FIRST REGULAR SESSION

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 916

103RD GENERAL ASSEMBLY

2170H.03C JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 208.247, 491.075, 492.304, and 558.041, RSMo, and to enact in lieu thereof six new sections relating to protection of vulnerable persons.

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

Section A. Sections 208.247, 491.075, 492.304, and 558.041, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 208.247, 221.520, 221.523, 491.075, 492.304, and 558.041, to read as follows:

208.247. **[**~~1. Pursuant to the option granted the state by 21 U.S.C. Section 862a(d), an individual who has pled guilty or nolo contendere to or is found guilty under federal or state law of a felony involving possession or use of a controlled substance shall be exempt from the prohibition contained in 21 U.S.C. Section 862a(a) against eligibility for food stamp program benefits for such convictions, if such person, as determined by the department:~~

~~(1) Meets one of the following criteria:~~

~~(a) Is currently successfully participating in a substance abuse treatment program approved by the division of alcohol and drug abuse within the department of mental health; or~~

~~(b) Is currently accepted for treatment in and participating in a substance abuse treatment program approved by the division of alcohol and drug abuse, but is subject to a waiting list to receive available treatment, and the individual remains enrolled in the treatment program and enters the treatment program at the first available opportunity; or~~

~~(c) Has satisfactorily completed a substance abuse treatment program approved by the division of alcohol and drug abuse; or~~

~~(d) Is determined by a division of alcohol and drug abuse certified treatment provider not to need substance abuse treatment; and~~

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.

~~(2) Is successfully complying with, or has already complied with, all obligations imposed by the court, the division of alcohol and drug abuse, and the division of probation and parole; and~~

~~(3) Does not plead guilty or nolo contendere to or is not found guilty of an additional controlled substance misdemeanor or felony offense after release from custody or, if not committed to custody, such person does not plead guilty or nolo contendere to or is not found guilty of an additional controlled substance misdemeanor or felony offense, within one year after the date of conviction. Such a plea or conviction within the first year after conviction shall immediately disqualify the person for the exemption; and~~

~~(4) Has demonstrated sobriety through voluntary urinalysis testing paid for by the participant.~~

~~2. Eligibility based upon the factors in subsection 1 of this section shall be based upon documentary or other evidence satisfactory to the department of social services, and the applicant shall meet all other factors for program eligibility.~~

~~3. The department of social services, in consultation with the division of alcohol and drug abuse, shall promulgate rules to carry out the provisions of this section including specifying criteria for determining active participation in and completion of a substance abuse treatment program.~~

~~4. The exemption under this section shall not apply to an individual who has pled guilty or nolo contendere to or is found guilty of two subsequent felony offenses involving possession or use of a controlled substance after the date of the first controlled substance felony conviction~~**] Pursuant to the option granted to the state under 21 U.S.C. Section 862a(d)(1), an individual convicted under federal or state law of a felony offense involving possession, distribution, or use of a controlled substance shall be exempt from the prohibition contained in 21 U.S.C. Section 862a(a) against eligibility for the supplemental nutrition assistance program for such convictions**.

221.520. 1. As used in this section, the following terms shall mean:

(1) "Extraordinary circumstance", a substantial flight risk or some other extraordinary medical or security circumstance that dictates restraints be used to ensure the safety and security of a pregnant offender in her third trimester or a postpartum offender within forty-eight hours postdelivery, the staff of the county or city jail or medical facility, other offenders, or the public;

(2) "Labor", the period of time before a birth during which contractions are present;

(3) "Postpartum", the period of recovery immediately following childbirth, which is six weeks for a vaginal birth or eight weeks for a cesarean birth, or longer if so determined by a physician or nurse;

(4) "Restraints", any device used to control the movement of a person's body or limbs.

2. Except in extraordinary circumstances, a county or city jail shall not use restraints on a pregnant offender in her third trimester, whether during transportation to and from visits to health care providers and court proceedings or during medical appointments and examinations, or during labor, delivery, or forty-eight hours postdelivery.

3. In the event a sheriff or jailer determines that extraordinary circumstances exist and restraints are necessary, the sheriff or jailer shall fully document in writing within forty-eight hours of the incident the reasons he or she determined such extraordinary circumstances existed, the type of restraints used, and the reasons those restraints were considered reasonable under the circumstances. Such documents shall be kept on file by the county or city jail for at least five years from the date the restraints were used.

4. Any time restraints are used on a pregnant offender in her third trimester or on a postpartum offender within forty-eight hours postdelivery, the restraints shall be reasonable under the circumstances. Except in extraordinary circumstances, no leg, ankle, or waist restraints, or any mechanical restraints, shall be used on any such offender, and if wrist restraints are used, such restraints shall be placed in the front of such offender's body to protect the offender and the unborn child in the case of a forward fall.

5. Pregnant offenders shall be transported in vehicles equipped with seatbelts.

6. The county or city jail shall:

(1) Ensure that employees of the jail are provided with training, which may include online training, on the provisions of this section; and

(2) Inform female offenders, in writing and orally, of any policies and practices developed in accordance with this section upon admission to the jail, and post the policies and practices in locations in the jail where such notices are commonly posted and will be seen by female offenders.

221.523. 1. By January 1, 2026, all county and city jails shall develop specific procedures for the intake and care of offenders who are pregnant, which shall include procedures regarding:

(1) Maternal health evaluations;

(2) Dietary supplements, including prenatal vitamins;

(3) Timely and regular nutritious meals consistent with the American College of Obstetricians and Gynecologists' *Nutrition During Pregnancy* guidelines;

(4) Substance abuse treatment;

(5) Treatment for the human immunodeficiency virus and ways to avoid human immunodeficiency virus transmission;

(6) Hepatitis C;

(7) Sleeping arrangements for such pregnant offender in her third trimester, including requiring such offenders to sleep on the bottom bunk bed;

(8) Access to mental health professionals;

(9) Sanitary materials; and

(10) Postpartum recovery, including that, except in extraordinary circumstances, no such offender shall be placed in isolation during such recovery.

2. As used in this section, "postpartum recovery" means, as determined by a physician, the period immediately following delivery, including the entire period an offender who was pregnant is in the hospital or infirmary after delivery.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Every voice on the recording is identified;

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

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

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

3. If the visual and aural recording of a verbal or nonverbal statement of a child **or vulnerable person** is admissible under this section and the child **or vulnerable person**

testifies at the proceeding, it shall be admissible in addition to the testimony of the child **or vulnerable person** at the proceeding whether or not it repeats or duplicates the child's **or vulnerable person's** testimony.

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

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

558.041. 1. Any offender committed to the department of corrections, except those persons committed pursuant to subsection 7 of section 558.016, or subsection 3 of section 566.125, **[**~~may~~**] shall** receive additional credit in terms of days spent in confinement upon **[**~~recommendation for such credit by the offender's institutional superintendent~~**] calculation of such credit** when the offender meets the requirements for such credit as provided in **[**~~subsections 3 and 4 of~~**]** this section. Good time credit **or earned time credit** may be rescinded by the director or his or her designee pursuant to the divisional policy issued pursuant to **subdivision (2) of** subsection **[**~~3~~**] 2** of this section.

2. **(1)** Any credit extended to an offender shall only apply to the sentence which the offender is currently serving.

[~~3.~~**] (2)** The director of the department of corrections shall issue a policy for awarding **good time** credit **and, separately, earned time credit**.

(3) The policy **[**~~may~~**] shall** reward an **[**~~inmate~~**] offender** who has served his or her sentence in an orderly and peaceable manner **[**~~and has~~**] through good time credit as provided in subsection 3 of this section and award an offender who has successfully** taken advantage of the rehabilitation programs **and productive activities** available to him or her **through earned time credit as provided in subsection 4 of this section**.

(4) Any **major conduct** violation of institutional rules **[**~~or~~**], violation of** the laws of this state **[**~~may~~**], parole revocation, or the accumulation of minor conduct violations exceeding six within a calendar year shall** result in the loss of all **[**~~or a portion of any~~**] prior** credit earned by the **[**~~inmate~~**] offender** pursuant to this section.

[~~4. The department shall cause the policy to be published in the code of state regulations.~~

~~5. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.~~**]**

3. (1) Subject to subsections 1 and 2 of this section, an offender who is serving a term of imprisonment of more than one year, other than a term of imprisonment for the duration of the offender's life, may receive good time credit toward the service of the offender's sentence of up to fifty-four days for each year of the offender's sentence imposed by the court, subject to yearly determination by the department of corrections that during that year the offender has displayed exemplary compliance with institutional disciplinary regulations.

(2) If the department of corrections determines that during the year the offender has not satisfactorily complied with such institutional regulations, the offender shall receive no good time credit toward service of sentence or shall receive such lesser credit as the department determines to be appropriate. Credit that has not been earned shall not later be granted. Credit for the last year of a term of imprisonment shall be credited on the first day of the last year of the term of imprisonment.

4. (1) Subject to subsections 1 and 2 of this section, an offender who is serving a term of imprisonment of more than one year, other than a term of imprisonment for the duration of the offender's life, and who successfully participates in rehabilitative programming or productive activities shall earn ten days of earned time credit for every thirty days of successful participation in rehabilitative programming or productive activities.

(2) An offender shall not receive earned time credits under this subsection for programs completed prior to the date that the offender's sentence commenced.

(3) The department of corrections shall specify in its policies under subsection 2 of this section the types of programs or activities for which credit may be earned under this section; the criteria for determining productive participation in, or completion of, the programs or activities; and the criteria for annually awarding credit. Such programs and activities shall include, but are not limited to, receiving a high school diploma or equivalent, college diploma or professional certificate, or vocational training certificates, and participating in successful employment, parenting, and financial literacy courses, alcohol and drug abuse treatment programs, and restorative justice and faith-based programs. The department of corrections shall include provisions for educational programming through correspondence courses.

(4) Beginning on January 1, 2026, but not later than December 31, 2026, eligible offenders may petition the department to receive earned time credit for any qualifying programs or activities completed after January 1, 2010, but before August 28, 2025.

(5) Beginning on August 28, 2025, earned time credit for programs completed on or after such date shall be awarded on an annual basis.

(6) The department of corrections shall notify the incarcerated population of the petition process through posted signage, electronic notification, and through staff in all facilities and shall provide a petition form to offenders.

5. (1) Offenders sentenced under subsections 2 and 3 of section 558.019 shall be eligible for good time credit and earned time credit and any credit earned shall be subtracted from the offender's entire sentence of imprisonment.

(2) Offenders committed to the department who are sentenced to death or sentenced to life without probation or parole shall not be eligible for good time credit or earned time credit under this section; however, the department shall record their program participation in the same manner as the eligible population.

(3) The incentives described in this section shall be in addition to any other rewards or credits for which an offender may be eligible.

(4) Nothing in this section shall be construed to remove the parole board's discretion in awarding good time credit or earned time credit.

6. The department of corrections shall prepare and submit an annual report to the general assembly on good time credit and earned time credit, which shall include information on the number of offenders receiving credit under both programs.

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