

SECOND REGULAR SESSION

HOUSE BILL NO. 3184

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RUSH.

6226H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapters 537 and 568, RSMo, by adding thereto two new sections relating to adultery, with penalty provisions.

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

Section A. Chapters 537 and 568, RSMo, are amended by adding thereto two new sections, to be known as sections 537.553 and 568.200, to read as follows:

537.553. 1. As used in this section, the term "adultery" means voluntary sexual intercourse between a married person and an individual who is not that person's spouse.

2. A person may bring a civil action against any individual other than the person's spouse if:

(1) The individual knowingly engaged in adultery with the person's spouse; and

(2) It can be proven that the individual's conduct caused emotional, financial, or relational harm to the person's marriage.

3. The burden of proof in any action brought under this section shall be a preponderance of the evidence. Evidence that may be presented includes, but is not limited to, written or electronic communications, photographs or video, witness testimony, admissions, or evidence obtained through lawful investigations.

4. A prevailing plaintiff may recover:

(1) Compensatory damages, including emotional distress, counseling costs, loss of consortium, and financial losses;

(2) Punitive damages for willful or malicious conduct;

(3) Attorney's fees and court costs; 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.

17 **(4) Injunctive relief, including orders limiting future contact between the**
18 **individual and the person's spouse.**

19 **5. An action under this section shall be filed within five years of the adulterous**
20 **act or within two years of discovering the act, whichever is later.**

21 **6. No civil action may be brought if:**

22 **(1) The spouses were legally separated at the time of the act; or**

23 **(2) The plaintiff previously consented in writing to a nonmonogamous marital**
24 **arrangement.**

568.200. 1. A person commits the offense of adultery if:

2 **(1) Such person knowingly engages in sexual intercourse with an individual who**
3 **is not the person's spouse; and**

4 **(2) The act results in demonstrable emotional, financial, or familial harm to the**
5 **person's spouse or household.**

6 **2. The offense of adultery is a:**

7 **(1) Class C misdemeanor for the first offense;**

8 **(2) Class A misdemeanor for a second offense; and**

9 **(3) Class E felony for any third or subsequent offense.**

10 **3. In a prosecution under this section, the following evidence may be admissible:**

11 **(1) Written or electronic communications;**

12 **(2) Photographs or digital documentation;**

13 **(3) Witness testimony;**

14 **(4) Voluntary admissions; or**

15 **(5) Evidence obtained through a lawful investigation.**

16 **4. It shall be an affirmative defense for a prosecution under this section if:**

17 **(1) The spouses were legally separated or a petition for dissolution of marriage**
18 **was filed prior to the act; or**

19 **(2) Prior to the act, the spouses had a written agreement permitting nonexclusive**
20 **relations.**

21 **5. Upon request, the court may seal records to protect the privacy of spouses,**
22 **families, or minor children.**

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