

SECOND REGULAR SESSION

HOUSE BILL NO. 2688

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MYERS.

5531H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 566.200, 566.218, 566.223, 573.024, and 610.131, RSMo, and to enact in lieu thereof ten new sections relating to human trafficking, with penalty provisions.

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

Section A. Sections 566.200, 566.218, 566.223, 573.024, and 610.131, RSMo, are
2 repealed and ten new sections enacted in lieu thereof, to be known as sections 556.039,
3 566.200, 566.202, 566.207, 566.217, 566.218, 566.223, 573.024, 595.125, and 610.131, to
4 read as follows:

556.039. Notwithstanding the provisions of section 556.036, prosecutions:
2 **(1) Under sections 566.203 to 566.211 involving a person nineteen years of age or**
3 **older; or**
4 **(2) Under section 566.203, 566.206, 566.207, or 566.208 involving a person**
5 **eighteen years of age or under**
6
7 **shall be commenced no later than twenty years after the commission of the offense.**

566.200. As used in sections 566.200 to 566.218 and section 578.475, the following
2 terms shall mean:

3 (1) "Basic rights information", information applicable to a noncitizen, including but
4 not limited to information about human rights, immigration, emergency assistance and
5 resources, and the legal rights and resources for victims of domestic violence;

6 (2) "Blackmail", any threat to reveal damaging or embarrassing information about a
7 person to that person's spouse, family, associates, or the public at large, including a threat to
8 expose any secret tending to subject any person to hatred, contempt, or ridicule;

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.

9 (3) "Client", a person who is a resident of the United States and the state of Missouri
10 and who contracts with an international marriage broker to meet recruits;

11 (4) "Coercion":

12 (a) Threats of serious harm to or physical restraint against any person;

13 (b) Any scheme, plan, or pattern intended to cause a person to believe that failure to
14 perform an act would result in serious harm to or physical restraint against any person; or

15 (c) The abuse or threatened abuse of the legal process;

16 (5) "Commercial sex act", any sex act on account of which anything of value is given
17 to, promised, or received by any person;

18 (6) "Criminal history record information", criminal history record information,
19 including information provided in a criminal background check, obtained from the Missouri
20 state highway patrol and the Federal Bureau of Investigation;

21 (7) "Financial harm", detriment, injury, or loss of a financial nature, including credit
22 extortion, criminal violation of the usury laws under chapter 408, or employment contracts
23 that violate the statute of frauds provisions under chapter 432;

24 (8) "International marriage broker":

25 (a) A corporation, partnership, business, individual, or other legal entity, whether or
26 not organized under any law of the United States or any other state, that charges fees to
27 residents of Missouri for providing dating, matrimonial, or social referrals or matching
28 services between United States citizens or residents and nonresident aliens by providing
29 information or a forum that would permit individuals to contact each other. Such contact
30 shall include, but is not limited to:

31 a. Providing the name, telephone number, postal address, electronic mail address, or
32 voice message mailbox of an individual, or otherwise facilitating communication between
33 individuals; or

34 b. Providing an opportunity for an in-person meeting;

35 (b) Such term shall not include:

36 a. A traditional matchmaking organization of a religious nature that operates on a
37 nonprofit basis and otherwise operates in compliance with the laws of the countries in which
38 it operates, including the laws of the United States;

39 b. An entity that provides dating services between United States citizens or residents
40 and other individuals who may be aliens, but does not do so as its principal business, and
41 charges comparable rates to all individuals it serves regardless of the gender or country of
42 citizenship or residence of the individual; or

43 c. An organization that does not charge a fee to any party for the services provided;

44 (9) "Involuntary servitude or forced labor", a condition of servitude induced by means
45 of:

46 (a) Any scheme, plan, or pattern of behavior intended to cause a person to believe
 47 that, if the person does not enter into or continue the servitude, such person or another person
 48 will suffer serious physical injury or physical restraint; or

49 (b) The abuse or threatened abuse of the legal process;

50 (10) **"Labor or services", activity having economic value;**

51 (11) "Marital history information", a declaration of the person's current marital status,
 52 the number of times the person has previously been married, and whether any previous
 53 marriages occurred as a result of service from an international marriage broker;

54 ~~[(11)]~~ (12) "Nudity", the showing of the human male or female genitals, pubic area,
 55 vulva, anus, or any part of the nipple or areola of the female breast;

56 ~~[(12)]~~ (13) "Peonage", illegal and involuntary servitude in satisfaction of debt;

57 ~~[(13)]~~ (14) "Recruit", a noncitizen, nonresident recruited by an international marriage
 58 broker for the purpose of providing dating, matrimonial, or social referral services;

59 (15) **"Serious harm", harm, whether physical or nonphysical, including**
 60 **psychological, economic, or reputational, to a person that would compel a reasonable**
 61 **person of the same background and in the same circumstances to perform or continue to**
 62 **perform labor or services or engage in sexual conduct to avoid incurring harm;**

63 ~~[(14)]~~ (16) "Sexual conduct", sexual intercourse as defined in section 566.010;
 64 deviate sexual intercourse as defined in section 566.010; actual or simulated acts of human
 65 masturbation; physical contact with a person's clothed or unclothed genitals, pubic area,
 66 buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification; or
 67 any sadomasochistic abuse or acts including animals or any latent objects in an act of
 68 apparent sexual stimulation or gratification;

69 ~~[(15)]~~ (17) "Sexual performance", any play, motion picture, still picture, film,
 70 videotape, video recording, dance, or exhibition which includes sexual conduct or nudity,
 71 performed before an audience of one or more, whether in person or online or through other
 72 forms of telecommunication;

73 ~~[(16)]~~ (18) "Victim of trafficking", a person who is a victim of offenses under section
 74 566.203, 566.206, 566.209, 566.210, or 566.211.

566.202. 1. An aggravating circumstance during the commission of an offense
 2 **under section 566.203, 566.206, or 566.209 occurs if the defendant recruited, enticed, or**
 3 **obtained the victim of the offense from a shelter that serves:**

- 4 (1) **Persons subjected to human trafficking, domestic violence, or sexual assault;**
- 5 (2) **Runaway youth;**
- 6 (3) **Foster children; or**
- 7 (4) **The homeless.**

8 **2. If the trier of fact finds that an aggravating circumstance occurred during the**
9 **commission of an offense under section 566.203, 566.206, or 566.209, the defendant may**
10 **be imprisoned for up to five years in addition to the period of imprisonment prescribed**
11 **for the offense.**

566.207. 1. A person commits the offense of patronizing a victim of sexual
2 **servitude if the person knowingly gives, agrees to give, or offers to give anything of value**
3 **so that an individual may engage in a commercial sex act with another individual and**
4 **the person knows that the other individual is a victim of sexual servitude.**

5 **2. The offense of patronizing a victim of sexual servitude if the victim is eighteen**
6 **years of age or older is a felony punishable by imprisonment for a term of not less than**
7 **five years and not more than twenty years and a fine not to exceed two hundred fifty**
8 **thousand dollars.**

9 **3. The offense of patronizing a victim of sexual servitude if the victim is under**
10 **eighteen years of age is a felony for which the authorized term of imprisonment is life**
11 **imprisonment without eligibility for probation or parole until the offender has served**
12 **not less than twenty-five years of such sentence.**

566.217. 1. A person who is an owner of a business or the owner's agent may be
2 **prosecuted for an offense under sections 566.203 to 566.215 only if:**

3 **(1) The business knowingly engages in conduct that constitutes human**
4 **trafficking; or**

5 **(2) An employee or nonemployee agent of the business engages in conduct that**
6 **constitutes human trafficking and the conduct is part of a pattern of activity in violation**
7 **of sections 566.203 to 566.215 for the benefit of the business that the business knew was**
8 **occurring and failed to take effective action to stop.**

9 **2. If a person who is an owner of a business or the owner's agent is prosecuted**
10 **for an offense under sections 566.203 to 566.215, the court may consider the severity of**
11 **the business's conduct and order penalties in addition to those otherwise provided for**
12 **the offense, including:**

13 **(1) A fine of not more than one thousand dollars per offense;**

14 **(2) Disgorgement of profit from activity in violation of sections 566.203 to**
15 **566.215; and**

16 **(3) Debarment from state and local government contracts.**

17 **3. If a person who is an owner of a business or the owner's agent is prosecuted**
18 **for an offense under section 566.210 or 566.211, in addition to the penalties provided**
19 **under subsection 2 of this section, the business location or locations shall be required to**
20 **close for up to one year for the first offense, and the length of time shall be determined**

21 **by the court. For a second offense, such business location or locations shall permanently**
22 **close.**

23 **4. As used in this section, "business" shall include, but is not limited to, a hotel**
24 **or massage parlor and "owner's agent" shall include any person empowered to manage**
25 **the owner's business location or locations.**

566.218. Notwithstanding sections 557.011, 558.019, and 559.021, a person found
2 guilty of violating any provisions of section 566.203, 566.206, **566.207, 566.208**, 566.209,
3 566.210, 566.211, 566.212, 566.213, or 566.215 shall be ordered by the sentencing court to
4 pay restitution to the victim of the offense regardless of whether the defendant is sentenced to
5 a term of imprisonment or probation. The minimum restitution ordered by the court shall be
6 in the amount determined by the court necessary to compensate the victim for the value of the
7 victim's labor and/or for the mental and physical rehabilitation of the victim and any child of
8 the victim.

566.223. 1. Any individual who is alleging that a violation of sections 566.200 to
2 566.218 and section 578.475 has occurred against his or her person shall be afforded the
3 rights and protections provided in the federal Trafficking Victims Protection Act of 2000,
4 Public Law 106-386, as amended.

5 2. It is an affirmative defense for the offense of prostitution under section 567.020
6 that the defendant engaged in the conduct charged to constitute an offense because he or she
7 was coerced to do so by the use of, or threatened use of, unlawful physical force upon himself
8 or herself or a third person, which force or threatened force a person of reasonable firmness in
9 his or her situation would have been unable to resist.

10 3. The department of public safety is authorized to establish procedures for
11 identifying victims of trafficking under sections 566.200 to 566.223. The department may
12 establish training programs as well as standard protocols for appropriate agencies to educate
13 officials and employees on state statutes and federal laws regulating human trafficking and
14 with the identification and assistance of victims of human trafficking. Such agencies may
15 include but not be limited to state employees and contractors, including the children's division
16 of the department of social services, juvenile courts, state law enforcement agencies, health
17 care professionals, and runaway and homeless youth shelter administrators.

18 4. As soon as possible after a first encounter with a person who reasonably appears to
19 a law enforcement agency to be a victim of trafficking as defined in section 566.200, that
20 agency or office shall notify the department of social services and, where applicable, juvenile
21 justice authorities that the person may be a victim of trafficking, in order that such agencies
22 may determine whether the person may be eligible for state or federal services, programs, or
23 assistance.

24 5. The department of social services may coordinate with relevant state, federal, and
25 local agencies to evaluate appropriate services for victims of trafficking. State agencies may
26 implement programs and enter into contracts with nonprofit agencies, domestic and sexual
27 violence shelters, and other nongovernment organizations to provide services to confirmed
28 victims of trafficking, insofar as funds are available for that purpose. Such services may
29 include, but are not limited to, case management, emergency temporary housing, health care,
30 mental health counseling, alcohol and drug addiction screening and treatment, language
31 interpretation and translation services, English language instruction, job training, and
32 placement assistance.

33 6. A victim of trafficking may bring a civil action against a person or persons who
34 plead guilty to or are found guilty of a violation of section 566.203, 566.206, **566.207**,
35 **566.208**, 566.209, 566.210, or 566.211 to recover the actual damages sustained by the victim,
36 court costs, including reasonable attorney's fees, and punitive damages, when determined to
37 be appropriate by the court. Any action commenced under this section shall be filed within
38 ten years after the later of:

- 39 (1) The final order in the related criminal case;
40 (2) The victim's emancipation from the defendant; or
41 (3) The victim's eighteenth birthday.

42 7. The attorney general may bring a civil action, in the circuit court in which the
43 victim of trafficking was found, to recover from any person or entity that benefits, financially
44 or by receiving anything of value, from violations of section 566.203, 566.206, **566.207**,
45 **566.208**, 566.209, 566.210, or 566.211, a civil penalty of not more than fifty thousand dollars
46 for each violation of section 566.203, 566.206, **566.207**, **566.208**, 566.209, 566.210, or
47 566.211, and injunctive and other equitable relief as the court may, in its discretion, order.
48 The first priority of any money or property collected under such an action shall be to pay
49 restitution to the victims of trafficking on whose behalf the civil action was brought.

 573.024. 1. A person commits the offense of enabling sexual exploitation of a minor
2 if such person acting with criminal negligence permits or allows any violation of section
3 566.210, 566.211, 573.020, 573.023, 573.025, 573.030, 573.035, 573.200, or 573.205.

4 2. The offense of enabling sexual exploitation of a minor is a class E felony for the
5 first offense and a class C felony for a second or subsequent offense.

6 3. If the person guilty of the offense of enabling sexual exploitation of a minor **under**
7 **section 573.020, 573.023, 573.025, 573.030, 573.035, 573.200, or 573.205** is an owner of a
8 business or the owner's agent and the business provided the location or locations for such
9 exploitation, the business location or locations shall be required to close for up to one year for
10 the first offense, and the length of time shall be determined by the court. For a second
11 offense, such business location or locations shall permanently close. As used in this section,

12 "business" shall include, but is not limited to, a hotel or massage parlor and "owner's agent"
13 shall include any person empowered to manage the owner's business location or locations.

**595.125. 1. The "Council on Human Trafficking" is created within the
2 department of public safety. The governor shall appoint the chair and members of the
3 council. Members shall include representatives of:**

4 **(1) State or local agencies that have contact with victims or perpetrators of
5 human trafficking;**

6 **(2) Nongovernmental organizations that represent, advocate for, or provide
7 services to victims of human trafficking; and**

8 **(3) Other organizations and individuals, including victims, whose expertise
9 would benefit the council.**

10 **2. The state agencies represented on the council shall provide staff to the council.**

11 **3. The council shall meet on a regular basis and:**

12 **(1) Develop a coordinated and comprehensive plan to provide victims of human
13 trafficking with services;**

14 **(2) Collect and evaluate data on human trafficking in this state and submit an
15 annual report to the governor and general assembly;**

16 **(3) Promote public awareness about human trafficking, victim remedies and
17 services, and trafficking prevention;**

18 **(4) Coordinate training on the prevention of human trafficking and victim
19 services for state and local employees who may have recurring contact with victims or
20 perpetrators; and**

21 **(5) Conduct other appropriate activities.**

610.131. 1. Notwithstanding the provisions of section 610.140 to the contrary, a
2 person who ~~[at the time of the offense was under the age of eighteen, and]~~ has pleaded guilty
3 **to** or has been convicted ~~[for]~~ **of** the offense of prostitution under section 567.020 may apply
4 to the court in which he or she pled guilty or was sentenced for an order to expunge from all
5 official records all recordations of his or her arrest, plea, trial, or conviction. If the court
6 determines that such person ~~[was under the age of eighteen or]~~ was acting under the coercion,
7 as defined in section 566.200, of an agent when committing the offense that resulted in a plea
8 of guilty or conviction under section 567.020, the court shall enter an order of expungement.

9 2. Upon granting of the order of expungement, the records and files maintained in any
10 administrative or court proceeding in an associate or circuit division of the circuit court under
11 this section shall be confidential and only available to the parties or by order of the court for
12 good cause shown. The effect of such order shall be to restore such person to the status he or
13 she occupied prior to such arrest, plea, or conviction and as if such event had never taken
14 place. No person as to whom such order has been entered shall be held thereafter under any

15 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of
16 his or her failure to recite or acknowledge such arrest, plea, trial, conviction, or expungement
17 in response to any inquiry made of him or her for any purpose whatsoever and no such
18 inquiry shall be made for information relating to an expungement under this section.

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