

SECOND REGULAR SESSION

HOUSE BILL NO. 1698

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LIPKE (Sponsor), DUSENBERG, YATES,
COOPER (158) AND TILLEY (Co-sponsors).

Read 1st time February 8, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4908L.03I

AN ACT

To repeal sections 217.735, 558.018, 559.106, 566.010, 566.030, 566.032, 566.060, 566.062, 566.083, 566.090, 566.147, 566.151, 568.020, 589.015, 589.414, 589.425, 632.484, 632.489, and 632.495, RSMo, and to enact in lieu thereof twenty-five new sections relating to sexual offenders, with penalty provisions.

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

Section A. Sections 217.735, 558.018, 559.106, 566.010, 566.030, 566.032, 566.060, 566.062, 566.083, 566.090, 566.147, 566.151, 568.020, 589.015, 589.414, 589.425, 632.484, 632.489, and 632.495, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 105.003, 217.735, 351.609, 488.5362, 558.018, 559.106, 566.010, 566.030, 566.032, 566.060, 566.062, 566.083, 566.090, 566.147, 566.151, 568.020, 575.159, 589.015, 589.414, 589.425, 589.575, 589.576, 632.484, 632.489, and 632.495, to read as follows:

105.003. 1. Prior to allowing any person to be hired for a full-time, part-time, or temporary position with substantial direct contact with children under the age of sixteen, a state department, agency, board, or commission shall request a criminal background check as provided in section 43.540, RSMo. If an applicant has not resided in this state for five consecutive years prior to the date of his or her application for employment, the state department, agency, board, or commission shall request a nationwide check for the purpose of determining if the applicant has a prior criminal history in other states. The

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

8 fingerprint cards and any required fees shall be sent to the highway patrol's criminal
9 records division. The first set of fingerprints shall be used for searching the state
10 repository of criminal history information. If no identification is made, the second set of
11 fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification
12 Division, for the searching of the federal criminal history files. The patrol shall notify the
13 submitting state department, agency, board, or commission of any criminal history
14 information or lack of criminal history information discovered on the individual.
15 Notwithstanding the provisions of section 610.120, RSMo, all records related to any
16 criminal history information discovered shall be accessible and available to the state
17 department, agency, board, or commission making the record request. In the case of
18 temporary employees hired through or contracted for an employment agency, the
19 employment agency shall be subject to the provisions of this section prior to sending the
20 employee to a state department, agency, board, or commission.

21 2. When a state department, agency, board, or commission requests a criminal
22 background check under section 43.540, RSMo, it may require the applicant to reimburse
23 the state department, agency, board, or commission for the cost of such record check.
24 When a state department, agency, board, or commission requests a nationwide criminal
25 background check under subsection 1 of this section, the total cost shall be paid by the state
26 department, agency, board, or commission. The obligation of a state department, agency,
27 board, or commission to obtain a nationwide criminal background check shall be subject
28 to the availability of appropriations.

29 3. An applicant for a position with substantial direct contact with children less than
30 sixteen years of age shall:

31 (1) Sign a consent form as required by section 43.540, RSMo, so the state
32 department, agency, board, or commission may request a criminal records review; and

33 (2) Disclose the applicant's criminal history. For the purposes of this subdivision,
34 "criminal history" includes any conviction or a plea of guilty to a misdemeanor or felony
35 charge and shall include any suspended imposition of sentence, any suspended execution
36 of sentence or any period of probation or parole.

37 4. Any state department, agency, board, or commission shall not hire any individual
38 for a position with substantial direct contact with children less than sixteen years of age,
39 who has pleaded guilty to or been found guilty of any offense for which a person is
40 required to register as a sexual offender under sections 589.400 to 589.425, RSMo, or any
41 offense of a similar nature established under the laws of any other state or of the United
42 States, or any other country, whether or not the sentence is imposed.

43 **5. Any state department, agency, board, or commission shall be prohibited from**
44 **hiring an applicant who fails to disclose his or her criminal history as required by**
45 **subsection 3 of this section.**

217.735. 1. Notwithstanding any other provision of law to the contrary, the board shall
2 supervise an offender for the duration of his or her natural life when the offender has pleaded
3 guilty to or been found guilty of an offense under section 566.030, 566.032, 566.060, **or 566.062,**
4 **RSMo, based on an act committed on or after August 28, 2006, or the offender has pleaded**
5 **guilty to or has been found guilty of an offense under section 566.067, 566.083, 566.100,**
6 **566.151, 566.212, 568.020, 568.080, or 568.090, RSMo, based on an act committed on or after**
7 **August 28, 2005, against a victim who was less than fourteen years old and the offender is a prior**
8 **sex offender as defined in subsection 2 of this section.**

9 2. For the purpose of this section, a prior sex offender is a person who has previously
10 **pleaded guilty to or** been found guilty of an offense contained in chapter 566, RSMo, **or of**
11 **violating section 568.020, RSMo, when the person had sexual intercourse or deviate sexual**
12 **intercourse with the victim, or of violating subdivision (2) of subsection 1 of section**
13 **568.045, RSMo.**

14 3. Subsection 1 of this section applies to offenders who have been granted probation, and
15 to offenders who have been released on parole, conditional release, or upon serving their full
16 sentence without early release. Supervision of an offender who was released after serving his
17 or her full sentence will be considered as supervision on parole.

18 4. A mandatory condition of lifetime supervision of an offender under this section is that
19 the offender be electronically monitored. Electronic monitoring shall be based on a global
20 positioning system or other technology that identifies and records the offender's location at all
21 times.

22 5. In appropriate cases as determined by a risk assessment, the board may terminate the
23 supervision of an offender who is being supervised under this section when the offender is
24 sixty-five years of age or older.

25 6. In accordance with section 217.040, the board may adopt rules relating to supervision
26 and electronic monitoring of offenders under this section.

351.609. 1. For the purposes of this section, the following terms shall mean:

2 **(1) "Adverse result", danger to the life or physical safety of an individual, a flight**
3 **from prosecution, the destruction of or tampering with evidence, the intimidation of**
4 **potential witnesses, or serious jeopardy to an investigation or undue delay of a trial that**
5 **occurs as a result of the notification of a search warrant.**

6 **(2) "Electronic communication services" and "remote computing services", the**
7 **same meaning as provided by the Electronic Communications Private Act in Chapter 121**

8 (commencing with Section 2701) of Part I of Title 18 of the United States Code Annotated,
9 as amended. This section shall not apply to corporations that do not provide electronic
10 communication services or remote computing services to the general public.

11 (3) "Foreign corporation", the same meaning as defined in section 351.015, and in
12 addition, those corporations organized under the laws of the United States government.

13 (4) "Missouri corporation", any corporation governed by the general and business
14 corporation law of Missouri under the provisions of this chapter that files its articles of
15 incorporation with the Missouri secretary of state and is issued a certificate of
16 incorporation under section 351.060.

17 (5) "Properly served", a search warrant that has been delivered by hand, or in a
18 manner reasonably allowing for proof of delivery by United States mail, overnight delivery
19 service, or facsimile to any officer of a foreign corporation or its general manager in this
20 state, or if the corporation is a bank to a cashier or an assistant cashier, or to any natural
21 person designated by the foreign corporation as an agent for the service of process, or any
22 person named in the latest certificate of the corporate agent if the corporation has
23 designated such a corporate agent. A copy of the statement and designation, or a copy of
24 the latest statement filed and certified by the secretary of state is sufficient evidence of the
25 appointment of an agent for the service of process.

26 2. The provisions of this section shall apply to any search warrant issued to search
27 for records that are in the actual or constructive possession of a foreign corporation that
28 provides electronic communication services or remote computing services to the general
29 public, where those records would reveal the identity of the customers using the service,
30 data stored by, or on behalf of, the customer, the customer's usage of those services, the
31 recipient or destination of communications sent to or from those customers, or the content
32 of those communications.

33 3. When properly served with a search warrant issued by a Missouri court, a
34 foreign corporation shall provide to the peace officer to whom the search warrant was
35 issued, all records sought under the warrant within five business days of receipt, including
36 any records maintained or located outside the state.

37 4. Where the peace officer to whom a search warrant was issued makes a showing
38 and the issuing judge finds that failure to produce records within five business days will
39 cause an adverse result, the warrant may require production of records within less than
40 five business days. A court may reasonably extend the time required for production of the
41 records upon finding that the foreign corporation has shown good cause for that extension
42 and that an extension of time would not cause an adverse result.

43 5. A foreign corporation seeking to quash the warrant must seek relief from the
44 court that issued the warrant within the time required for production of records under this

45 section. The issuing court shall hear and decide that motion no later than five court days
46 after the motion is filed.

47 6. The foreign corporation shall verify the authenticity of records that it produces
48 by providing a verified affidavit. Such records shall be admissible as evidence.

49 7. A Missouri corporation that provides electronic communication services or
50 remote computing services to the general public, when served with a warrant issued by
51 another state to produce records that reveal the identity of the customers using those
52 services, data stored by, or on behalf of, the customer, the customer's usage of those
53 services, the recipient or destination of communications sent to or from those customers,
54 or the content of those communications, shall produce those records as if the warrant was
55 issued by a court of this state.

56 8. No cause of action shall lie against any foreign corporation or Missouri
57 corporation subject to this section, its officers, employees, agents, or other specified persons
58 for providing records, information, facilities, or assistance in accordance with the terms
59 of a warrant subject to this section.

488.5362. 1. In addition to any other surcharges authorized by statute, the clerk
2 of each court of this state shall collect the surcharge provided for in subsection 2 of this
3 section.

4 2. A surcharge of five dollars shall be assessed as costs in each circuit court
5 proceeding filed within this state in all criminal cases in which the defendant pleads guilty
6 or nolo contendere to or is convicted of a felony or misdemeanor.

7 3. Notwithstanding any other provisions of law, the moneys collected by clerks of
8 the courts under the provisions of subsection 1 of this section shall be collected and
9 disbursed in accordance with section 488.010 to 488.020, and shall be payable to the county
10 treasurer, who shall hold the moneys collected from the surcharge in a separate fund.
11 Moneys in this fund shall be expended solely to provide funding for the chief law
12 enforcement officer of the county to review and verify the addresses of registered sexual
13 offenders residing in the county, as required under section 589.575, RSMo.

558.018. 1. The court shall sentence a person who has pleaded guilty to or has been
2 found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy,
3 statutory sodomy in the first degree or an attempt to commit any of the crimes designated in this
4 subsection to an extended term of imprisonment if it finds the defendant is a persistent sexual
5 offender.

6 2. A "persistent sexual offender" is one who has previously pleaded guilty to or has been
7 found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible
8 sodomy, sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes
9 designated in this subsection.

10 3. The term of imprisonment for one found to be a persistent sexual offender shall be
11 [not less than thirty years, which term shall be served without] **imprisonment for life without**
12 **eligibility for** probation or parole.

13 4. The court shall sentence a person who has pleaded guilty to or has been found guilty
14 of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory
15 sodomy in the first degree, or an attempt to commit any of the preceding crimes or child
16 molestation in the first degree when classified as a class B felony or sexual abuse when classified
17 as a class B felony to an extended term of imprisonment as provided for in this section if it finds
18 the defendant is a predatory sexual offender.

19 5. For purposes of this section, a "predatory sexual offender" is a person who:

20 (1) Has previously pleaded guilty to or has been found guilty of the felony of forcible
21 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the
22 first degree, or an attempt to commit any of the preceding crimes or child molestation in the first
23 degree when classified as a class B felony or sexual abuse when classified as a class B felony;
24 or

25 (2) Has previously committed an act which would constitute an offense listed in
26 subsection 4 of this section, whether or not the act resulted in a conviction; or

27 (3) Has committed an act or acts against more than one victim which would constitute
28 an offense or offenses listed in subsection 4 of this section, whether or not the defendant was
29 charged with an additional offense or offenses as a result of such act or acts.

30 6. A person found to be a predatory sexual offender shall be imprisoned for life with
31 eligibility for parole, however subsection 4 of section 558.019 shall not apply to persons found
32 to be predatory sexual offenders for the purposes of determining the minimum prison term or the
33 length of sentence as defined or used in such subsection. Notwithstanding any other provision
34 of law, in no event shall a person found to be a predatory sexual offender receive a final
35 discharge from parole.

36 7. Notwithstanding any other provision of law, the court shall set the minimum time
37 required to be served before a predatory sexual offender is eligible for parole, conditional release
38 or other early release by the department of corrections. The minimum time to be served by a
39 person found to be a predatory sexual offender who:

40 (1) Has previously pleaded guilty to or has been found guilty of the felony of forcible
41 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the
42 first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found
43 guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory
44 sodomy in the first degree or an attempt to commit any of the preceding crimes shall be any
45 number of years but not less than thirty years;

46 (2) Has previously pleaded guilty to or has been found guilty of child molestation in the
47 first degree when classified as a class B felony or sexual abuse when classified as a class B
48 felony and pleads guilty to or is found guilty of attempting to commit or committing forcible
49 rape, statutory rape in the first degree, forcible sodomy or statutory sodomy in the first degree
50 shall be any number of years but not less than fifteen years;

51 (3) Has previously pleaded guilty to or has been found guilty of the felony of forcible
52 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the
53 first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found
54 guilty of child molestation in the first degree when classified as a class B felony or sexual abuse
55 when classified as a class B felony shall be any number of years but not less than fifteen years;

56 (4) Has previously pleaded guilty to or has been found guilty of child molestation in the
57 first degree when classified as a class B felony or sexual abuse when classified as a class B
58 felony, and pleads guilty to or is found guilty of child molestation in the first degree when
59 classified as a class B felony or sexual abuse when classified as a class B felony shall be any
60 number of years but not less than fifteen years;

61 (5) Is found to be a predatory sexual offender pursuant to subdivision (2) or (3) of
62 subsection 5 of this section shall be any number of years within the range to which the person
63 could have been sentenced pursuant to the applicable law if the person was not found to be a
64 predatory sexual offender.

65 8. Notwithstanding any provision of law to the contrary, the department of corrections,
66 or any division thereof, may not furlough an individual found to be and sentenced as a persistent
67 sexual offender or a predatory sexual offender.

559.106. 1. Notwithstanding any statutory provision to the contrary, when a court grants
2 probation to an offender who has pleaded guilty to or has been found guilty of an offense in
3 section 566.030, 566.032, 566.060, or 566.062, **RSMo, based on an act committed on or after**
4 **August 28, 2006, or the offender has plead guilty to or has been found guilty of an offense**
5 **under section** 566.067, 566.083, 566.100, 566.151, 566.212, 568.020, 568.080, or 568.090,
6 RSMo, based on an act committed on or after August 28, 2005, against a victim who was less
7 than fourteen years old and the offender is a prior sex offender as defined in subsection 2 of this
8 section, the court shall order that the offender be supervised by the board of probation and parole
9 for the duration of his or her natural life.

10 2. For the purpose of this section, a prior sex offender is a person who has previously
11 pleaded guilty to or has been found guilty of an offense contained in chapter 566, RSMo, **or of**
12 **violating section 568.020, RSMo, when the person had sexual intercourse or deviate sexual**
13 **intercourse with the victim, or of violating subdivision (2) of subsection 1 of section**
14 **568.045, RSMo.**

15 3. When probation for the duration of the offender's natural life has been ordered, a
16 mandatory condition of such probation is that the offender be electronically monitored.
17 Electronic monitoring shall be based on a global positioning system or other technology that
18 identifies and records the offender's location at all times.

19 4. In appropriate cases as determined by a risk assessment, the court may terminate the
20 probation of an offender who is being supervised under this section when the offender is
21 sixty-five years of age or older.

566.010. As used in this chapter and chapter 568, RSMo, the following terms mean:

2 (1) "Deviate sexual intercourse", any act involving the genitals of one person and the
3 **genitals**, hand, mouth, tongue, or anus of another person or a sexual act involving the
4 penetration, however slight, of the male or female sex organ or the anus by a finger, instrument
5 or object done for the purpose of arousing or gratifying the sexual desire of any person;

6 (2) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;

7 (3) "Sexual contact", any touching of another person with the genitals or any touching
8 of the genitals or anus of another person, or the breast of a female person, or such touching
9 through the clothing, for the purpose of arousing or gratifying sexual desire of any person;

10 (4) "Sexual intercourse", any penetration, however slight, of the female sex organ by the
11 male sex organ, whether or not an emission results.

566.030. 1. A person commits the crime of forcible rape if such person has sexual
2 intercourse with another person by the use of forcible compulsion. Forcible compulsion includes
3 the use of a substance administered without a victim's knowledge or consent which renders the
4 victim physically or mentally impaired so as to be incapable of making an informed consent to
5 sexual intercourse.

6 2. Forcible rape or an attempt to commit forcible rape is a felony for which the
7 authorized term of imprisonment is life imprisonment or a term of years not less than five years,
8 unless:

9 (1) In the course thereof the actor inflicts serious physical injury or displays a deadly
10 weapon or dangerous instrument in a threatening manner or subjects the victim to sexual
11 intercourse or deviate sexual intercourse with more than one person, in which case the authorized
12 term of imprisonment is life imprisonment or a term of years not less than ten years; or

13 (2) **The victim is a child less than twelve years of age, in which case the authorized**
14 **term of imprisonment is life imprisonment without eligibility for probation or parole until**
15 **the defendant has served not less than twenty-five years of such sentence or unless the**
16 **defendant has reached the age of seventy-five years and has served at least fifteen years of**
17 **such sentence.**

566.032. 1. A person commits the crime of statutory rape in the first degree if he has sexual intercourse with another person who is less than fourteen years old.

2. Statutory rape in the first degree **or an attempt to commit statutory rape in the first degree** is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless in the course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner, subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, or the victim is less than twelve years of age in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years.

566.060. 1. A person commits the crime of forcible sodomy if such person has deviate sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible sodomy or an attempt to commit forcible sodomy is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years; **or**

(2) **The victim is a child less than twelve years of age, in which case the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence.**

566.062. 1. A person commits the crime of statutory sodomy in the first degree if he has deviate sexual intercourse with another person who is less than fourteen years old.

2. Statutory sodomy in the first degree **or an attempt to commit statutory sodomy in the first degree** is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless in the course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner, subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, or the victim is less than twelve years of age, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years.

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

(1) Knowingly exposes his or her genitals to a child less than fourteen years of age under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm to the child;

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

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

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

3.] The provisions of this section shall apply regardless of whether the person violates the section in person or via the Internet or other electronic means.

3. It is not an affirmative defense to prosecution for a violator of this section that the person was a peace officer masquerading as a minor.

4. Violation of this section **or an attempt to violate this section** is a class D felony unless the actor has previously pleaded guilty to or been [convicted] **found guilty** of an offense pursuant to this chapter or the actor has previously pleaded guilty to or has been [convicted] **found guilty** of an offense against the laws of another state or jurisdiction which would constitute an offense under this chapter, in which case it is a class C felony.

566.090. 1. A person commits the crime of sexual misconduct in the first degree if [he has deviate sexual intercourse with another person of the same sex or he] **such person** purposely subjects another person to sexual contact without that person's consent.

2. Sexual misconduct in the first degree is a class A misdemeanor unless the actor has previously been convicted of an offense under this chapter or unless in the course thereof the actor displays a deadly weapon in a threatening manner or the offense is committed as a part of a ritual or ceremony, in which case it is a class D felony.

566.147. 1. Any person who, **since July 1, 1979, has been or hereafter** has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of this chapter or the provisions of section 565.253, RSMo, invasion of privacy; subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual

6 performance; section 568.090, RSMo, promoting a sexual performance by a child; section
7 573.023, 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 the
9 second degree; section 573.037, RSMo, possession of child pornography, or section 573.040,
10 RSMo, furnishing pornographic material to minors; shall not [establish residency] **reside** within
11 one thousand feet of any public school as defined in section 160.011, RSMo, or any private
12 school giving instruction in a grade or grades not higher than the twelfth grade, or child-care
13 facility as defined in section 210.201, RSMo, which is in existence at the time such residency
14 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 such
17 person's residence, then such person shall, within one week of the opening of such public school,
18 private school, or child-care facility, notify the county sheriff where such public school, private
19 school, or child-care facility is located that he or she is now residing within one thousand feet
20 of such public school, private school, or child-care facility and shall provide verifiable proof to
21 the sheriff that he or she resided there prior to the opening of such public school, private school,
22 or child-care facility.

23 3. **For purposes of this section, "resides" means sleeps in a residence, which may**
24 **include more than one location and may be mobile or transitory.**

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

566.151. 1. A person at least twenty-one years of age or older commits the crime of
2 enticement of a child if that person persuades, solicits, coaxes, entices, or lures whether by
3 words, actions or through communication via the Internet or any electronic communication, any
4 person who is less than fifteen years of age for the purpose of engaging in sexual conduct with
5 a child.

6 2. It is not an affirmative defense to a prosecution for a violation of this section that the
7 other person was a peace officer masquerading as a minor.

8 3. [Attempting to entice a child is a class D felony.

9 4.] Enticement of a child **or an attempt to commit enticement of a child** is a [class C
10 felony unless the person has previously pled guilty to or been found guilty of violating the
11 provisions of this section, section 568.045, 568.050, or 568.060, RSMo, or this chapter, in which
12 case it is a class B felony] **felony for which the authorized term of imprisonment shall not**
13 **be less than five years and not more than thirty years. No person convicted under this**

14 **section shall be eligible for parole, probation, conditional release, or suspended imposition**
15 **or execution of sentence for a period of five years.**

568.020. 1. A person commits the crime of incest if he marries or purports to marry or
2 engages in sexual intercourse or deviate sexual intercourse with a person he knows to be, without
3 regard to legitimacy:

4 (1) His ancestor or descendant by blood or adoption; or

5 (2) His stepchild, while the marriage creating that relationship exists; or

6 (3) His brother or sister of the whole or half-blood; or

7 (4) His uncle, aunt, nephew or niece of the whole blood.

8 2. [For purposes of this section:

9 (1) "Sexual intercourse" means any penetration, however slight, of the female sex organ
10 by the male sex organ;

11 (2) "Deviate sexual intercourse" means any act of sexual gratification between persons
12 not lawfully married to one another, involving the genitals of one person and the mouth, tongue
13 or anus of another.

14 3.] Incest is a class D felony.

575.159. 1. A person commits the crime of aiding a sexual offender if such person
2 **knows that another person is a convicted sexual offender who is required to register as a**
3 **sexual offender and has reason to believe that such sexual offender is not complying, or has**
4 **not complied with the requirements of sections 589.400 to 589.425, RSMo, and who, with**
5 **the intent to assist the sexual offender in eluding a law enforcement agency that is seeking**
6 **to find the sexual offender to question the offender about, or to arrest the offender for, his**
7 **or her noncompliance with the requirements of sections 589.400 to 589.425, RSMo:**

8 (1) Withholds information from or does not notify the law enforcement agency
9 about the sexual offender's noncompliance with the requirements of sections 589.400 to
10 589.425, RSMo, and if known the whereabouts of the sexual offender;

11 (2) Harbors or attempts to harbor or assists another person in harboring or
12 attempting to harbor the sexual offender;

13 (3) Conceals or attempts to conceal or assists another person in concealing or
14 attempting to conceal the sexual offender; or

15 (4) Provides information to the law enforcement agency regarding the sexual
16 offender which the person knows to be false information.

17 2. Aiding a sexual offender is a class D felony.

18 3. The provisions of this section do not apply if the sexual offender is incarcerated
19 in or is in the custody of a state correctional facility, a private correctional facility, a local
20 jail, or a federal correctional facility.

589.015. As used in sections 589.010 to 589.040:

2 (1) The term "center" shall mean the state center for the prevention and control of sexual
3 assault established pursuant to section 589.030;

4 (2) The term "sexual assault" shall include:

5 (a) The acts of rape, forcible rape, statutory rape in the first degree, statutory rape in the
6 second degree, sexual assault, sodomy, forcible sodomy, statutory sodomy in the first degree,
7 statutory sodomy in the second degree, child molestation in the first degree, child molestation
8 in the second degree, deviate sexual assault, sexual misconduct [and], sexual abuse, **and**
9 **enticement of a child**, or attempts to commit any of the aforesaid, as these acts are defined in
10 chapter 566, RSMo;

11 (b) The act of incest, as this act is defined in section 568.020, RSMo;

12 (c) The act of abuse of a child, as defined in subdivision (1) of subsection 1 of section
13 568.060, RSMo, which involves sexual contact, and as defined in subdivision (2) of subsection
14 1 of section 568.060, RSMo; and

15 (d) The act of use of a child in a sexual performance as defined in section 568.080,
16 RSMo.

589.414. 1. If any person required by sections 589.400 to 589.425 to register changes
2 residence or address within the same county as such person's previous address, the person shall
3 inform the chief law enforcement official in writing within ten days of such new address and
4 phone number, if the phone number is also changed.

5 2. If any person required by sections 589.400 to 589.425 to register changes such
6 person's residence or address to a different county, the person shall appear in person and shall
7 inform both the chief law enforcement official with whom the person last registered and the chief
8 law enforcement official of the county having jurisdiction over the new residence or address in
9 writing within ten days of such new address and phone number, if the phone number is also
10 changed. If any person required by sections 589.400 to 589.425 to register changes their state
11 of residence, the person shall appear in person and shall inform both the chief law enforcement
12 official with whom the person was last registered and the chief law enforcement official of the
13 area in the new state having jurisdiction over the new residence or address within ten days of
14 such new address. Whenever a registrant changes residence, the chief law enforcement official
15 of the county where the person was previously registered shall promptly inform the Missouri
16 state highway patrol of the change. When the registrant is changing the residence to a new state,
17 the Missouri state highway patrol shall promptly inform the responsible official in the new state
18 of residence.

19 3. Any person required by sections 589.400 to 589.425 to register who changes his or
20 her enrollment or employment status with any institution of higher education within this state,

21 by either beginning or ending such enrollment or employment, shall inform the chief law
22 enforcement officer of such change within seven days after such change is made.

23 4. Any person required by sections 589.400 to 589.425 to register who officially changes
24 such person's name shall inform the chief law enforcement officer of such name change within
25 seven days after such change is made.

26 5. In addition to the requirements of subsections 1 and 2 of this section, the following
27 offenders shall report in person to the county law enforcement agency every ninety days to verify
28 the information contained in their statement made pursuant to section 589.407:

29 (1) Any offender registered as a predatory or persistent sexual offender under the
30 definitions found in section 558.018, RSMo;

31 (2) Any offender who is registered for a crime where the victim was less than eighteen
32 years of age at the time of the offense; and

33 (3) Any offender who has pled guilty or been found guilty pursuant to section 589.425
34 of failing to register or submitting false information when registering.

35 6. In addition to the requirements of subsections 1 and 2 of this section, all registrants
36 shall report annually in person in the month of their birth to the county law enforcement agency
37 to verify the information contained in their statement made pursuant to section 589.407. **All**
38 **registrants shall provide an updated photograph of himself or herself when reporting**
39 **annually to the county law enforcement agency.**

40 7. In addition to the requirements of subsections 1 and 2 of this section, all Missouri
41 registrants who work or attend school or training on a full-time or part-time basis in any other
42 state shall be required to report in person to the chief law enforcement officer in the area of the
43 state where they work or attend school or training and register in that state. "Part-time" in this
44 subsection means for more than fourteen days in any twelve-month period.

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**, unless the person has been convicted pursuant to chapter 566 of an
4 unclassified felony, class A felony, class B felony, or any felony involving a child under the age
5 of fourteen, in which case the person is guilty of a class [D] **C felony**.

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

10 **3. Any person who is required to register under sections 589.400 to 589.425, and**
11 **commits a third violation of this section shall be electronically monitored in the same**
12 **manner as those individuals who are monitored under section 217.735, RSMo, for a period**

13 of ten years. Any person who commits a fourth or subsequent violation of this section shall
14 be electronically monitored for an additional ten-year period for each violation.

589.575. 1. The chief law enforcement officer of the county shall review
2 semiannually the address of each offender required to register under sections 589.400 to
3 589.425 who resides in said county and verify whether or not the offender is residing at the
4 address provided under section 589.400.

5 2. Upon verification of the addresses of the county's sexual offenders under
6 subsection 1 of this section, the chief law enforcement officer shall forward a list of the
7 names and addresses of offenders residing at his or her provided address and a list of
8 offenders who are no longer residing at his or her provided address to the highway patrol.

589.576. Upon receiving the verified sexual offender addresses from the chief law
2 enforcement officer of each county semiannually under section 589.575, the highway patrol
3 shall compile and provide the names of such offenders who are no longer residing at the
4 address provided to law enforcement to the attorney general or the head law enforcement
5 agency of Tennessee, Kentucky, Illinois, Iowa, Nebraska, Kansas, Oklahoma, and
6 Arkansas.

632.484. 1. When the attorney general receives written notice from any law enforcement
2 agency that a person, who has pled guilty to or been convicted of a sexually violent offense and
3 who is not presently in the physical custody of an agency with jurisdiction:

4 (1) Has committed a recent overt act; or

5 (2) Has been in the custody of an agency with jurisdiction within the preceding ten years
6 and may meet the criteria of a sexually violent predator;

7
8 the attorney general may file a petition for detention and evaluation with the probate division of
9 the court in which the person was convicted, or committed pursuant to chapter 552, RSMo,
10 alleging the respondent may meet the definition of a sexually violent predator and should be
11 detained for evaluation for a period of up to nine days. The written notice shall include the
12 previous conviction record of the person, a description of the recent overt act, if applicable, and
13 any other evidence which tends to show the person to be a sexually violent predator. The
14 attorney general shall provide notice of the petition to the prosecuting attorney of the county
15 where the petition was filed.

16 2. Upon a determination by the court that the person may meet the definition of a
17 sexually violent predator, the court shall order the detention and transport of such person to a
18 secure facility to be determined by the department of mental health **under the provisions of**
19 **section 632.495**. The attorney general shall immediately give written notice of such to the
20 department of mental health.

21 3. Upon receiving physical custody of the person and written notice pursuant to
22 subsection 2 of this section, the department of mental health shall, through either a psychiatrist
23 or psychologist as defined in section 632.005, make a determination whether or not the person
24 meets the definition of a sexually violent predator. The department of mental health shall, within
25 seven days of receiving physical custody of the person, provide the attorney general with a
26 written report of the results of its investigation and evaluation. The attorney general shall
27 provide any available records of the person that are retained by the department of corrections to
28 the department of mental health for the purposes of this section. If the department of mental
29 health is unable to make a determination within seven days, the attorney general may request an
30 additional detention of ninety-six hours from the court for good cause shown.

31 4. If the department determines that the person may meet the definition of a sexually
32 violent predator, the attorney general shall provide the results of the investigation and evaluation
33 to the prosecutors' review committee. The prosecutors' review committee shall, by majority vote,
34 determine whether or not the person meets the definition of a sexually violent predator within
35 twenty-four hours of written notice from the attorney general's office. If the prosecutors' review
36 committee determines that the person meets the definition of a sexually violent predator, the
37 prosecutors' review committee shall provide written notice to the attorney general of its
38 determination. The attorney general may file a petition pursuant to section 632.486 within
39 forty-eight hours after obtaining the results from the department.

40 5. For the purposes of this section "recent overt act" means any act that creates a
41 reasonable apprehension of harm of a sexually violent nature.

42 6. The provisions of subdivision (2) of subsection 1 of this section shall expire
43 December 31, 2001.

632.489. 1. Upon filing a petition pursuant to section 632.484 or 632.486, the judge
2 shall determine whether probable cause exists to believe that the person named in the petition
3 is a sexually violent predator. If such probable cause determination is made, the judge shall
4 direct that person be taken into custody and direct that the person be transferred to an appropriate
5 secure facility, including, but not limited to, a county jail. If the person is ordered to the
6 department of mental health, the director of the department of mental health shall determine the
7 appropriate secure facility to house the person **under the provisions of section 632.495.**

8 2. Within seventy-two hours after a person is taken into custody pursuant to subsection
9 1 of this section, excluding Saturdays, Sundays and legal holidays, such person shall be provided
10 with notice of, and an opportunity to appear in person at, a hearing to contest probable cause as
11 to whether the detained person is a sexually violent predator. At this hearing the court shall:

12 (1) Verify the detainee's identity; and

13 (2) Determine whether probable cause exists to believe that the person is a sexually
14 violent predator. The state may rely upon the petition and supplement the petition with
15 additional documentary evidence or live testimony.

16 3. At the probable cause hearing as provided in subsection 2 of this section, the detained
17 person shall have the following rights in addition to the rights previously specified:

18 (1) To be represented by counsel;

19 (2) To present evidence on such person's behalf;

20 (3) To cross-examine witnesses who testify against such person; and

21 (4) To view and copy all petitions and reports in the court file, including the assessment
22 of the multidisciplinary team.

23 4. If the probable cause determination is made, the court shall direct that the person be
24 transferred to an appropriate secure facility, including, but not limited to, a county jail, for an
25 evaluation as to whether the person is a sexually violent predator. If the person is ordered to the
26 department of mental health, the director of the department of mental health shall determine the
27 appropriate secure facility to house the person. The court shall direct the director of the
28 department of mental health to have the person examined by a psychiatrist or psychologist as
29 defined in section 632.005 who was not a member of the multidisciplinary team that previously
30 reviewed the person's records. In addition, such person may be examined by a consenting
31 psychiatrist or psychologist of the person's choice at the person's own expense. Any examination
32 shall be conducted in the facility in which the person is confined. Any examinations ordered
33 shall be made at such time and under such conditions as the court deems proper; except that, if
34 the order directs the director of the department of mental health to have the person examined,
35 the director shall determine the time, place and conditions under which the examination shall be
36 conducted. The psychiatrist or psychologist conducting such an examination shall be authorized
37 to interview family and associates of the person being examined, as well as victims and
38 witnesses of the person's offense or offenses, for use in the examination unless the court for good
39 cause orders otherwise. The psychiatrist or psychologist shall have access to all materials
40 provided to and considered by the multidisciplinary team and to any police reports related to
41 sexual offenses committed by the person being examined. Any examination performed pursuant
42 to this section shall be completed and filed with the court within sixty days of the date the order
43 is received by the director or other evaluator unless the court for good cause orders otherwise.
44 One examination shall be provided at no charge by the department. All costs of any subsequent
45 evaluations shall be assessed to the party requesting the evaluation.

 632.495. The court or jury shall determine whether, beyond a reasonable doubt, the
2 person is a sexually violent predator. If such determination that the person is a sexually violent
3 predator is made by a jury, such determination shall be by unanimous verdict of such jury. Any
4 determination as to whether a person is a sexually violent predator may be appealed. If the court
5 or jury determines that the person is a sexually violent predator, the person shall be committed

6 to the custody of the director of the department of mental health for control, care and treatment
7 until such time as the person's mental abnormality has so changed that the person is safe to be
8 at large. Such control, care and treatment shall be provided by the department of mental health.
9 At all times, **persons ordered to the department of mental health after a determination by**
10 **the court that such persons may meet the definition of a sexually violent predator, persons**
11 **ordered to the department of mental health after a finding of probable cause under section**
12 **632.489, and** persons committed for control, care and treatment by the department of mental
13 health pursuant to sections 632.480 to 632.513 shall be kept in a secure facility designated by the
14 director of the department of mental health and such persons shall be segregated at all times from
15 any other patient under the supervision of the director of the department of mental health. The
16 department of mental health shall not place or house [an offender determined to be a sexually
17 violent predator] **a person ordered to the department of mental health after a determination**
18 **by the court that such person may meet the definition of a sexually violent predator, a**
19 **person ordered to the department of mental health after a finding of probable cause under**
20 **section 632.489, or a person committed for control, care, and treatment by the department**
21 **of mental health,** pursuant to sections 632.480 to 632.513, with other mental health patients
22 who have not been determined to be sexually violent predators. The department of mental health
23 is authorized to enter into an interagency agreement with the department of corrections for the
24 confinement of such persons. Such persons who are in the confinement of the department of
25 corrections pursuant to an interagency agreement shall be housed and managed separately from
26 offenders in the custody of the department of corrections, and except for occasional instances of
27 supervised incidental contact, shall be segregated from such offenders. If the court or jury is not
28 satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall
29 direct the person's release. Upon a mistrial, the court shall direct that the person be held at an
30 appropriate secure facility, including, but not limited to, a county jail, until another trial is
31 conducted. If the person is ordered to the department of mental health, the director of the
32 department of mental health shall determine the appropriate secure facility to house the person.
33 Any subsequent trial following a mistrial shall be held within ninety days of the previous trial,
34 unless such subsequent trial is continued as provided in section 632.492.

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