

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2202

98TH GENERAL ASSEMBLY

5024H.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 595.226, RSMo, and to enact in lieu thereof three new sections relating to the records of victims of sexual offenses, with a penalty provision.

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

Section A. Section 595.226, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 510.035, 545.950, and 595.226, to read as follows:

510.035. 1. Except as provided in subsection 2 of this section, any visual or aural recordings or photographs of a minor who is alleged to be the victim of an offense under chapter 566 created by or in the possession of a child assessment center, health care provider, or multidisciplinary investigation team member shall not be copied or distributed to any person or entity, unless required by supreme court rule 25.03 or if a court orders such copying or distribution upon a showing of good cause after notice and a hearing and after considering the safety and privacy interests of any victim.

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

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

(2) Department of social services employees and their legal counsel as part of the provision of child protection as described in section 210.109, as well as for use in

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.

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. Any person who knowingly copies or distributes copies of the visual or aural
41 recordings or photographs described in subsection 1 of this section in violation of the
42 provisions of this section or section 545.950 shall be guilty of a class C misdemeanor.

43 5. Nothing in this section shall prohibit multidisciplinary team members from
44 exercising discretion to grant access to viewing, but not copying, the visual or aural
45 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.**

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.

✓