

SECOND REGULAR SESSION

HOUSE BILL NO. 1688

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CUPPS.

3894H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 566.030, 566.031, 566.100, 566.101, 566.151, 566.206, 566.209, 566.210, 566.211, 573.025, 573.035, and 573.037, RSMo, and to enact in lieu thereof twelve new sections relating to penalties for certain sexual offenses, with penalty provisions.

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

Section A. Sections 566.030, 566.031, 566.100, 566.101, 566.151, 566.206, 566.209, 566.210, 566.211, 573.025, 573.035, and 573.037, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 566.030, 566.031, 566.100, 566.101, 566.151, 566.206, 566.209, 566.210, 566.211, 573.025, 573.035, and 573.037, to read as follows:

566.030. 1. A person commits the offense of rape in the first degree if he or she has sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. The offense of rape in the first degree or an attempt to commit rape in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or **[a term of years not less than five years, unless:**

(1) The offense is an aggravated sexual offense, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than fifteen years;

(2) The person is a persistent or predatory sexual offender as defined in section 566.125 and subjected to an extended term of imprisonment under said section;

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 ~~(3) The victim is a child less than twelve years of age, in which case the required term~~
15 ~~of imprisonment is life imprisonment without eligibility for probation or parole until the~~
16 ~~offender has served not less than thirty years of such sentence or unless the offender has~~
17 ~~reached the age of seventy-five years and has served at least fifteen years of such sentence,~~
18 ~~unless such rape in the first degree is described under subdivision (4) of this subsection; or~~

19 ~~(4) The victim is a child less than twelve years of age and such rape in the first degree~~
20 ~~or attempt to commit rape in the first degree was outrageously or wantonly vile, horrible or~~
21 ~~inhuman, in that it involved torture or depravity of mind, in which case the required term of~~
22 ~~imprisonment is life imprisonment without eligibility for probation, parole or conditional~~
23 ~~release.~~

24 ~~3. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has~~
25 ~~been found guilty of rape in the first degree or attempt to commit rape in the first degree when~~
26 ~~the victim is less than twelve years of age, and "life imprisonment" shall mean imprisonment~~
27 ~~for the duration of a person's natural life for the purposes of this section.~~

28 ~~4. No person found guilty of rape in the first degree or an attempt to commit rape in~~
29 ~~the first degree shall be granted a suspended imposition of sentence or suspended execution of~~
30 ~~sentene] death.~~

566.031. 1. A person commits the offense of rape in the second degree if he or she
2 has sexual intercourse with another person knowing that he or she does so without that
3 person's consent.

4 2. The offense of rape in the second degree is ~~[a class D felony]~~ **a felony for which**
5 **the authorized term of imprisonment is life imprisonment or death.**

566.100. 1. A person commits the offense of sexual abuse in the first degree if he or
2 she subjects another person to sexual contact when that person is incapacitated, incapable of
3 consent, or lacks the capacity to consent, or by the use of forcible compulsion.

4 2. The offense of sexual abuse in the first degree is a ~~[class C felony unless the victim~~
5 ~~is less than fourteen years of age, or it is an aggravated sexual offense, in which case it is a~~
6 ~~class B felony]~~ **felony for which the authorized term of imprisonment is life**
7 **imprisonment or death.**

566.101. 1. A person commits the offense of sexual abuse in the second degree if he
2 or she purposely subjects another person to sexual contact without that person's consent.

3 2. The offense of sexual abuse in the second degree is a ~~[class A misdemeanor, unless~~
4 ~~it is an aggravated sexual offense, in which case it is a class E felony]~~ **felony for which the**
5 **authorized term of imprisonment is life imprisonment or death.**

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 seventeen years of age for the purpose of engaging in sexual
5 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~~
10 ~~than thirty years. No person convicted under this section shall be eligible for parole,~~
11 ~~probation, conditional release, or suspended imposition or execution of sentence for a period~~
12 ~~of five calendar years]~~ **is life imprisonment or death.**

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

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

12 3. ~~[Except as provided in subsection 4 of this section,]~~ The offense of trafficking for
13 the purposes of slavery, involuntary servitude, peonage, or forced labor is a felony
14 ~~[punishable by imprisonment for a]~~ **for which the authorized** term of ~~[years not less than~~
15 ~~five years and not more than twenty years and a fine not to exceed two hundred fifty thousand~~
16 ~~dollars.~~

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

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] for which the authorized term of [years not less than~~
11 ~~five years and not more than twenty years and a fine not to exceed two hundred fifty~~
12 ~~thousand dollars. If a violation of this section was effected by force, abduction, or coercion,~~
13 ~~the crime of trafficking for the purposes of sexual exploitation is a felony punishable by~~
14 ~~imprisonment for a term of years not less than ten years or life and a fine not to exceed two~~
15 ~~hundred fifty thousand dollars]~~ **imprisonment is life imprisonment or death.**

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 fourteen 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 fourteen 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 fourteen 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 fourteen
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 thirty years of such sentence. Subsection 4~~
20 ~~of section 558.019 shall not apply to the sentence of a person who has been found guilty of~~
21 ~~sexual trafficking of a child less than fourteen years of age, and]~~ **or death.** "Life
22 imprisonment" shall mean imprisonment for the duration of a person's natural life for the
23 purposes 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 of sexual trafficking of a child in the second degree is a felony
18 ~~[punishable by imprisonment for a]~~ **for which the authorized** term of ~~[years not less than~~
19 ~~twenty years or life and a fine not to exceed two hundred fifty thousand dollars if the child is~~
20 ~~under the age of eighteen. If a violation of this section was effected by force, abduction, or~~
21 ~~coercion, the crime of sexual trafficking of a child shall be a felony for which the authorized~~
22 ~~term of]~~ imprisonment is life imprisonment without eligibility for probation or parole ~~[until~~
23 ~~the defendant has served not less than twenty-five years of such sentence]~~ **or death.**

573.025. 1. A person commits the offense of promoting child pornography in the first
2 degree if, knowing of its content and character, such person possesses with the intent to
3 promote or promotes child pornography of a child less than fourteen years of age or obscene
4 material portraying what appears to be a child less than fourteen years of age.

5 2. The offense of promoting child pornography in the first degree is a ~~[class B felony~~
6 ~~unless the person knowingly promotes such material to a minor, in which case it is a class A~~
7 ~~felony. No person who is found guilty of promoting child pornography in the first degree~~
8 ~~shall be eligible for probation, parole, or conditional release for a period of three calendar~~
9 ~~years]~~ **felony for which the authorized term of imprisonment is life imprisonment**
10 **without eligibility for probation, parole, or conditional release or death.**

11 3. Nothing in this section shall be construed to require a provider of electronic
12 communication services or remote computing services to monitor any user, subscriber or
13 customer of the provider, or the content of any communication of any user, subscriber or
14 customer of the provider.

573.035. 1. A person commits the offense of promoting child pornography in the
2 second degree if, knowing of its content and character, such person possesses with the intent
3 to promote or promotes child pornography of a minor under the age of eighteen or obscene
4 material portraying what appears to be a minor under the age of eighteen.

5 2. The offense of promoting child pornography in the second degree is a ~~[class D~~
6 ~~felony unless the person knowingly promotes such material to a minor, in which case it is a~~
7 ~~class B felony. No person who is found guilty of promoting child pornography in the second~~
8 ~~degree shall be eligible for probation]~~ **felony for which the authorized term of**
9 **imprisonment is life imprisonment without eligibility for probation, parole, or**
10 **conditional release or death.**

573.037. 1. A person commits the offense of possession of child pornography if such
2 person knowingly or recklessly possesses any child pornography of a minor less than eighteen
3 years of age or obscene material portraying what appears to be a minor less than eighteen
4 years of age.

5 2. The offense of possession of child pornography is a ~~[class D felony if the person~~
6 ~~possesses one still image of child pornography or one obscene still image. The offense of~~
7 ~~possession of child pornography is a class B felony if the person:~~
8 ~~(1) Possesses:~~
9 ~~(a) More than twenty still images of child pornography; or~~
10 ~~(b) More than twenty obscene still images; or~~
11 ~~(c) Child pornography comprised of one motion picture, film, videotape, videotape~~
12 ~~production, or other moving image; or~~
13 ~~(d) Obscene material comprised of one motion picture, film, videotape production, or~~
14 ~~other moving image; or~~
15 ~~(2) Has previously been found guilty of an offense under this section]~~ **felony for**
16 **which the authorized term of imprisonment is life imprisonment without eligibility for**
17 **probation, parole, or conditional release or death.**

18 3. A person who has committed the offense of possession of child pornography is
19 subject to separate punishments for each item of child pornography or obscene material
20 possessed by the person.

✓