

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2202

98TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Children, April 27, 2016, with recommendation that the Senate Committee Substitute do pass.

5024S.04C

ADRIANE D. CROUSE, Secretary.

AN ACT

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

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Section A. Section 595.226, RSMo, is repealed and three new sections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

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

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

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

19 **(2) Department of social services employees and their legal**

20 counsel as part of the provision of child protection as described in
21 section 210.109, as well as for use in administrative proceedings as
22 established by department regulations or through the administrative
23 hearing commission as provided under section 621.075;

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

29 (4) The office of child advocate as part of a review under section
30 37.710;

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

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

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

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

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

42 (3) Require, upon the final disposition of the case, the return of
43 all copies to the health care provider, child assessment center or
44 multidisciplinary team member that originally had possession of the
45 recordings or photographs, or provide an affidavit to the health care
46 provider, child assessment center, or multidisciplinary team member
47 that originally had possession of the recordings or photographs
48 certifying that all copies have been destroyed.

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

545.950. 1. Except as provided by subsection 2 of this section, the
2 defendant, the defendant's attorney, or an investigator, expert,
3 consulting legal counsel, or other agent of the defendant's attorney
4 shall not copy or distribute to a third party any visual or aural
5 recordings or photographs of a minor who is alleged to be the victim of

6 an offense under chapter 566 created by or in the possession of a child
7 assessment center, health care provider, or multidisciplinary team
8 member unless a court orders the copying or distribution upon a
9 showing of good cause after notice and a hearing and after considering
10 the safety and privacy interests of any victim.

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

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

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

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

24 (3) Require, upon the final disposition of the case, the return of
25 all copies to the health care provider, child assessment center, or
26 multidisciplinary team member that originally had possession of the
27 recordings or photographs, or provide an affidavit to the health care
28 provider, child assessment center, or multidisciplinary team member
29 that originally had possession of the recordings or photographs
30 certifying that all copies have been destroyed.

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

9 2. If the court determines that a person or entity who is requesting
10 identifying information of a victim has a legitimate interest in obtaining such
11 information, the court may allow access to the information, but only if the court
12 determines that disclosure to the person or entity would not compromise the

13 welfare or safety of such victim, and only after providing reasonable notice to the
14 victim and after allowing the victim the right to respond to such request.

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

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