9 personnel; or

10 [(3)] (4) While in an intoxicated condition or under the influence of controlled
11 substances or drugs, operates a motor vehicle in this state and when so operating, acts with

12 criminal negligence to cause physical injury to a law enforcement officer or emergency personnel;

13 **(5) Acts with criminal negligence to cause physical injury to a law enforcement**
14 **officer or emergency personnel by means of a deadly weapon or dangerous instrument;**

15 **(6) Purposely or recklessly places a law enforcement officer or emergency personnel**
16 **in apprehension of immediate serious physical injury; or**

17 **(7) Acts with criminal negligence to create a substantial risk of death or serious**
18 **physical injury to a law enforcement officer or emergency personnel.**

19 2. As used in this section, "emergency personnel" means any paid or volunteer
20 firefighter, emergency room or trauma center personnel, or emergency medical technician as
21 defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

22 3. Assault of a law enforcement officer or emergency personnel in the second degree is
23 a class B felony **unless committed pursuant to subdivision (2), (5), (6), or (7) of subsection**
24 **1 of this section in which case it is a class C felony.**

565.083. 1. A person commits the crime of assault of a law enforcement officer or
2 emergency personnel in the third degree if:

3 (1) Such person [attempts to cause or] recklessly causes physical injury to a law
4 enforcement officer or emergency personnel;

5 (2) [With criminal negligence such person causes physical injury to a law enforcement
6 officer or emergency personnel by means of a deadly weapon;

7 (3)] Such person purposely places a law enforcement officer or emergency personnel in
8 apprehension of immediate physical injury;

9 [(4) With criminal negligence such person creates a grave risk of death or serious
10 physical injury to a law enforcement officer or emergency personnel; or

11 (5)] **(3)** Such person knowingly causes or attempts to cause physical contact with a law
12 enforcement officer or emergency personnel without the consent of the law enforcement officer
13 or emergency personnel.

14 2. As used in this section, "emergency personnel" means any paid or volunteer
15 firefighter, emergency room or trauma center personnel, or emergency medical technician as
16 defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

17 3. Assault of a law enforcement officer or emergency personnel in the third degree is a
18 class A misdemeanor.

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 this chapter, in which case**
20 **it is a class C felony.**

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

3 (1) Exposes his **or her** genitals under circumstances in which he **or she** knows that his
4 **or her** 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**

7 **(3) Has sexual intercourse or deviate sexual intercourse in a public place in the**
8 **presence of a third person.**

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

566.140. 1. 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. Persons required to attend a program pursuant to this section
6 may be charged a reasonable fee to cover the costs of such program.

7 2. **No person who provides assessment services or who makes a report, finding, or**
8 **recommendation for any probationer to attend any counseling or program of treatment,**
9 **education or rehabilitation as a condition or requirement of probation, following the**
10 **probationer's plea of guilty to or a finding of guilt of violating any provision of this chapter**

11 or chapter 565, RSMo, may be related within the third degree of consanguinity or affinity
12 to any person who has a financial interest, whether direct or indirect, in the counseling or
13 program of treatment, education or rehabilitation or any financial interest, whether direct
14 or indirect, in any private entity which provides the counseling or program of treatment,
15 education or rehabilitation. Any person who violates this subsection shall thereafter:

16 (1) Immediately remit to the state of Missouri any financial income gained as a
17 direct or indirect result of the action constituting the violation;

18 (2) Be prohibited from providing assessment or counseling services or any program
19 of treatment, education or rehabilitation to, for, on behalf of, at the direction of, or in
20 contract with the state board of probation and parole or any office thereof; and

21 (3) Be prohibited from having any financial interest, whether direct or indirect, in
22 any private entity which provides assessment or counseling services or any program of
23 treatment, education or rehabilitation to, for, on behalf of, at the direction of, or in
24 contract with the state board of probation and parole or any office thereof.

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, **foreign**
25 **country**, or under federal **or military** jurisdiction to committing, or attempting to commit, an
26 offense which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony
27 violation of any offense listed in subdivision (2) of this subsection or has been or is required to
28 register in another state or has 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 assigned to provide probation supervision services to an offender due to the**
12 **offender's status as a sexual offender who is required to register pursuant to sections**
13 **589.400 to 589.425, RSMo.**

2 589.425. 1. Any person who is required to register pursuant to sections 589.400 to
3 589.425 and does not meet all requirements of sections 589.400 to 589.425 is guilty of a class
4 A misdemeanor, **unless the person has been convicted pursuant to chapter 566 of an**
5 **unclassified felony, class A felony, class B felony, or any felony involving a child under the**
6 **age of fourteen, in which case the person is guilty of a class D felony.**

7 2. Any person who commits a second or subsequent violation of subsection 1 of this
8 section is guilty of a class D felony, **unless the person has been convicted pursuant to chapter**
9 **566 of an unclassified felony, class A felony, class B felony, or any felony involving a child**
under the age of fourteen, in which case the person is guilty of a class C felony.

660.520. 1. There is hereby established in the department of social services a special team, to be known as the "state technical assistance team", to assist in cases of child abuse, child neglect, child sexual abuse, child exploitation, **child pornography**, or child fatality. It shall be the priority of the team to focus on those cases in which more than one report has been received. [The director of family services shall be held accountable for cases reported and filed with the division.] The team shall:

(1) Provide [training, expertise and assistance to county] **assistance, expertise, and training to child protection agencies and** multidisciplinary teams for the investigation and prosecution of child abuse, child neglect, child sexual abuse, child exploitation, **child pornography**, or child fatality cases;

(2) Assist in the investigation of child abuse, child neglect, child sexual abuse, child exploitation, **child pornography**, or child fatality cases, upon the request of a local, **county, state, or federal** law enforcement agency, **county, state, or federal** prosecutor, [division of family services staff,] a representative of the family courts, medical examiner, coroner [or, juvenile officer, **or department of social services staff**. Upon being requested to assist in an investigation, the state technical assistance team shall notify [all] **appropriate** parties specified in this subdivision of the team's involvement. [Where assistance has been requested by a local law enforcement agency,] State technical assistance team investigators [certified] **licensed** as peace officers by the director of the department of public safety pursuant to chapter 590, RSMo, shall be deemed to be peace officers within the [jurisdiction of the requesting law enforcement agency,] **state of Missouri** while acting [at the request of the law enforcement agency] **in an investigation or on behalf of a child**. The power of arrest of a state technical assistance team investigator acting as a peace officer shall be limited to offenses involving child abuse, child neglect, child sexual abuse, child exploitation [or], **child pornography**, child fatality, **or in situations of imminent danger to the investigator or another person**;

(3) Assist county multidisciplinary teams to develop and implement protocols for the investigation and prosecution of child abuse, child neglect, child sexual abuse, child exploitation, **child pornography**, or child fatality cases.

2. The team may call upon the expertise of the office of the attorney general, the Missouri office of prosecution services, the [missing persons unit of the] state highway patrol, the department of health and senior services, the department of mental health or any other agency **or institution**.

3. Each county may develop a multidisciplinary team for the purpose of determining the appropriate investigative and therapeutic action to be initiated on complaints referenced in subsection 1 of this section reported to the **children's** division [of family services]. The multidisciplinary team may include, but is not limited to, a prosecutor, or his or her

37 representative, an investigator from the **children's** division [of family services], a physician, a
38 representative from a mental health care services agency and a representative of the police
39 agency of primary jurisdiction.

40 4. [The division of family services shall provide training and assistance to county
41 multidisciplinary teams and shall assist in the investigation of child abuse, child neglect, child
42 sexual abuse, child exploitation or child fatality cases upon the request of local law enforcement
43 agencies, the local multidisciplinary team, or the local prosecutor.

44 5.] All reports and records made and maintained by the state technical assistance team
45 or local law enforcement relating to criminal investigations conducted pursuant to this section,
46 including arrests, shall be available in the same manner as law enforcement records, as set forth
47 in sections 610.100 to 610.200, RSMo, and to the individuals identified in subdivision (13) of
48 subsection 2 of section 210.150, RSMo. All other records shall be available in the same manner
49 as provided for in section 210.150, RSMo.