

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1562
98TH GENERAL ASSEMBLY

4162H.02T

2016

AN ACT

To repeal sections 566.210, 566.211, 566.212, 566.213, 589.660, 589.663, and 595.226, RSMo, section 565.225 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 565.225 as enacted by senate bills nos. 818 & 795, ninety-fourth general assembly, second regular session, section 566.209 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 566.209 as enacted by house bill no. 214, ninety-sixth general assembly, first regular session, and to enact in lieu thereof eleven new sections relating to victims of crime offenses, with penalty provisions.

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

Section A. Sections 566.210, 566.211, 566.212, 566.213, 589.660, 589.663, and
2 595.226, RSMo, section 565.225 as enacted by senate bill no. 491, ninety-seventh general
3 assembly, second regular session, section 565.225 as enacted by senate bills nos. 818 & 795,
4 ninety-fourth general assembly, second regular session, section 566.209 as enacted by senate bill
5 no. 491, ninety-seventh general assembly, second regular session, and section 566.209 as enacted
6 by house bill no. 214, ninety-sixth general assembly, first regular session, are repealed and eleven
7 new sections enacted in lieu thereof, to be known as sections 510.035, 545.950, 565.225,
8 566.209, 566.210, 566.211, 566.212, 566.213, 589.660, 589.663, and 595.226, to read as
9 follows:

**510.035. 1. Except as provided in subsection 2 of this section, any visual or aural
2 recordings or photographs of a minor who is alleged to be the victim of an offense under
3 chapter 566 created by or in the possession of a child assessment center, health care**

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.

4 provider, or multidisciplinary team member shall not be copied or distributed to any
5 person or entity, unless required by supreme court rule 25.03 or if a court orders such
6 copying or distribution upon a showing of good cause after notice and a hearing and after
7 considering the safety and privacy interests of any victim.

8 2. The following persons or entities may access or share any copies of visual or
9 aural recordings or photographs as described in subsection 1 of this section for the
10 following purposes:

11 (1) Multidisciplinary team members as part of an investigation, as well as for the
12 provision of protective or preventive social services for minors and their families. For
13 purposes of this section, multidisciplinary team members shall consist of representatives
14 of law enforcement, the children's division, the prosecuting attorney, the child assessment
15 center, the juvenile office, and the health care provider;

16 (2) Department of social services employees and their legal counsel as part of the
17 provision of child protection as described in section 210.109, as well as for use in
18 administrative proceedings as established by department regulations or through the
19 administrative hearing commission as provided under section 621.075;

20 (3) Department of mental health employees and their legal counsel as part of an
21 investigation conducted under section 630.167, as well as for use in administrative
22 proceedings as established by department regulations or through the administrative
23 hearing commission as provided under section 621.075;

24 (4) The office of child advocate as part of a review under section 37.710;

25 (5) The child abuse and neglect review board as part of a review under sections
26 210.152 and 210.153; and

27 (6) The attorney general as part of a legal proceeding.

28 3. If a court orders the copying or distribution of visual or aural recordings or
29 photographs as described in subsection 1 of this section, the order shall:

30 (1) Be limited solely to the use of the recordings or photographs for the purposes
31 of a pending court proceeding or in preparation for a pending court proceeding;

32 (2) Prohibit further copying, reproduction, or distribution of the recordings or
33 photographs; and

34 (3) Require, upon the final disposition of the case, the return of all copies to the
35 health care provider, child assessment center or multidisciplinary team member that
36 originally had possession of the recordings or photographs, or provide an affidavit to the
37 health care provider, child assessment center, or multidisciplinary team member that
38 originally had possession of the recordings or photographs certifying that all copies have
39 been destroyed.

40 **4. Nothing in this section shall prohibit multidisciplinary team members from**
41 **exercising discretion to grant access to viewing, but not copying, the visual or aural**
42 **recordings or photographs.**

545.950. 1. Except as provided by subsection 2 of this section, the defendant, the
2 **defendant's attorney, or an investigator, expert, consulting legal counsel, or other agent of**
3 **the defendant's attorney shall not copy or distribute to a third party any visual or aural**
4 **recordings or photographs of a minor who is alleged to be the victim of an offense under**
5 **chapter 566 created by or in the possession of a child assessment center, health care**
6 **provider, or multidisciplinary team member unless a court orders the copying or**
7 **distribution upon a showing of good cause after notice and a hearing and after considering**
8 **the safety and privacy interests of any victim.**

9 **2. The defendant's attorney or an investigator, expert, consulting legal counsel, or**
10 **agent for the defendant's attorney may allow a defendant, witness, or prospective witness**
11 **to view the information provided under this section, but shall not allow such person to have**
12 **copies of the information provided.**

13 **3. If a court orders the copying or distribution of visual or aural recordings or**
14 **photographs as described in subsection 1 of this section, the order shall:**

15 **(1) Be limited solely to the use of the recordings or photographs for the purposes**
16 **of a pending court proceeding or in preparation for a pending court proceeding;**

17 **(2) Prohibit further copying, reproduction, or distribution of the recordings or**
18 **photographs; and**

19 **(3) Require, upon the final disposition of the case, the return of all copies to the**
20 **health care provider, child assessment center, or multidisciplinary team member that**
21 **originally had possession of the recordings or photographs, or provide an affidavit to the**
22 **health care provider, child assessment center, or multidisciplinary team member that**
23 **originally had possession of the recordings or photographs certifying that all copies have**
24 **been destroyed.**

565.225. 1. As used in this section and section 565.227, the term "disturbs" shall mean
2 **to engage in a course of conduct directed at a specific person that serves no legitimate purpose**
3 **and that would cause a reasonable person under the circumstances to be frightened, intimidated,**
4 **or emotionally distressed.**

5 **2. A person commits the offense of stalking in the first degree if he or she purposely,**
6 **through his or her course of conduct, disturbs or follows with the intent of disturbing another**
7 **person and:**

8 **(1) Makes a threat communicated with the intent to cause the person who is the target**
9 **of the threat to reasonably fear for his or her safety, the safety of his or her family or household**

10 member, or the safety of domestic animals or livestock as defined in section 276.606 kept at such
11 person's residence or on such person's property. The threat shall be against the life of, or a threat
12 to cause physical injury to, or the kidnapping of the person, the person's family or household
13 members, or the person's domestic animals or livestock as defined in section 276.606 kept at
14 such person's residence or on such person's property; or

15 (2) At least one of the acts constituting the course of conduct is in violation of an order
16 of protection and the person has received actual notice of such order; or

17 (3) At least one of the actions constituting the course of conduct is in violation of a
18 condition of probation, parole, pretrial release, or release on bond pending appeal; or

19 (4) At any time during the course of conduct, the other person is seventeen years of age
20 or younger and the person disturbing the other person is twenty-one years of age or older; or

21 (5) He or she has previously been found guilty of domestic assault, violation of an order
22 of protection, or any other crime where the other person was the victim; or

23 **(6) At any time during the course of conduct, the other person is a participant of**
24 **the address confidentiality program under sections 589.660 to 589.681, and the person**
25 **disturbing the other person knowingly accesses or attempts to access the address of the**
26 **other person.**

27 3. Any law enforcement officer may arrest, without a warrant, any person he or she has
28 probable cause to believe has violated the provisions of this section.

29 4. This section shall not apply to activities of federal, state, county, or municipal law
30 enforcement officers conducting investigations of any violation of federal, state, county, or
31 municipal law.

32 5. The offense of stalking in the first degree is a class E felony, unless the defendant has
33 previously been found guilty of a violation of this section or section 565.227, or any offense
34 committed in another jurisdiction which, if committed in this state, would be chargeable or
35 indictable as a violation of any offense listed in this section or section 565.227, in which case
36 stalking in the first degree is a class D felony.

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

2 (1) "Course of conduct", a pattern of conduct composed of two or more acts, which may
3 include communication by any means, over a period of time, however short, evidencing a
4 continuity of purpose. Constitutionally protected activity is not included within the meaning of
5 course of conduct. Such constitutionally protected activity includes picketing or other organized
6 protests;

7 (2) "Credible threat", a threat communicated with the intent to cause the person who is
8 the target of the threat to reasonably fear for his or her safety, or the safety of his or her family,
9 or household members or domestic animals or livestock as defined in section 276.606 kept at

10 such person's residence or on such person's property. The threat must be against the life of, or
11 a threat to cause physical injury to, or the kidnapping of, the person, the person's family, or the
12 person's household members or domestic animals or livestock as defined in section 276.606 kept
13 at such person's residence or on such person's property;

14 (3) "Harasses", to engage in a course of conduct directed at a specific person that serves
15 no legitimate purpose, that would cause a reasonable person under the circumstances to be
16 frightened, intimidated, or emotionally distressed.

17 2. A person commits the crime of stalking if he or she purposely, through his or her
18 course of conduct, harasses or follows with the intent of harassing another person.

19 3. A person commits the crime of aggravated stalking if he or she purposely, through his
20 or her course of conduct, harasses or follows with the intent of harassing another person, and:

21 (1) Makes a credible threat; or

22 (2) At least one of the acts constituting the course of conduct is in violation of an order
23 of protection and the person has received actual notice of such order; or

24 (3) At least one of the actions constituting the course of conduct is in violation of a
25 condition of probation, parole, pretrial release, or release on bond pending appeal; or

26 (4) At any time during the course of conduct, the other person is seventeen years of age
27 or younger and the person harassing the other person is twenty-one years of age or older; or

28 (5) He or she has previously pleaded guilty to or been found guilty of domestic assault,
29 violation of an order of protection, or any other crime where the other person was the victim; or

30 **(6) At any time during the course of conduct, the other person is a participant of**
31 **the address confidentiality program under sections 589.660 to 589.681, and the person**
32 **harassing the other person knowingly accesses or attempts to access the address of the**
33 **other person.**

34 4. The crime of stalking shall be a class A misdemeanor unless the person has previously
35 pleaded guilty to or been found guilty of a violation of this section, or of any offense committed
36 in violation of any county or municipal ordinance in any state, any state law, any federal law, or
37 any military law which, if committed in this state, would be chargeable or indictable as a
38 violation of any offense listed in this section, in which case stalking shall be a class D felony.

39 5. The crime of aggravated stalking shall be a class D felony unless the person has
40 previously pleaded guilty to or been found guilty of a violation of this section, or of any offense
41 committed in violation of any county or municipal ordinance in any state, any state law, any
42 federal law, or any military law which, if committed in this state, would be chargeable or
43 indictable as a violation of any offense listed in this section, aggravated stalking shall be a class
44 C felony.

45 6. Any law enforcement officer may arrest, without a warrant, any person he or she has
46 probable cause to believe has violated the provisions of this section.

47 7. This section shall not apply to activities of federal, state, county, or municipal law
48 enforcement officers conducting investigations of violation of federal, state, county, or municipal
49 law.

 566.209. 1. A person commits the crime of trafficking for the purposes of sexual
2 exploitation if a person knowingly recruits, entices, harbors, transports, provides, **advertises the**
3 **availability of** or obtains by any means, including but not limited to through the use of force,
4 abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial
5 harm, another person for the use or employment of such person in **a commercial sex act**, sexual
6 conduct, a sexual performance, or the production of explicit sexual material as defined in section
7 573.010, without his or her consent, or benefits, financially or by receiving anything of value,
8 from participation in such activities.

9 2. The crime of trafficking for the purposes of sexual exploitation is a felony punishable
10 by imprisonment for a term of years not less than five years and not more than twenty years and
11 a fine not to exceed two hundred fifty thousand dollars. If a violation of this section was
12 effected by force, abduction, or coercion, the crime of trafficking for the purposes of sexual
13 exploitation is a felony punishable by imprisonment for a term of years not less than ten years
14 or life and a fine not to exceed two hundred fifty thousand dollars.

 566.209. 1. A person commits the offense of trafficking for the purposes of sexual
2 exploitation if he or she knowingly recruits, entices, harbors, transports, provides, **advertises the**
3 **availability of** or obtains by any means, including but not limited to through the use of force,
4 abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial
5 harm, another person for the use or employment of such person in **a commercial sex act**, sexual
6 conduct, a sexual performance, or the production of explicit sexual material as defined in section
7 573.010, without his or her consent, or benefits, financially or by receiving anything of value,
8 from participation in such activities.

9 2. The offense of trafficking for the purposes of sexual exploitation is a felony
10 punishable by imprisonment for a term of years not less than five years and not more than twenty
11 years and a fine not to exceed two hundred fifty thousand dollars. If a violation of this section
12 was effected by force, abduction, or coercion, the offense of trafficking for the purposes of sexual
13 exploitation is a felony punishable by imprisonment for a term of years not less than ten years
14 or life and a fine not to exceed two hundred fifty thousand dollars.

 566.210. 1. A person commits the offense of sexual trafficking of a child in the first
2 degree if he or she knowingly:

3 (1) Recruits, entices, harbors, transports, provides, or obtains by any means, including
4 but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or
5 causing or threatening to cause financial harm, a person under the age of twelve to participate
6 in a commercial sex act, a sexual performance, or the production of explicit sexual material as
7 defined in section 573.010, or benefits, financially or by receiving anything of value, from
8 participation in such activities; [or]

9 (2) Causes a person under the age of twelve to engage in a commercial sex act, a sexual
10 performance, or the production of explicit sexual material as defined in section 573.010; **or**

11 **(3) Advertises the availability of a person under the age of twelve to participate in**
12 **a commercial sex act, a sexual performance, or the production of explicit sexual material**
13 **as defined in section 573.010.**

14 2. It shall not be a defense that the defendant believed that the person was twelve years
15 of age or older.

16 3. The offense of sexual trafficking of a child in the first degree is a felony for which the
17 authorized term of imprisonment is life imprisonment without eligibility for probation or parole
18 until the offender has served not less than twenty-five years of such sentence. Subsection 4 of
19 section 558.019 shall not apply to the sentence of a person who has been found guilty of sexual
20 trafficking of a child less than twelve years of age, and "life imprisonment" shall mean
21 imprisonment for the duration of a person's natural life for the purposes of this section.

566.211. 1. A person commits the offense of sexual trafficking of a child in the second
2 degree if he or she knowingly:

3 (1) Recruits, entices, harbors, transports, provides, or obtains by any means, including
4 but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or
5 causing or threatening to cause financial harm, a person under the age of eighteen to participate
6 in a commercial sex act, a sexual performance, or the production of explicit sexual material as
7 defined in section 573.010, or benefits, financially or by receiving anything of value, from
8 participation in such activities; [or]

9 (2) Causes a person under the age of eighteen to engage in a commercial sex act, a sexual
10 performance, or the production of explicit sexual material as defined in section 573.010; **or**

11 **(3) Advertises the availability of a person under the age of eighteen to participate**
12 **in a commercial sex act, a sexual performance, or the production of explicit sexual material**
13 **as defined in section 573.010.**

14 2. It shall not be a defense that the defendant believed that the person was eighteen years
15 of age or older.

16 3. The offense sexual trafficking of a child in the second degree is a felony punishable
17 by imprisonment for a term of years not less than ten years or life and a fine not to exceed two

18 hundred fifty thousand dollars if the child is under the age of eighteen. If a violation of this
19 section was effected by force, abduction, or coercion, the crime of sexual trafficking of a child
20 shall be a felony for which the authorized term of imprisonment is life imprisonment without
21 eligibility for probation or parole until the defendant has served not less than twenty-five years
22 of such sentence.

566.212. 1. A person commits the crime of sexual trafficking of a child if the individual
2 knowingly:

3 (1) Recruits, entices, harbors, transports, provides, or obtains by any means, including
4 but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or
5 causing or threatening to cause financial harm, a person under the age of eighteen to participate
6 in a commercial sex act, a sexual performance, or the production of explicit sexual material as
7 defined in section 573.010, or benefits, financially or by receiving anything of value, from
8 participation in such activities; [or]

9 (2) Causes a person under the age of eighteen to engage in a commercial sex act, a sexual
10 performance, or the production of explicit sexual material as defined in section 573.010; **or**

11 **(3) Advertises the availability of a person under the age of eighteen to participate**
12 **in a commercial sex act, a sexual performance, or the production of explicit sexual material**
13 **as defined in section 573.010.**

14 2. It shall not be a defense that the defendant believed that the person was eighteen years
15 of age or older.

16 3. Sexual trafficking of a child is a felony punishable by imprisonment for a term of
17 years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars
18 if the child is under the age of eighteen. If a violation of this section was effected by force,
19 abduction, or coercion, the crime of sexual trafficking of a child shall be a felony for which the
20 authorized term of imprisonment is life imprisonment without eligibility for probation or parole
21 until the defendant has served not less than twenty-five years of such sentence.

566.213. 1. A person commits the crime of sexual trafficking of a child under the age
2 of twelve if the individual knowingly:

3 (1) Recruits, entices, harbors, transports, provides, or obtains by any means, including
4 but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or
5 causing or threatening to cause financial harm, a person under the age of twelve to participate
6 in a commercial sex act, a sexual performance, or the production of explicit sexual material as
7 defined in section 573.010, or benefits, financially or by receiving anything of value, from
8 participation in such activities; [or]

9 (2) Causes a person under the age of twelve to engage in a commercial sex act, a sexual
10 performance, or the production of explicit sexual material as defined in section 573.010; **or**

11 **(3) Advertises the availability of a person under the age of twelve to participate in**
12 **a commercial sex act, a sexual performance, or the production of explicit sexual material**
13 **as defined in section 573.010.**

14 2. It shall not be a defense that the defendant believed that the person was twelve years
15 of age or older.

16 3. Sexual trafficking of a child less than twelve years of age shall be a felony for which
17 the authorized term of imprisonment is life imprisonment without eligibility for probation or
18 parole until the defendant has served not less than twenty-five years of such sentence.
19 Subsection 4 of section 558.019 shall not apply to the sentence of a person who has pleaded
20 guilty to or been found guilty of sexual trafficking of a child less than twelve years of age, and
21 "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the
22 purposes of this section.

589.660. As used in sections 589.660 to 589.681, the following terms mean:

2 (1) "Address", a residential street address, school address, or work address of a person,
3 as specified on the person's application to be a program participant;

4 (2) "Application assistant", an employee of a state or local agency, or of a nonprofit
5 program that provides counseling, referral, shelter, or other specialized service to victims of
6 domestic violence, rape, sexual assault, **human trafficking**, or stalking, who has been
7 designated by the respective agency or program, and who has been trained and registered by the
8 secretary of state to assist individuals in the completion of program participation applications;

9 (3) "Designated address", the address assigned to a program participant by the secretary;

10 (4) "Mailing address", an address that is recognized for delivery by the United States
11 Postal Service;

12 (5) "Program", the address confidentiality program established in section 589.663;

13 (6) "Program participant", a person certified by the secretary of state as eligible to
14 participate in the address confidentiality program;

15 (7) "Secretary", the secretary of state.

589.663. There is created in the office of the secretary of state a program to be known
2 as the "Address Confidentiality Program" to protect victims of domestic violence, rape, sexual
3 assault, **human trafficking**, or stalking by authorizing the use of designated addresses for such
4 victims and their minor children. The program shall be administered by the secretary under the
5 following application and certification procedures:

6 (1) An adult person, a parent or guardian acting on behalf of a minor, or a guardian
7 acting on behalf of an incapacitated person may apply to the secretary to have a designated
8 address assigned by the secretary to serve as the person's address or the address of the minor or
9 incapacitated person;

10 (2) The secretary may approve an application only if it is filed with the office of the
11 secretary in the manner established by rule and on a form prescribed by the secretary. A
12 completed application shall contain:

13 (a) The application preparation date, the applicant's signature, and the signature and
14 registration number of the application assistant who assisted the applicant in applying to be a
15 program participant;

16 (b) A designation of the secretary as agent for purposes of service of process and for
17 receipt of first-class mail, legal documents, and certified mail;

18 (c) A sworn statement by the applicant that the applicant has good reason to believe that
19 he or she:

20 a. Is a victim of domestic violence, rape, sexual assault, **human trafficking**, or stalking;
21 and

22 b. Fears further violent acts from his or her assailant;

23 (d) The mailing address where the applicant may be contacted by the secretary or a
24 designee and the telephone number or numbers where the applicant may be called by the
25 secretary or the secretary's designee; and

26 (e) One or more addresses that the applicant requests not be disclosed for the reason that
27 disclosure will jeopardize the applicant's safety or increase the risk of violence to the applicant
28 or members of the applicant's household;

29 (3) Upon receipt of a properly completed application, the secretary may certify the
30 applicant as a program participant. A program participant is certified for four years following
31 the date of initial certification unless the certification is withdrawn or cancelled before that date.
32 The secretary shall send notification of lapsing certification and a reapplication form to a
33 program participant at least four weeks prior to the expiration of the program participant's
34 certification;

35 (4) The secretary shall forward first class mail, legal documents, and certified mail to the
36 appropriate program participants.

595.226. 1. After August 28, 2007, any information contained in any court record,
2 whether written or published on the internet, **including any visual or aural recordings** that
3 could be used to identify or locate any victim of an offense under chapter 566 or a victim of
4 domestic assault or stalking shall be closed and redacted from such record prior to disclosure to
5 the public. Identifying information shall include the name, home or temporary address,
6 telephone number, Social Security number, place of employment, or physical characteristics,
7 **including an unobstructed visual image of the victim's face or body.**

8 2. If the court determines that a person or entity who is requesting identifying
9 information of a victim has a legitimate interest in obtaining such information, the court may

10 allow access to the information, but only if the court determines that disclosure to the person or
11 entity would not compromise the welfare or safety of such victim, and only after providing
12 reasonable notice to the victim and after allowing the victim the right to respond to such request.

13 3. Notwithstanding the provisions of subsection 1 of this section, the judge presiding
14 over a case under chapter 566, or a case of domestic assault or stalking shall have the discretion
15 to publicly disclose identifying information regarding the defendant which could be used to
16 identify or locate the victim of the crime. The victim may provide a statement to the court
17 regarding whether he or she desires such information to remain closed. When making the
18 decision to disclose such information, the judge shall consider the welfare and safety of the
19 victim and any statement to the court received from the victim regarding the disclosure.

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