

FIRST REGULAR SESSION

HOUSE BILL NO. 1022

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TATE.

1747H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 565.050, 565.052, 565.054, 565.056, 565.090, 565.091, 565.120, 565.130, 565.225, 565.227, 569.040, 569.050, 569.053, 569.100, 569.120, and 569.140, RSMo, and to enact in lieu thereof sixteen new sections relating to offenses against certain victims, with penalty provisions.

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

Section A. Sections 565.050, 565.052, 565.054, 565.056, 565.090, 565.091, 565.120, 565.130, 565.225, 565.227, 569.040, 569.050, 569.053, 569.100, 569.120, and 569.140, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 565.050, 565.052, 565.054, 565.056, 565.090, 565.091, 565.120, 565.130, 565.225, 565.227, 569.040, 569.050, 569.053, 569.100, 569.120, and 569.140, to read as follows:

565.050. 1. A person commits the offense of assault in the first degree if he or she attempts to kill or knowingly causes or attempts to cause serious physical injury to another person.

2. The offense of assault in the first degree is a class B felony, unless in the course thereof the person inflicts serious physical injury on the victim, or if the victim of such assault is a special victim, as the term "special victim" is defined under section 565.002, **or the victim is an elected official or member of the general assembly or the spouse, child, or stepchild, while the marriage creating that relationship exists, of an elected official or member of the general assembly**, in which case it is a class A felony.

565.052. 1. A person commits the offense of assault in the second degree if he or she:
(1) Attempts to kill or knowingly causes or attempts to cause serious physical injury to another person under the influence of sudden passion arising out of adequate cause; or

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 (2) Attempts to cause or knowingly causes physical injury to another person by means
5 of a deadly weapon or dangerous instrument; or

6 (3) Recklessly causes serious physical injury to another person; or

7 (4) Recklessly causes physical injury to another person by means of discharge of a
8 firearm.

9 2. The defendant shall have the burden of injecting the issue of influence of sudden
10 passion arising from adequate cause under subdivision (1) of subsection 1 of this section.

11 3. The offense of assault in the second degree is a class D felony, unless the victim of
12 such assault is a special victim, as the term "special victim" is defined under section 565.002,
13 **or the victim is an elected official or member of the general assembly or the spouse, child,**
14 **or stepchild, while the marriage creating that relationship exists, of an elected official or**
15 **member of the general assembly,** in which case it is a class B felony.

565.054. 1. A person commits the offense of assault in the third degree if he or she
2 knowingly causes physical injury to another person.

3 2. The offense of assault in the third degree is a class E felony, unless the victim of such
4 assault is a special victim, as the term "special victim" is defined under section 565.002, **or the**
5 **victim is an elected official or member of the general assembly or the spouse, child, or**
6 **stepchild, while the marriage creating that relationship exists, of an elected official or**
7 **member of the general assembly,** in which case it is a class D felony.

565.056. 1. A person commits the offense of assault in the fourth degree if:

2 (1) The person attempts to cause or recklessly causes physical injury, physical pain, or
3 illness to another person;

4 (2) With criminal negligence the person causes physical injury to another person by
5 means of a firearm;

6 (3) The person purposely places another person in apprehension of immediate physical
7 injury;

8 (4) The person recklessly engages in conduct which creates a substantial risk of death
9 or serious physical injury to another person;

10 (5) The person knowingly causes or attempts to cause physical contact with a person
11 with a disability, which a reasonable person, who does not have a disability, would consider
12 offensive or provocative; or

13 (6) The person knowingly causes physical contact with another person knowing the other
14 person will regard the contact as offensive or provocative.

15 2. Except as provided in subsection 3 of this section, assault in the fourth degree is a
16 class A misdemeanor.

17 3. Violation of the provisions of subdivision (3) or (6) of subsection 1 of this section is
18 a class C misdemeanor, unless the victim is a special victim, as the term "special victim" is
19 defined under section 565.002, **or the victim is an elected official or member of the general**
20 **assembly or the spouse, child, or stepchild, while the marriage creating that relationship**
21 **exists, of an elected official or member of the general assembly**, in which case a violation of
22 such provisions is a class A misdemeanor.

 565.090. 1. A person commits the offense of harassment in the first degree if he or she,
2 without good cause, engages in any act with the purpose to cause emotional distress to another
3 person, and such act does cause such person to suffer emotional distress.

4 2. The offense of harassment in the first degree is a class E felony, **unless the victim is**
5 **an elected official or a member of the general assembly or the spouse, child, or stepchild,**
6 **while the marriage creating that relationship exists, of an elected official or member of the**
7 **general assembly, in which case it is a class D felony.**

8 3. This section shall not apply to activities of federal, state, county, or municipal law
9 enforcement officers conducting investigations of violation of federal, state, county, or municipal
10 law.

 565.091. 1. A person commits the offense of harassment in the second degree if he or
2 she, without good cause, engages in any act with the purpose to cause emotional distress to
3 another person.

4 2. The offense of harassment in the second degree is a class A misdemeanor, unless the
5 person has previously pleaded guilty to or been found guilty of a violation of this section, of any
6 offense committed in violation of any county or municipal ordinance in any state, any state law,
7 any federal law, or any military law which if committed in this state would be chargeable or
8 indictable as a violation of any offense listed in this subsection, **or the victim is an elected**
9 **official or a member of the general assembly or the spouse, child, or stepchild, while the**
10 **marriage creating that relationship exists, of an elected official or member of the general**
11 **assembly**, in which case it is a class E felony.

12 3. This section shall not apply to activities of federal, state, county, or municipal law
13 enforcement officers conducting investigations of violations of federal, state, county, or
14 municipal law.

 565.120. 1. A person commits the offense of kidnapping in the second degree if he or
2 she knowingly restrains another unlawfully and without consent so as to interfere substantially
3 with his or her liberty and exposes him or her to a substantial risk of serious physical injury.

4 2. The offense of kidnapping in the second degree is a class D felony, **unless the victim**
5 **is an elected official or a member of the general assembly or the spouse, child, or stepchild,**

6 **while the marriage creating that relationship exists, of an elected official or member of the**
7 **general assembly, in which case it is a class C felony.**

2 565.130. 1. A person commits the offense of kidnapping in the third degree if he or she
3 knowingly restrains another unlawfully and without consent so as to interfere substantially with
4 his or her liberty.

5 2. The offense of kidnapping in the third degree is a class A misdemeanor, unless the
6 person unlawfully restrained is removed from this state, **or the victim is an elected official or**
7 **a member of the general assembly or the spouse, child, or stepchild, while the marriage**
8 **creating that relationship exists, of an elected official or member of the general assembly,**
9 in which case it is a class E felony.

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

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

9 (1) Makes a threat communicated with the intent to cause the person who is the target
10 of the threat to reasonably fear for his or her safety, the safety of his or her family or household
11 member, or the safety of domestic animals or livestock as defined in section 276.606 kept at such
12 person's residence or on such person's property. The threat shall be against the life of, or a threat
13 to cause physical injury to, or the kidnapping of the person, the person's family or household
14 members, or the person's domestic animals or livestock as defined in section 276.606 kept at
15 such person's residence or on such person's property; or

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

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

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

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

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

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

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

31 5. The offense of stalking in the first degree is a class E felony, unless the defendant has
32 previously been found guilty of a violation of this section or section 565.227, or any offense
33 committed in another jurisdiction which, if committed in this state, would be chargeable or
34 indictable as a violation of any offense listed in this section or section 565.227, or unless the
35 victim is intentionally targeted as a law enforcement officer, as defined in section 556.061, or
36 the victim is targeted because he or she is a relative within the second degree of consanguinity
37 or affinity to a law enforcement officer, **or the victim is an elected official or a member of the**
38 **general assembly or the spouse, child, or stepchild, while the marriage creating that**
39 **relationship exists, of an elected official or member of the general assembly**, in which case
40 stalking in the first degree is a class D felony.

 565.227. 1. A person commits the offense of stalking in the second degree if he or she
2 purposely, through his or her course of conduct, disturbs, or follows with the intent to disturb
3 another person.

4 2. This section shall not apply to activities of federal, state, county, or municipal law
5 enforcement officers conducting investigations of any violation of federal, state, county, or
6 municipal law.

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

9 4. The offense of stalking in the second degree is a class A misdemeanor, unless the
10 defendant has previously been found guilty of a violation of this section or section 565.225, or
11 of any offense committed in another jurisdiction which, if committed in this state, would be
12 chargeable or indictable as a violation of any offense listed in this section or section 565.225, or
13 unless the victim is intentionally targeted as a law enforcement officer, as defined in section
14 556.061, or the victim is targeted because he or she is a relative within the second degree of
15 consanguinity or affinity to a law enforcement officer, **or the victim is an elected official or a**
16 **member of the general assembly or the spouse, child, or stepchild, while the marriage**
17 **creating that relationship exists, of an elected official or member of the general assembly**,
18 in which case stalking in the second degree is a class E felony.

 569.040. 1. A person commits the offense of arson in the first degree if he or she:

2 (1) Knowingly damages a building or inhabitable structure, and when any person is then
3 present or in near proximity thereto, by starting a fire or causing an explosion and thereby
4 recklessly places such person in danger of death or serious physical injury; or

5 (2) By starting a fire or explosion, damages a building or inhabitable structure in an
6 attempt to produce methamphetamine.

7 2. The offense of arson in the first degree is a class B felony unless a person has suffered
8 serious physical injury or has died as a result of the fire or explosion set by the person or as a
9 result of a fire or explosion started in an attempt by the person to produce methamphetamine, **or**
10 **the victim is an elected official or a member of the general assembly or the spouse, child,**
11 **or stepchild, while the marriage creating that relationship exists, of an elected official or**
12 **member of the general assembly**, in which case arson in the first degree is a class A felony.

569.050. 1. A person commits the offense of arson in the second degree if he or she
2 knowingly damages a building or inhabitable structure by starting a fire or causing an explosion.

3 2. A person does not commit an offense under this section if:

4 (1) No person other than himself or herself has a possessory, proprietary or security
5 interest in the damaged building, or if other persons have those interests, all of them consented
6 to his or her conduct; and

7 (2) The person's sole purpose was to destroy or damage the building for a lawful and
8 proper purpose.

9 3. The defendant shall have the burden of injecting the issue under subsection 2 of this
10 section.

11 4. The offense of arson in the second degree is a class D felony, unless a person has
12 suffered serious physical injury or has died as a result of the fire or explosion, **or the victim is**
13 **an elected official or a member of the general assembly or the spouse, child, or stepchild,**
14 **while the marriage creating that relationship exists, of an elected official or member of the**
15 **general assembly**, in which case it is a class B felony.

569.053. 1. A person commits the offense of arson in the third degree if he or she
2 knowingly starts a fire or causes an explosion and thereby recklessly damages or destroys a
3 building or an inhabitable structure of another.

4 2. The offense of arson in the third degree is a class A misdemeanor, **unless the victim**
5 **is an elected official or a member of the general assembly or the spouse, child, or stepchild,**
6 **while the marriage creating that relationship exists, of an elected official or member of the**
7 **general assembly, in which case it is a class E felony.**

569.100. 1. A person commits the offense of property damage in the first degree if such
2 person:

3 (1) Knowingly damages property of another to an extent exceeding seven hundred fifty
4 dollars; or

5 (2) Damages property to an extent exceeding seven hundred fifty dollars for the purpose
6 of defrauding an insurer; or

7 (3) Knowingly damages a motor vehicle of another and the damage occurs while such
8 person is making entry into the motor vehicle for the purpose of committing the crime of stealing
9 therein or the damage occurs while such person is committing the crime of stealing within the
10 motor vehicle.

11 2. The offense of property damage in the first degree committed under subdivision (1)
12 or (2) of subsection 1 of this section is a class E felony, unless the offense of property damage
13 in the first degree was committed under subdivision (1) of subsection 1 of this section and the
14 victim was intentionally targeted as a law enforcement officer, as defined in section 556.061, or
15 the victim is targeted because he or she is a relative within the second degree of consanguinity
16 or affinity to a law enforcement officer, **or the victim is an elected official or a member of the**
17 **general assembly or the spouse, child, or stepchild, while the marriage creating that**
18 **relationship exists, of an elected official or member of the general assembly**, in which case
19 it is a class D felony. The offense of property damage in the first degree committed under
20 subdivision (3) of subsection 1 of this section is a class D felony unless committed as a second
21 or subsequent violation of subdivision (3) of subsection 1 of this section in which case it is a
22 class B felony.

569.120. 1. A person commits the offense of property damage in the second degree if
2 he or she:

3 (1) Knowingly damages property of another; or

4 (2) Damages property for the purpose of defrauding an insurer.

5 2. The offense of property damage in the second degree is a class B misdemeanor, unless
6 the offense of property damage in the second degree was committed under subdivision (1) of
7 subsection 1 of this section and the victim was intentionally targeted as a law enforcement
8 officer, as defined in section 556.061, or the victim is targeted because he or she is a relative
9 within the second degree of consanguinity or affinity to a law enforcement officer, **or the victim**
10 **is an elected official or a member of the general assembly or the spouse, child, or stepchild,**
11 **while the marriage creating that relationship exists, of an elected official or member of the**
12 **general assembly**, in which it is a class A misdemeanor.

569.140. 1. A person commits the offense of trespass in the first degree if he or she
2 knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable
3 structure or upon real property.

4 2. A person does not commit the offense of trespass in the first degree by entering or
5 remaining upon real property unless the real property is fenced or otherwise enclosed in a manner
6 designed to exclude intruders or as to which notice against trespass is given by:

7 (1) Actual communication to the actor; or

8 (2) Posting in a manner reasonably likely to come to the attention of intruders.

9 3. The offense of trespass in the first degree is a class B misdemeanor, unless the victim
10 is intentionally targeted as a law enforcement officer, as defined in section 556.061, or the victim
11 is targeted because he or she is a relative within the second degree of consanguinity or affinity
12 to a law enforcement officer, **or the victim is an elected official or a member of the general**
13 **assembly or the spouse, child, or stepchild, while the marriage creating that relationship**
14 **exists, of an elected official or member of the general assembly**, in which case it is a class A
15 misdemeanor. If the building or real property is part of a nuclear power plant, the offense of
16 trespass in the first degree is a class E felony.

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