

SENATE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1055

AN ACT

To repeal sections 565.082, 565.083, 556.037, 566.083, 566.140, 566.141, 573.037, 573.040, 589.400, 589.425, and 660.520, RSMo, and to enact in lieu thereof fourteen new sections relating to sexual offenses, with a penalty provision.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 565.082, 565.083, 556.037, 566.083,
2 566.140, 566.141, 573.037, 573.040, 589.400, 589.425, and
3 660.520, RSMo, are repealed and fourteen new sections enacted in
4 lieu thereof, to be known as sections 43.651, 556.037, 565.082,
5 565.083, 566.083, 566.140, 566.141, 566.147, 573.037, 573.040,
6 589.400, 589.415, 589.425, and 660.520, RSMo, to read as follows:

7 43.651. The patrol shall, subject to appropriation,
8 maintain a one page web page on the Internet which shall be open
9 to the public and shall include links to all sex offender
10 registry web sites maintained by any county in the state.

11 556.037. Notwithstanding the provisions of section 556.036,
12 [to the contrary notwithstanding,] prosecutions for unlawful
13 sexual offenses involving a person eighteen years of age or under
14 must be commenced within [ten] twenty years after the victim
15 reaches the age of eighteen unless the prosecutions are for

1 forcible rape, attempted forcible rape, forcible sodomy, or
2 attempted forcible sodomy in which case such prosecutions may be
3 commenced at any time.

4 565.082. 1. A person commits the crime of assault of a law
5 enforcement officer or emergency personnel in the second degree
6 if such person:

7 (1) Knowingly causes or attempts to cause physical injury
8 to a law enforcement officer or emergency personnel [by means of
9 a deadly weapon or dangerous instrument];

10 (2) Knowingly causes or attempts to cause physical injury
11 to a law enforcement officer or emergency personnel by means
12 other than a deadly weapon or dangerous instrument;

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

15 ~~[(3)]~~ (4) While in an intoxicated condition or under the
16 influence of controlled substances or drugs, operates a motor
17 vehicle in this state and when so operating, acts with criminal
18 negligence to cause physical injury to a law enforcement officer
19 or emergency personnel;

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

23 (6) Purposely or recklessly places a law enforcement
24 officer or emergency personnel in apprehension of immediate
25 serious physical injury; or

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

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

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

10 565.083. 1. A person commits the crime of assault of a law
11 enforcement officer or emergency personnel in the third degree
12 if:

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

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

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

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

25 (5)] (3) Such person knowingly causes or attempts to cause
26 physical contact with a law enforcement officer or emergency
27 personnel without the consent of the law enforcement officer or
28 emergency personnel.

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

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

7 566.083. 1. A person commits the crime of sexual
8 misconduct involving a child if the person:

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

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

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

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

27 3. Violation of this section is a class D felony unless the
28 actor has previously pleaded guilty to or been convicted of an

1 offense pursuant to this chapter or the actor has previously
2 pleaded guilty to or has been convicted of an offense against the
3 laws of another state or jurisdiction which would constitute an
4 offense under this chapter, in which case it is a class C felony.

5 566.140. Any person who has pleaded guilty to or been found
6 guilty of violating the provisions of this chapter, and is
7 granted a suspended imposition or execution of sentence or placed
8 under the supervision of the board of probation and parole shall
9 be required to participate in and successfully complete a program
10 of treatment, education and rehabilitation designed for
11 perpetrators of sexual offenses. Any person participating in
12 such a program shall be required to follow all directives of the
13 treatment program provider. Persons required to attend a program
14 pursuant to this section may be charged a reasonable fee to cover
15 the costs of such program.

16 566.141. Any person who is convicted of or pleads guilty or
17 nolo contendere to any sexual offense involving a child shall be
18 required as a condition of probation or parole to be involved in
19 and successfully complete an appropriate treatment program. Any
20 person involved in such a program shall be required to follow all
21 directives of the treatment program provider.

22 566.147. 1. Any person who has pleaded guilty or nolo
23 contendere to, or been convicted of, or been found guilty of
24 violating any of the provisions of this chapter or the provisions
25 of section 565.253, RSMo, invasion of privacy; subsection 2 of
26 section 568.020, RSMo, incest; section 568.045, RSMo, endangering
27 the welfare of a child in the first degree; subsection 2 of
28 section 568.080, RSMo, use of a child in a sexual performance;

1 section 568.090, RSMo, promoting a sexual performance by a child;
2 section 573.023, RSMo, sexual exploitation of a minor; section
3 573.025, RSMo, promoting child pornography in the first degree;
4 section 573.035, RSMo, promoting child pornography in the second
5 degree; section 573.037, RSMo, possession of child pornography,
6 or section 573.040, RSMo, furnishing pornographic material to
7 minors; shall not establish residency within one thousand feet of
8 any public school as defined in section 160.011, RSMo, or any
9 private school giving instruction in a grade or grades not higher
10 than the twelfth grade, or child care facility as defined in
11 section 210.201, RSMo, which is in existence at the time such
12 residency is established.

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

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

1 misdemeanor except that the second or subsequent violations is a
2 class D felony.

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

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

12 573.040. 1. A person commits the crime of furnishing
13 pornographic material to minors if, knowing its content and
14 character, he or she:

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

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

24 (3) Furnishes, produces, presents, directs, participates in
25 any performance or otherwise makes available material that is
26 pornographic for minors via computer, electronic transfer,
27 Internet or computer network if the person made the matter
28 available to a specific individual known by the defendant to be a

1 minor.

2 2. Furnishing pornographic material to minors is a class A
3 misdemeanor unless the person has pleaded guilty to or has been
4 found guilty of an offense committed at a different time pursuant
5 to this [section committed at a different time] chapter, chapter
6 566 or chapter 568, RSMo, in which case it is a class D felony.

7 589.400. 1. Sections 589.400 to 589.425 shall apply to:

8 (1) Any person who, since July 1, 1979, has been or is
9 hereafter convicted of, been found guilty of, or pled guilty or
10 nolo contendere to committing, or attempting to commit, a felony
11 offense of chapter 566, RSMo, or any offense of chapter 566,
12 RSMo, where the victim is a minor; or

13 (2) Any person who, since July 1, 1979, has been or is
14 hereafter convicted of, been found guilty of, or pled guilty or
15 nolo contendere to committing, or attempting to commit one or
16 more of the following offenses: kidnapping, pursuant to section
17 565.110, RSMo; felonious restraint; promoting prostitution in the
18 first degree; promoting prostitution in the second degree;
19 promoting prostitution in the third degree; sexual exploitation
20 of a minor; promoting child pornography in the first degree;
21 promoting child pornography in the second degree; possession of
22 child pornography; furnishing pornographic material to minors;
23 public display of explicit sexual material; coercing acceptance
24 of obscene material; promoting obscenity in the first degree;
25 promoting pornography for minors or obscenity in the second
26 degree; incest; abuse of a child, pursuant to section 568.060,
27 RSMo; use of a child in a sexual performance; or promoting sexual
28 performance by a child; and committed or attempted to commit the

1 offense against a victim who is a minor, defined for the purposes
2 of sections 589.400 to 589.425 as a person under eighteen years
3 of age; or

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

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

10 (5) Any person who is a resident of this state who has,
11 since July 1, 1979, or is hereafter convicted of, been found
12 guilty of, or pled guilty to or nolo contendere in any other
13 state or under federal jurisdiction to committing, or attempting
14 to commit, an offense which, if committed in this state, would be
15 a violation of chapter 566, RSMo, or a felony violation of any
16 offense listed in subdivision (2) of this subsection or has been
17 or is required to register in another state or has been or is
18 required to register under federal or military law; or

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

25 2. Any person to whom sections 589.400 to 589.425 apply
26 shall, within ten days of conviction, release from incarceration,
27 or placement upon probation, register with the chief law
28 enforcement official of the county in which such person resides

1 unless such person has already registered in that county for the
2 same offense. Any person to whom sections 589.400 to 589.425
3 apply if not currently registered in their county of residence
4 shall register with the chief law enforcement official of such
5 county within ten days of August 28, 2003. The chief law
6 enforcement official shall forward a copy of the registration
7 form required by section 589.407 to a city, town, village, or
8 campus law enforcement agency located within the county of the
9 chief law enforcement official, if so requested. Such request
10 may ask the chief law enforcement official to forward copies of
11 all registration forms filed with such official. The chief law
12 enforcement official may forward a copy of such registration form
13 to any city, town, village, or campus law enforcement agency, if
14 so requested.

15 3. The registration requirements of sections 589.400
16 through 589.425 are lifetime registration requirements unless all
17 offenses requiring registration are reversed, vacated or set
18 aside or unless the registrant is pardoned of the offenses
19 requiring registration.

20 4. For processing an initial sex offender registration the
21 chief law enforcement officer of the county may charge the
22 offender registering a fee of up to ten dollars.

23 5. For processing any change in registration required
24 pursuant to section 589.414 the chief law enforcement official of
25 the county may charge the person changing their registration a
26 fee of five dollars for each change made after the initial
27 registration.

28 589.415. 1. Any probation officer or parole officer

1 assigned to a sexual offender who is required to register
2 pursuant to sections 589.400 to 589.425, shall notify the
3 appropriate law enforcement officials whenever the officer has
4 reason to believe that the offender will be changing his or her
5 residence. Upon obtaining the new address where the offender
6 expects to reside, the officer shall report such address to the
7 chief law enforcement official with whom the offender last
8 registered and the chief law enforcement official of the county
9 having jurisdiction over the new residence, if different. The
10 officer shall also inform the offender of the offender's duty to
11 register. However, nothing in this section shall affect the
12 offender's duty to register, pursuant to sections 589.400 to
13 589.425.

14 2. As used in this section, the term "probation officer"
15 includes any agent of a private entity providing probation
16 supervision services.

17 589.425. 1. Any person who is required to register
18 pursuant to sections 589.400 to 589.425 and does not meet all
19 requirements of sections 589.400 to 589.425 is guilty of a class
20 **[A misdemeanor]** D felony.

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

24 660.520. 1. There is hereby established in the department
25 of social services a special team, to be known as the "state
26 technical assistance team", to assist in cases of child abuse,
27 child neglect, child sexual abuse, child exploitation, child
28 pornography, or child fatality. It shall be the priority of the

1 team to focus on those cases in which more than one report has
2 been received. [The director of family services shall be held
3 accountable for cases reported and filed with the division.] The
4 team shall:

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

10 (2) Assist in the investigation of child abuse, child
11 neglect, child sexual abuse, child exploitation, child
12 pornography, or child fatality cases, upon the request of a
13 local, county, state, or federal law enforcement agency, county,
14 state, or federal prosecutor, [division of family services
15 staff,] a representative of the family courts, medical examiner,
16 coroner [or], juvenile officer, or department of social services
17 staff. Upon being requested to assist in an investigation, the
18 state technical assistance team shall notify [all] appropriate
19 parties specified in this subdivision of the team's involvement.
20 [Where assistance has been requested by a local law enforcement
21 agency,] State technical assistance team investigators
22 [certified] licensed as peace officers by the director of the
23 department of public safety pursuant to chapter 590, RSMo, shall
24 be deemed to be peace officers within the [jurisdiction of the
25 requesting law enforcement agency,] state of Missouri while
26 acting [at the request of the law enforcement agency] in an
27 investigation or on behalf of a child. The power of arrest of a
28 state technical assistance team investigator acting as a peace

1 officer shall be limited to offenses involving child abuse, child
2 neglect, child sexual abuse, child exploitation [or], child
3 pornography, child fatality, or in situations of imminent danger
4 to the investigator or another person;

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

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

14 3. Each county may develop a multidisciplinary team for the
15 purpose of determining the appropriate investigative and
16 therapeutic action to be initiated on complaints referenced in
17 subsection 1 of this section reported to the children's division
18 [of family services]. The multidisciplinary team may include,
19 but is not limited to, a prosecutor, or his or her
20 representative, an investigator from the children's division [of
21 family services], a physician, a representative from a mental
22 health care services agency and a representative of the police
23 agency of primary jurisdiction.

24 4. [The division of family services shall provide training
25 and assistance to county multidisciplinary teams and shall assist
26 in the investigation of child abuse, child neglect, child sexual
27 abuse, child exploitation or child fatality cases upon the
28 request of local law enforcement agencies, the local

1 multidisciplinary team, or the local prosecutor.

2 5.] All reports and records made and maintained by the
3 state technical assistance team or local law enforcement relating
4 to criminal investigations conducted pursuant to this section,
5 including arrests, shall be available in the same manner as law
6 enforcement records, as set forth in sections 610.100 to 610.200,
7 RSMo, and to the individuals identified in subdivision (13) of
8 subsection 2 of section 210.150, RSMo. All other records shall
9 be available in the same manner as provided for in section
10 210.150, RSMo.

11