

FIRST REGULAR SESSION

HOUSE BILL NO. 615

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COLEMAN.

0601H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 491.075, 492.304, 566.151, 566.203, 566.206, 566.209, 566.210, 566.211, 566.215, and 567.030, RSMo, and to enact in lieu thereof eleven new sections relating to judicial proceedings, with penalty provisions.

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

Section A. Sections 491.075, 492.304, 566.151, 566.203, 566.206, 566.209, 566.210,
2 566.211, 566.215, and 567.030, RSMo, are repealed and eleven new sections enacted in lieu
3 thereof, to be known as sections 491.075, 492.304, 566.151, 566.203, 566.206, 566.209,
4 566.210, 566.211, 566.215, 567.030, and 589.700, to read as follows:

491.075. 1. A statement made by a child under the age of ~~fourteen~~ **eighteen**, or a
2 vulnerable person, relating to an offense under chapter 565, 566, 568 or 573, performed by
3 another, not otherwise admissible by statute or court rule, is admissible in evidence in
4 criminal proceedings in the courts of this state as substantive evidence to prove the truth of
5 the matter asserted if:

6 (1) The court finds, in a hearing conducted outside the presence of the jury that the
7 time, content and circumstances of the statement provide sufficient indicia of reliability; and

8 (2) (a) The child or vulnerable person testifies at the proceedings; or

9 (b) The child or vulnerable person is unavailable as a witness; or

10 (c) The child or vulnerable person is otherwise physically available as a witness but
11 the court finds that the significant emotional or psychological trauma which would result
12 from testifying in the personal presence of the defendant makes the child or vulnerable person
13 unavailable as a witness at the time of the criminal proceeding.

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.

14 2. Notwithstanding subsection 1 of this section or any provision of law or rule of
15 evidence requiring corroboration of statements, admissions or confessions of the defendant,
16 and notwithstanding any prohibition of hearsay evidence, a statement by a child when under
17 the age of [~~fourteen~~] **eighteen**, or a vulnerable person, who is alleged to be victim of an
18 offense under chapter 565, 566, 568 or 573 is sufficient corroboration of a statement,
19 admission or confession regardless of whether or not the child or vulnerable person is
20 available to testify regarding the offense.

21 3. A statement may not be admitted under this section unless the prosecuting attorney
22 makes known to the accused or the accused's counsel his or her intention to offer the
23 statement and the particulars of the statement sufficiently in advance of the proceedings to
24 provide the accused or the accused's counsel with a fair opportunity to prepare to meet the
25 statement.

26 4. Nothing in this section shall be construed to limit the admissibility of statements,
27 admissions or confessions otherwise admissible by law.

28 5. For the purposes of this section, "vulnerable person" shall mean a person who, as a
29 result of an inadequately developed or impaired intelligence or a psychiatric disorder that
30 materially affects ability to function, lacks the mental capacity to consent, or whose
31 developmental level does not exceed that of an ordinary child of [~~fourteen~~] **seventeen** years
32 of age.

 492.304. 1. In addition to the admissibility of a statement under the provisions of
2 section 492.303, the visual and aural recording of a verbal or nonverbal statement of a child
3 when under the age of [~~fourteen who is alleged to be a victim of~~] **eighteen or a vulnerable**
4 **person, relating to** an offense under the provisions of chapter 565, 566 [~~or~~], 568, **or 573, if**
5 **performed by another**, is admissible into evidence if:

6 (1) No attorney for either party was present when the statement was made; except
7 that, for any statement taken at a state-funded child assessment center as provided for in
8 subsection 2 of section 210.001, an attorney representing the state of Missouri in a criminal
9 investigation may, as a member of a multidisciplinary investigation team, observe the taking
10 of such statement, but such attorney shall not be present in the room where the interview is
11 being conducted;

12 (2) The recording is both visual and aural and is recorded on film or videotape or by
13 other electronic means;

14 (3) The recording equipment was capable of making an accurate recording, the
15 operator of the equipment was competent, and the recording is accurate and has not been
16 altered;

17 (4) The statement was not made in response to questioning calculated to lead the child
18 **or vulnerable person** to make a particular statement or to act in a particular way;

19 (5) Every voice on the recording is identified;

20 (6) The person conducting the interview of the child **or vulnerable person** in the
21 recording is present at the proceeding and available to testify or be cross-examined by either
22 party; and

23 (7) The defendant or the attorney for the defendant is afforded an opportunity to view
24 the recording before it is offered into evidence.

25 2. If the child **or vulnerable person** does not testify at the proceeding, the visual and
26 aural recording of a verbal or nonverbal statement of the child **or vulnerable person** shall not
27 be admissible under this section unless the recording qualifies for admission under section
28 491.075.

29 3. If the visual and aural recording of a verbal or nonverbal statement of a child **or**
30 **vulnerable person** is admissible under this section and the child **or vulnerable person**
31 testifies at the proceeding, it shall be admissible in addition to the testimony of the child **or**
32 **vulnerable person** at the proceeding whether or not it repeats or duplicates the child's **or**
33 **vulnerable person's** testimony.

34 4. As used in this section, a nonverbal statement shall be defined as any
35 demonstration of the child **or vulnerable person** by his or her actions, facial expressions,
36 demonstrations with a doll or other visual aid whether or not this demonstration is
37 accompanied by words.

38 5. **For the purposes of this section, "vulnerable person" shall mean a person**
39 **who, as a result of an inadequately developed or impaired intelligence or a psychiatric**
40 **disorder that materially affects the ability to function, lacks the mental capacity to**
41 **consent, or whose developmental level does not exceed that of an ordinary child of**
42 **seventeen years of age.**

566.151. 1. A person twenty-one years of age or older commits the offense of
2 enticement of a child if he or she persuades, solicits, coaxes, entices, or lures whether by
3 words, actions or through communication via the internet or any electronic communication,
4 any person who is less than ~~fifteen~~ **seventeen** years of age for the purpose of engaging in
5 sexual conduct.

6 2. It is not a defense to a prosecution for a violation of this section that the other
7 person was a peace officer masquerading as a minor.

8 3. Enticement of a child or an attempt to commit enticement of a child is a felony for
9 which the authorized term of imprisonment shall be not less than five years and not more than
10 thirty years. No person convicted under this section shall be eligible for parole, probation,
11 conditional release, or suspended imposition or execution of sentence for a period of five
12 calendar years.

566.203. 1. A person commits the offense of abusing an individual through forced labor by knowingly providing or obtaining the labor or services of a person:

(1) By causing or threatening to cause serious physical injury to any person;

(2) By physically restraining or threatening to physically restrain another person;

(3) By blackmail;

(4) By means of any scheme, plan, or pattern of behavior intended to cause such person to believe that, if the person does not perform the labor services, the person or another person will suffer serious physical injury, physical restraint, or financial harm; or

(5) By means of the abuse or threatened abuse of the law or the legal process.

2. A person who is found guilty of the crime of abuse through forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless such person is otherwise required to register pursuant to the provisions of such section.

3. The offense of abuse through forced labor is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred fifty thousand dollars. If death results from a violation of this section, or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony, or an attempt to commit sexual abuse when punishable as a class B felony, or an attempt to kill, it shall be punishable for a term of years not less than five years or life and a fine not to exceed two hundred fifty thousand dollars.

4. In addition to any fine imposed, the court shall enter a judgment of restitution in the amount of five thousand dollars in favor of the state of Missouri, payable to the human trafficking and sexual exploitation fund established under section 589.700, upon a plea of guilty or a finding of guilt for a violation of this section.

566.206. 1. A person commits the offense of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor if he or she knowingly recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, another person for labor or services, for the purposes of slavery, involuntary servitude, peonage, or forced labor, or benefits, financially or by receiving anything of value, from participation in such activities.

2. A person who is found guilty of the offense of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless he or she is otherwise required to register pursuant to the provisions of such section.

3. Except as provided in subsection 4 of this section, the offense of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor is a felony punishable by

14 imprisonment for a term of years not less than five years and not more than twenty years and
15 a fine not to exceed two hundred fifty thousand dollars.

16 4. If death results from a violation of this section, or if the violation includes
17 kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony or an
18 attempt to commit sexual abuse when the sexual abuse attempted is punishable as a class B
19 felony, or an attempt to kill, it shall be punishable by imprisonment for a term of years not
20 less than five years or life and a fine not to exceed two hundred fifty thousand dollars.

21 **5. In addition to any fine imposed, the court shall enter a judgment of restitution**
22 **in the amount of five thousand dollars in favor of the state of Missouri, payable to the**
23 **human trafficking and sexual exploitation fund established under section 589.700, upon**
24 **a plea of guilty or a finding of guilt for a violation of this section.**

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
3 the availability of or obtains by any means, including but not limited to through the use of
4 force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause
5 financial harm, another person for the use or employment of such person in a commercial sex
6 act, sexual conduct, a sexual performance, or the production of explicit sexual material as
7 defined in section 573.010, without his or her consent, or benefits, financially or by receiving
8 anything of value, from participation in such activities.

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

15 **3. In addition to any fine imposed, the court shall enter a judgment of restitution**
16 **in the amount of five thousand dollars in favor of the state of Missouri, payable to the**
17 **human trafficking and sexual exploitation fund established under section 589.700, upon**
18 **a plea of guilty or a finding of guilt for a violation of this section.**

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,
5 or causing or threatening to cause financial harm, a person under the age of twelve to
6 participate in a commercial sex act, a sexual performance, or the production of explicit sexual
7 material as defined in section 573.010, or benefits, financially or by receiving anything of
8 value, from participation in such activities;

9 (2) Causes a person under the age of twelve to engage in a commercial sex act, a
10 sexual performance, or the production of explicit sexual material as defined in section
11 573.010; or

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

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

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

24 **4. In addition to any fine imposed, the court shall enter a judgment of restitution**
25 **in the amount of five thousand dollars in favor of the state of Missouri, payable to the**
26 **human trafficking and sexual exploitation fund established under section 589.700, upon**
27 **a plea of guilty or a finding of guilt for a violation of this section.**

566.211. 1. A person commits the offense of sexual trafficking of a child in the
2 second 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,
5 or causing or threatening to cause financial harm, a person under the age of eighteen to
6 participate in a commercial sex act, a sexual performance, or the production of explicit sexual
7 material as defined in section 573.010, or benefits, financially or by receiving anything of
8 value, from participation in such activities;

9 (2) Causes a person under the age of eighteen to engage in a commercial sex act, a
10 sexual performance, or the production of explicit sexual material as defined in section
11 573.010; or

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

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

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

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

24 **4. In addition to any fine imposed, the court shall enter a judgment of restitution**
25 **in the amount of five thousand dollars in favor of the state of Missouri, payable to the**
26 **human trafficking and sexual exploitation fund established under section 589.700, upon**
27 **a plea of guilty or a finding of guilt for a violation of this section.**

566.215. 1. A person commits the offense of contributing to human trafficking
2 through the misuse of documentation when he or she knowingly:

3 (1) Destroys, conceals, removes, confiscates, or possesses a valid or purportedly valid
4 passport, government identification document, or other immigration document of another
5 person while committing offenses or with the intent to commit offenses, pursuant to sections
6 566.203 to 566.218; or

7 (2) Prevents, restricts, or attempts to prevent or restrict, without lawful authority, a
8 person's ability to move or travel by restricting the proper use of identification, in order to
9 maintain the labor or services of a person who is the victim of an offense committed pursuant
10 to sections 566.203 to 566.218.

11 2. A person who is found guilty of the offense of contributing to human trafficking
12 through the misuse of documentation shall not be required to register as a sexual offender
13 pursuant to the provisions of section 589.400, unless he or she is otherwise required to
14 register pursuant to the provisions of such section.

15 3. The offense of contributing to human trafficking through the misuse of
16 documentation is a class E felony.

17 **4. In addition to any fine imposed, the court shall enter a judgment of restitution**
18 **in the amount of five thousand dollars in favor of the state of Missouri, payable to the**
19 **human trafficking and sexual exploitation fund established under section 589.700, upon**
20 **a plea of guilty or a finding of guilt for a violation of this section.**

567.030. 1. A person commits the offense of patronizing prostitution if he or she:

2 (1) Pursuant to a prior understanding, gives something of value to another person as
3 compensation for having engaged in sexual conduct with any person; or

4 (2) Gives or agrees to give something of value to another person with the
5 understanding that such person or another person will engage in sexual conduct with any
6 person; or

7 (3) Solicits or requests another person to engage in sexual conduct with any person in
8 return for something of value.

9 2. It shall not be a defense that the person believed that the individual he or she
10 patronized for prostitution was eighteen years of age or older.

11 3. The offense of patronizing prostitution is a class B misdemeanor, unless the
12 individual who the person patronizes is less than eighteen years of age but older than
13 ~~fourteen~~ **fifteen** years of age, in which case patronizing prostitution is a class E felony.

14 4. The offense of patronizing prostitution is a class ~~D~~ **B** felony if the individual who
15 the person patronizes is ~~fourteen~~ **fifteen** years of age or younger. Nothing in this section
16 shall preclude the prosecution of an individual for the offenses of:

17 (1) Statutory rape in the first degree pursuant to section 566.032;

18 (2) Statutory rape in the second degree pursuant to section 566.034;

19 (3) Statutory sodomy in the first degree pursuant to section 566.062; or

20 (4) Statutory sodomy in the second degree pursuant to section 566.064.

**589.700. 1. There is hereby created in the state treasury the "Human
2 Trafficking and Sexual Exploitation Fund", which shall consist of proceeds from the
3 human trafficking restitution collected for violations of sections 566.203, 566.206,
4 566.209, 566.210, 566.211, and 566.215. The state treasurer shall be custodian of the
5 fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve
6 disbursements. The fund shall be a dedicated fund and, upon appropriation, moneys in
7 this fund shall be distributed to the county where the human trafficking offense
8 occurred. Upon receipt of moneys from the fund, a county shall allocate the
9 disbursement as follows:**

10 **(1) Fifty percent toward local rehabilitation services for victims of human
11 trafficking including, but not limited to, mental health and substance abuse counseling;
12 general education, including parenting skills; housing relief; vocational training; and
13 employment counseling; and**

14 **(2) Fifty percent toward local efforts to prevent human trafficking including, but
15 not limited to, education programs for persons convicted of human trafficking offenses
16 and increasing the number of local law enforcement members charged with enforcing
17 human trafficking laws.**

18 **2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys
19 remaining in the fund at the end of the biennium shall not revert to the credit of the
20 general revenue fund.**

21 **3. The state treasurer shall invest moneys in the fund in the same manner as
22 other funds are invested. Any interest and moneys earned on such investments shall be
23 credited to the fund.**