

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 505
97TH GENERAL ASSEMBLY

0878H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 160.261, 210.115, 556.061, 568.060, and 595.220, RSMo, and to enact in lieu thereof five new sections relating to child abuse and neglect, with penalty provisions and an emergency clause.

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

Section A. Sections 160.261, 210.115, 556.061, 568.060, and 595.220, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 160.261, 210.115,
3 556.061, 568.060, and 595.220, to read as follows:

160.261. 1. The local board of education of each school district shall clearly establish
2 a written policy of discipline, including the district's determination on the use of corporal
3 punishment and the procedures in which punishment will be applied. A written copy of the
4 district's discipline policy and corporal punishment procedures, if applicable, shall be provided
5 to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning
6 of each school year and also made available in the office of the superintendent of such district,
7 during normal business hours, for public inspection. All employees of the district shall annually
8 receive instruction related to the specific contents of the policy of discipline and any
9 interpretations necessary to implement the provisions of the policy in the course of their duties,
10 including but not limited to approved methods of dealing with acts of school violence,
11 disciplining students with disabilities and instruction in the necessity and requirements for
12 confidentiality.

13 2. The policy shall require school administrators to report acts of school violence to all
14 teachers at the attendance center and, in addition, to other school district employees with a need
15 to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school
16 personnel who are directly responsible for the student's education or who otherwise interact with

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 the student on a professional basis while acting within the scope of their assigned duties. As
18 used in this section, the phrase "act of school violence" or "violent behavior" means the exertion
19 of physical force by a student with the intent to do serious physical injury as defined in
20 subdivision (6) of section 565.002 to another person while on school property, including a school
21 bus in service on behalf of the district, or while involved in school activities. The policy shall
22 at a minimum require school administrators to report, as soon as reasonably practical, to the
23 appropriate law enforcement agency any of the following crimes, or any act which if committed
24 by an adult would be one of the following crimes:

- 25 (1) First degree murder under section 565.020;
- 26 (2) Second degree murder under section 565.021;
- 27 (3) Kidnapping under section 565.110;
- 28 (4) First degree assault under section 565.050;
- 29 (5) Forcible rape under section 566.030;
- 30 (6) Forcible sodomy under section 566.060;
- 31 (7) Burglary in the first degree under section 569.160;
- 32 (8) Burglary in the second degree under section 569.170;
- 33 (9) Robbery in the first degree under section 569.020;
- 34 (10) Distribution of drugs under section 195.211;
- 35 (11) Distribution of drugs to a minor under section 195.212;
- 36 (12) Arson in the first degree under section 569.040;
- 37 (13) Voluntary manslaughter under section 565.023;
- 38 (14) Involuntary manslaughter under section 565.024;
- 39 (15) Second degree assault under section 565.060;
- 40 (16) Sexual assault under section 566.040;
- 41 (17) Felonious restraint under section 565.120;
- 42 (18) Property damage in the first degree under section 569.100;
- 43 (19) The possession of a weapon under chapter 571;
- 44 (20) Child molestation in the first degree pursuant to section 566.067;
- 45 (21) Deviate sexual assault pursuant to section 566.070;
- 46 (22) Sexual misconduct involving a child pursuant to section 566.083;
- 47 (23) Sexual abuse pursuant to section 566.100;
- 48 (24) Harassment under section 565.090; or
- 49 (25) Stalking under section 565.225;

50 committed on school property, including but not limited to actions on any school bus in service
51 on behalf of the district or while involved in school activities. The policy shall require that any
52 portion of a student's individualized education program that is related to demonstrated or

53 potentially violent behavior shall be provided to any teacher and other school district employees
54 who are directly responsible for the student's education or who otherwise interact with the
55 student on an educational basis while acting within the scope of their assigned duties. The policy
56 shall also contain the consequences of failure to obey standards of conduct set by the local board
57 of education, and the importance of the standards to the maintenance of an atmosphere where
58 orderly learning is possible and encouraged.

59 3. The policy shall provide that any student who is on suspension for any of the offenses
60 listed in subsection 2 of this section or any act of violence or drug-related activity defined by
61 school district policy as a serious violation of school discipline pursuant to subsection 9 of this
62 section shall have as a condition of his or her suspension the requirement that such student is not
63 allowed, while on such suspension, to be within one thousand feet of any school property in the
64 school district where such student attended school or any activity of that district, regardless of
65 whether or not the activity takes place on district property unless:

66 (1) Such student is under the direct supervision of the student's parent, legal guardian,
67 or custodian and the superintendent or the superintendent's designee has authorized the student
68 to be on school property;

69 (2) Such student is under the direct supervision of another adult designated by the
70 student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school
71 which suspended the student and the superintendent or the superintendent's designee has
72 authorized the student to be on school property;

73 (3) Such student is enrolled in and attending an alternative school that is located within
74 one thousand feet of a public school in the school district where such student attended school;
75 or

76 (4) Such student resides within one thousand feet of any public school in the school
77 district where such student attended school in which case such student may be on the property
78 of his or her residence without direct adult supervision.

79 4. Any student who violates the condition of suspension required pursuant to subsection
80 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of
81 sections 167.161, 167.164, and 167.171. In making this determination consideration shall be
82 given to whether the student poses a threat to the safety of any child or school employee and
83 whether such student's unsupervised presence within one thousand feet of the school is disruptive
84 to the educational process or undermines the effectiveness of the school's disciplinary policy.
85 Removal of any pupil who is a student with a disability is subject to state and federal procedural
86 rights. This section shall not limit a school district's ability to:

87 (1) Prohibit all students who are suspended from being on school property or attending
88 an activity while on suspension;

89 (2) Discipline students for off-campus conduct that negatively affects the educational
90 environment to the extent allowed by law.

91 5. The policy shall provide for a suspension for a period of not less than one year, or
92 expulsion, for a student who is determined to have brought a weapon to school, including but
93 not limited to the school playground or the school parking lot, brought a weapon on a school bus
94 or brought a weapon to a school activity whether on or off of the school property in violation of
95 district policy, except that:

96 (1) The superintendent or, in a school district with no high school, the principal of the
97 school which such child attends may modify such suspension on a case-by-case basis; and

98 (2) This section shall not prevent the school district from providing educational services
99 in an alternative setting to a student suspended under the provisions of this section.

100 6. For the purpose of this section, the term "weapon" shall mean a firearm as defined
101 under 18 U.S.C. 921 and the following items, as defined in section 571.010: a blackjack, a
102 concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife,
103 knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade
104 knife; except that this section shall not be construed to prohibit a school board from adopting a
105 policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for
106 educational purposes so long as the firearm is unloaded. The local board of education shall
107 define weapon in the discipline policy. Such definition shall include the weapons defined in this
108 subsection but may also include other weapons.

109 7. All school district personnel responsible for the care and supervision of students are
110 authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any
111 property of the school, on any school bus going to or returning from school, during
112 school-sponsored activities, or during intermission or recess periods.

113 8. Teachers and other authorized district personnel in public schools responsible for the
114 care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable
115 care by the school district, shall not be civilly liable when acting in conformity with the
116 established policies developed by each board, including but not limited to policies of student
117 discipline or when reporting to his or her supervisor or other person as mandated by state law
118 acts of school violence or threatened acts of school violence, within the course and scope of the
119 duties of the teacher, authorized district personnel or volunteer, when such individual is acting
120 in conformity with the established policies developed by the board. Nothing in this section shall
121 be construed to create a new cause of action against such school district, or to relieve the school
122 district from liability for the negligent acts of such persons.

123 9. Each school board shall define in its discipline policy acts of violence and any other
124 acts that constitute a serious violation of that policy. "Acts of violence" as defined by school

125 boards shall include but not be limited to exertion of physical force by a student with the intent
126 to do serious bodily harm to another person while on school property, including a school bus in
127 service on behalf of the district, or while involved in school activities. School districts shall for
128 each student enrolled in the school district compile and maintain records of any serious violation
129 of the district's discipline policy. Such records shall be made available to teachers and other
130 school district employees with a need to know while acting within the scope of their assigned
131 duties, and shall be provided as required in section 167.020 to any school district in which the
132 student subsequently attempts to enroll.

133 10. Spanking, when administered by certificated personnel and in the presence of a
134 witness who is an employee of the school district, or the use of reasonable force to protect
135 persons or property, when administered by personnel of a school district in a reasonable manner
136 in accordance with the local board of education's written policy of discipline, is not abuse within
137 the meaning of chapter 210. [The provisions of sections 210.110 to 210.165 notwithstanding,
138 the children's division shall not have jurisdiction over or investigate any report of alleged child
139 abuse arising out of or related to the use of reasonable force to protect persons or property when
140 administered by personnel of a school district or any spanking administered in a reasonable
141 manner by any certificated school personnel in the presence of a witness who is an employee of
142 the school district pursuant to a written policy of discipline established by the board of education
143 of the school district, as long as no allegation of sexual misconduct arises from the spanking or
144 use of force.]

145 11. [If a student reports alleged sexual misconduct on the part of a teacher or other
146 school employee to a person employed in a school facility who is required to report such
147 misconduct to the children's division under section 210.115, such person and the superintendent
148 of the school district shall forward the allegation to the children's division within twenty-four
149 hours of receiving the information. Reports made to the children's division under this subsection
150 shall be investigated by the division in accordance with the provisions of sections 210.145 to
151 210.153 and shall not be investigated by the school district under subsections 12 to 20 of this
152 section for purposes of determining whether the allegations should or should not be
153 substantiated. The district may investigate the allegations for the purpose of making any decision
154 regarding the employment of the accused employee.

155 12. Upon receipt of any reports of child abuse by the children's division other than
156 reports provided under subsection 11 of this section, pursuant to sections 210.110 to 210.165
157 which allegedly involve personnel of a school district, the children's division shall notify the
158 superintendent of schools of the district or, if the person named in the alleged incident is the
159 superintendent of schools, the president of the school board of the school district where the
160 alleged incident occurred.

161 13. If, after an initial investigation, the superintendent of schools or the president of the
162 school board finds that the report involves an alleged incident of child abuse other than the
163 administration of a spanking by certificated school personnel or the use of reasonable force to
164 protect persons or property when administered by school personnel pursuant to a written policy
165 of discipline or that the report was made for the sole purpose of harassing a public school
166 employee, the superintendent of schools or the president of the school board shall immediately
167 refer the matter back to the children's division and take no further action. In all matters referred
168 back to the children's division, the division shall treat the report in the same manner as other
169 reports of alleged child abuse received by the division.

170 14. If the report pertains to an alleged incident which arose out of or is related to a
171 spanking administered by certificated personnel or the use of reasonable force to protect persons
172 or property when administered by personnel of a school district pursuant to a written policy of
173 discipline or a report made for the sole purpose of harassing a public school employee, a
174 notification of the reported child abuse shall be sent by the superintendent of schools or the
175 president of the school board to the law enforcement in the county in which the alleged incident
176 occurred.

177 15. The report shall be jointly investigated by the law enforcement officer and the
178 superintendent of schools or, if the subject of the report is the superintendent of schools, by a law
179 enforcement officer and the president of the school board or such president's designee.

180 16. The investigation shall begin no later than forty-eight hours after notification from
181 the children's division is received, and shall consist of, but need not be limited to, interviewing
182 and recording statements of the child and the child's parents or guardian within two working days
183 after the start of the investigation, of the school district personnel allegedly involved in the
184 report, and of any witnesses to the alleged incident.

185 17. The law enforcement officer and the investigating school district personnel shall
186 issue separate reports of their findings and recommendations after the conclusion of the
187 investigation to the school board of the school district within seven days after receiving notice
188 from the children's division.

189 18. The reports shall contain a statement of conclusion as to whether the report of alleged
190 child abuse is substantiated or is unsubstantiated.

191 19. The school board shall consider the separate reports referred to in subsection 17 of
192 this section and shall issue its findings and conclusions and the action to be taken, if any, within
193 seven days after receiving the last of the two reports. The findings and conclusions shall be
194 made in substantially the following form:

195 (1) The report of the alleged child abuse is unsubstantiated. The law enforcement officer
196 and the investigating school board personnel agree that there was not a preponderance of
197 evidence to substantiate that abuse occurred;

198 (2) The report of the alleged child abuse is substantiated. The law enforcement officer
199 and the investigating school district personnel agree that the preponderance of evidence is
200 sufficient to support a finding that the alleged incident of child abuse did occur;

201 (3) The issue involved in the alleged incident of child abuse is unresolved. The law
202 enforcement officer and the investigating school personnel are unable to agree on their findings
203 and conclusions on the alleged incident.

204 20. The findings and conclusions of the school board under subsection 19 of this section
205 shall be sent to the children's division. If the findings and conclusions of the school board are
206 that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated,
207 the case closed, and no record shall be entered in the children's division central registry. If the
208 findings and conclusions of the school board are that the report of the alleged child abuse is
209 substantiated, the children's division shall report the incident to the prosecuting attorney of the
210 appropriate county along with the findings and conclusions of the school district and shall
211 include the information in the division's central registry. If the findings and conclusions of the
212 school board are that the issue involved in the alleged incident of child abuse is unresolved, the
213 children's division shall report the incident to the prosecuting attorney of the appropriate county
214 along with the findings and conclusions of the school board, however, the incident and the names
215 of the parties allegedly involved shall not be entered into the central registry of the children's
216 division unless and until the alleged child abuse is substantiated by a court of competent
217 jurisdiction.

218 21. Any superintendent of schools, president of a school board or such person's designee
219 or law enforcement officer who knowingly falsifies any report of any matter pursuant to this
220 section or who knowingly withholds any information relative to any investigation or report
221 pursuant to this section is guilty of a class A misdemeanor.

222 22.] In order to ensure the safety of all students, should a student be expelled for bringing
223 a weapon to school, violent behavior, or for an act of school violence, that student shall not, for
224 the purposes of the accreditation process of the Missouri school improvement plan, be
225 considered a dropout or be included in the calculation of that district's educational persistence
226 ratio.

210.115. 1. When any physician, medical examiner, coroner, dentist, chiropractor,
2 optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the
3 examination, care, treatment or research of persons, and any other health practitioner,
4 psychologist, mental health professional, social worker, day care center worker or other

5 child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel,
6 teacher, principal or other school official, minister as provided by section 352.400, peace officer
7 or law enforcement official, or other person with responsibility for the care of children has
8 reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or
9 observes a child being subjected to conditions or circumstances which would reasonably result
10 in abuse or neglect, that person shall immediately report [or cause a report to be made] to the
11 division in accordance with the provisions of sections 210.109 to 210.183. **No internal**
12 **investigation shall be initiated until such a report has been made.** As used in this section,
13 the term "abuse" is not limited to abuse inflicted by a person responsible for the child's care,
14 custody and control as specified in section 210.110, but shall also include abuse inflicted by any
15 other person.

16 2. [Whenever such person is required to report pursuant to sections 210.109 to 210.183
17 in an official capacity as a staff member of a medical institution, school facility, or other agency,
18 whether public or private, the person in charge or a designated agent shall be notified
19 immediately. The person in charge or a designated agent shall then become responsible for
20 immediately making or causing such report to be made to the division. Nothing in this section,
21 however, is meant to preclude any person from reporting abuse or neglect] **If two or more**
22 **members of a medical institution who are required to report jointly have knowledge of a**
23 **known or suspected instance of child abuse or neglect, a single report may be made by a**
24 **member of that team. Any member who has knowledge that the member designated to**
25 **report has failed to do so shall thereafter immediately make the report.**

26 3. **The reporting requirements under this section are individual, and no supervisor**
27 **or administrator may impede or inhibit any reporting under this section. No person**
28 **making a report under this section shall be subject to any sanction, including any adverse**
29 **employment action, for making such report.**

30 4. Notwithstanding any other provision of sections 210.109 to 210.183, any child who
31 does not receive specified medical treatment by reason of the legitimate practice of the religious
32 belief of the child's parents, guardian, or others legally responsible for the child, for that reason
33 alone, shall not be found to be an abused or neglected child, and such parents, guardian or other
34 persons legally responsible for the child shall not be entered into the central registry. However,
35 the division may accept reports concerning such a child and may subsequently investigate or
36 conduct a family assessment as a result of that report. Such an exception shall not limit the
37 administrative or judicial authority of the state to ensure that medical services are provided to
38 the child when the child's health requires it.

39 [4.] 5. In addition to those persons and officials required to report actual or suspected
40 abuse or neglect, any other person may report in accordance with sections 210.109 to 210.183

41 if such person has reasonable cause to suspect that a child has been or may be subjected to abuse
42 or neglect or observes a child being subjected to conditions or circumstances which would
43 reasonably result in abuse or neglect.

44 [5.] 6. Any person or official required to report pursuant to this section, including
45 employees of the division, who has probable cause to suspect that a child who is or may be under
46 the age of eighteen, who is eligible to receive a certificate of live birth, has died shall report that
47 fact to the appropriate medical examiner or coroner. If, upon review of the circumstances and
48 medical information, the medical examiner or coroner determines that the child died of natural
49 causes while under medical care for an established natural disease, the coroner, medical
50 examiner or physician shall notify the division of the child's death and that the child's attending
51 physician shall be signing the death certificate. In all other cases, the medical examiner or
52 coroner shall accept the report for investigation, shall immediately notify the division of the
53 child's death as required in section 58.452 and shall report the findings to the child fatality review
54 panel established pursuant to section 210.192.

55 [6.] 7. Any person or individual required to report may also report the suspicion of abuse
56 or neglect to any law enforcement agency or juvenile office. Such report shall not, however, take
57 the place of reporting [or causing a report to be made] to the division.

58 [7.] 8. If an individual required to report suspected instances of abuse or neglect pursuant
59 to this section has reason to believe that the victim of such abuse or neglect is a resident of
60 another state or was injured as a result of an act which occurred in another state, the person
61 required to report such abuse or neglect may, in lieu of reporting to the Missouri division of
62 family services, make such a report to the child protection agency of the other state with the
63 authority to receive such reports pursuant to the laws of such other state. If such agency accepts
64 the report, no report is required to be made, but may be made, to the [Missouri] division [of
65 family services].

556.061. In this code, unless the context requires a different definition, the following
2 shall apply:

- 3 (1) "Affirmative defense" has the meaning specified in section 556.056;
- 4 (2) "Burden of injecting the issue" has the meaning specified in section 556.051;
- 5 (3) "Commercial film and photographic print processor", any person who develops
6 exposed photographic film into negatives, slides or prints, or who makes prints from negatives
7 or slides, for compensation. The term commercial film and photographic print processor shall
8 include all employees of such persons but shall not include a person who develops film or makes
9 prints for a public agency;
- 10 (4) "Confinement":

11 (a) A person is in confinement when such person is held in a place of confinement
12 pursuant to arrest or order of a court, and remains in confinement until:

13 a. A court orders the person's release; or

14 b. The person is released on bail, bond, or recognizance, personal or otherwise; or

15 c. A public servant having the legal power and duty to confine the person authorizes his
16 release without guard and without condition that he return to confinement;

17 (b) A person is not in confinement if:

18 a. The person is on probation or parole, temporary or otherwise; or

19 b. The person is under sentence to serve a term of confinement which is not continuous,
20 or is serving a sentence under a work-release program, and in either such case is not being held
21 in a place of confinement or is not being held under guard by a person having the legal power
22 and duty to transport the person to or from a place of confinement;

23 (5) "Consent": consent or lack of consent may be expressed or implied. Assent does not
24 constitute consent if:

25 (a) It is given by a person who lacks the mental capacity to authorize the conduct charged
26 to constitute the offense and such mental incapacity is manifest or known to the actor; or

27 (b) It is given by a person who by reason of youth, mental disease or defect, or
28 intoxication, is manifestly unable or known by the actor to be unable to make a reasonable
29 judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

30 (c) It is induced by force, duress or deception;

31 (6) "Criminal negligence" has the meaning specified in section 562.016;

32 (7) "Custody", a person is in custody when the person has been arrested but has not been
33 delivered to a place of confinement;

34 (8) "Dangerous felony" means the felonies of arson in the first degree, assault in the first
35 degree, attempted forcible rape if physical injury results, attempted forcible sodomy if physical
36 injury results, forcible rape, forcible sodomy, kidnapping, murder in the second degree, assault
37 of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse
38 in the first degree, robbery in the first degree, statutory rape in the first degree when the victim
39 is a child less than twelve years of age at the time of the commission of the act giving rise to the
40 offense, statutory sodomy in the first degree when the victim is a child less than twelve years of
41 age at the time of the commission of the act giving rise to the offense, and, abuse of a child
42 [pursuant to subdivision (2) of subsection 3 of] **if the child dies as a result of injuries**
43 **sustained from conduct chargeable under** section 568.060, child kidnapping, and parental
44 kidnapping committed by detaining or concealing the whereabouts of the child for not less than
45 one hundred twenty days under section 565.153;

46 (9) "Dangerous instrument" means any instrument, article or substance, which, under the
47 circumstances in which it is used, is readily capable of causing death or other serious physical
48 injury;

49 (10) "Deadly weapon" means any firearm, loaded or unloaded, or any weapon from
50 which a shot, readily capable of producing death or serious physical injury, may be discharged,
51 or a switchblade knife, dagger, billy, blackjack or metal knuckles;

52 (11) "Felony" has the meaning specified in section 556.016;

53 (12) "Forcible compulsion" means either:

54 (a) Physical force that overcomes reasonable resistance; or

55 (b) A threat, express or implied, that places a person in reasonable fear of death, serious
56 physical injury or kidnapping of such person or another person;

57 (13) "Incapacitated" means that physical or mental condition, temporary or permanent,
58 in which a person is unconscious, unable to appraise the nature of such person's conduct, or
59 unable to communicate unwillingness to an act. A person is not incapacitated with respect to an
60 act committed upon such person if he or she became unconscious, unable to appraise the nature
61 of such person's conduct or unable to communicate unwillingness to an act, after consenting to
62 the act;

63 (14) "Infraction" has the meaning specified in section 556.021;

64 (15) "Inhabitable structure" has the meaning specified in section 569.010;

65 (16) "Knowingly" has the meaning specified in section 562.016;

66 (17) "Law enforcement officer" means any public servant having both the power and
67 duty to make arrests for violations of the laws of this state, and federal law enforcement officers
68 authorized to carry firearms and to make arrests for violations of the laws of the United States;

69 (18) "Misdemeanor" has the meaning specified in section 556.016;

70 (19) "Offense" means any felony, misdemeanor or infraction;

71 (20) "Physical injury" means physical pain, illness, or any impairment of physical
72 condition;

73 (21) "Place of confinement" means any building or facility and the grounds thereof
74 wherein a court is legally authorized to order that a person charged with or convicted of a crime
75 be held;

76 (22) "Possess" or "possessed" means having actual or constructive possession of an
77 object with knowledge of its presence. A person has actual possession if such person has the
78 object on his or her person or within easy reach and convenient control. A person has
79 constructive possession if such person has the power and the intention at a given time to exercise
80 dominion or control over the object either directly or through another person or persons.

81 Possession may also be sole or joint. If one person alone has possession of an object, possession
82 is sole. If two or more persons share possession of an object, possession is joint;

83 (23) "Public servant" means any person employed in any way by a government of this
84 state who is compensated by the government by reason of such person's employment, any person
85 appointed to a position with any government of this state, or any person elected to a position with
86 any government of this state. It includes, but is not limited to, legislators, jurors, members of the
87 judiciary and law enforcement officers. It does not include witnesses;

88 (24) "Purposely" has the meaning specified in section 562.016;

89 (25) "Recklessly" has the meaning specified in section 562.016;

90 (26) "Ritual" or "ceremony" means an act or series of acts performed by two or more
91 persons as part of an established or prescribed pattern of activity;

92 (27) "Serious emotional injury", an injury that creates a substantial risk of temporary or
93 permanent medical or psychological damage, manifested by impairment of a behavioral,
94 cognitive or physical condition. Serious emotional injury shall be established by testimony of
95 qualified experts upon the reasonable expectation of probable harm to a reasonable degree of
96 medical or psychological certainty;

97 (28) "Serious physical injury" means physical injury that creates a substantial risk of
98 death or that causes serious disfigurement or protracted loss or impairment of the function of any
99 part of the body;

100 (29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse;
101 sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area,
102 buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;

103 (30) "Sexual contact" means any touching of the genitals or anus of any person, or the
104 breast of any female person, or any such touching through the clothing, for the purpose of
105 arousing or gratifying sexual desire of any person;

106 (31) "Sexual performance", any performance, or part thereof, which includes sexual
107 conduct by a child who is less than seventeen years of age;

108 (32) "Voluntary act" has the meaning specified in section 562.011.

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

2 (1) "Abuse", the infliction of physical, sexual, or mental injury against a child by any
3 person eighteen years of age or older. For purposes of this section, abuse shall not include injury
4 inflicted on a child by accidental means by a person with care, custody, or control of the child,
5 or discipline of a child by a person with care, custody, or control of the child, including spanking,
6 in a reasonable manner;

7 (2) "Abusive head trauma", a serious physical injury to the head or brain caused by any
8 means, including but not limited to shaking, jerking, pushing, pulling, slamming, hitting, or
9 kicking;

10 (3) "Mental injury", an injury to the intellectual or psychological capacity or the
11 emotional condition of a child as evidenced by an observable and substantial impairment of the
12 ability of the child to function within his or her normal range of performance or behavior;

13 (4) "Neglect", the failure to provide, by those responsible for the care, custody, and
14 control of a child under the age of eighteen years, the care reasonable and necessary to maintain
15 the physical and mental health of the child, when such failure presents a substantial probability
16 that death or physical injury or sexual injury would result;

17 (5) "Physical injury", physical pain, illness, or any impairment of physical condition,
18 including but not limited to bruising, lacerations, hematomas, welts, or permanent or temporary
19 disfigurement and impairment of any bodily function or organ;

20 (6) "Serious emotional injury", an injury that creates a substantial risk of temporary or
21 permanent medical or psychological damage, manifested by impairment of a behavioral,
22 cognitive, or physical condition. Serious emotional injury shall be established by testimony of
23 qualified experts upon the reasonable expectation of probable harm to a reasonable degree of
24 medical or psychological certainty;

25 (7) "Serious physical injury", a physical injury that creates a substantial risk of death or
26 that causes serious disfigurement or protracted loss or impairment of the function of any part of
27 the body.

28 2. A person commits the offense of abuse or neglect of a child if such person knowingly
29 causes a child who is less than eighteen years of age:

30 (1) To suffer physical or mental injury as a result of abuse or neglect; or

31 (2) To be placed in a situation in which the child may suffer physical or mental injury
32 as the result of abuse or neglect.

33 3. A person commits the offense of abuse or neglect of a child if such person recklessly
34 causes a child who is less than eighteen years of age to suffer from abusive head trauma.

35 4. A person does not commit the offense of abuse or neglect of a child by virtue of the
36 sole fact that the person delivers or allows the delivery of child to a provider of emergency
37 services.

38 5. The offense of abuse or neglect of a child is:

39 (1) A class C felony, without eligibility for probation or parole until the defendant has
40 served no less than one year of such sentence, unless the person has previously been found guilty
41 of a violation of this section or of a violation of the law of any other jurisdiction that prohibits
42 the same or similar conduct or the injury inflicted on the child is a serious emotional injury or

43 a serious physical injury, in which case abuse or neglect of a child is a class B felony, without
44 eligibility for probation or parole until the defendant has served not less than five years of such
45 sentence; or

46 **(2) A class A felony if the child dies as a result of injuries sustained from conduct**
47 **chargeable under the provisions of this section.**

48 6. Notwithstanding subsection 5 of this section to the contrary, the offense of abuse or
49 neglect of a child is a class A felony, without eligibility for probation or parole until the
50 defendant has served not less than fifteen years of such sentence, if:

51 (1) The injury is a serious emotional injury or a serious physical injury;

52 (2) The child is less than fourteen years of age; and

53 (3) The injury is the result of sexual abuse as defined under section 566.100 or sexual
54 exploitation of a minor as defined under section 573.023.

55 7. The circuit or prosecuting attorney may refer a person who is suspected of abuse or
56 neglect of a child to an appropriate public or private agency for treatment or counseling so long
57 as the agency has consented to taking such referrals. Nothing in this subsection shall limit the
58 discretion of the circuit or prosecuting attorney to prosecute a person who has been referred for
59 treatment or counseling pursuant to this subsection.

60 8. Nothing in this section shall be construed to alter the requirement that every element
61 of any crime referred to herein must be proven beyond a reasonable doubt.

62 9. Discipline, including spanking administered in a reasonable manner, shall not be
63 construed to be abuse under this section.

595.220. 1. The department of public safety shall make payments to appropriate medical
2 providers, out of appropriations made for that purpose, to cover the reasonable charges of the
3 forensic examination of persons who may be a victim of a sexual offense if:

4 (1) The victim or the victim's guardian consents in writing to the examination; and

5 (2) The report of the examination is made on a form approved by the attorney general
6 with the advice of the department of public safety. The department shall establish maximum
7 reimbursement rates for charges submitted under this section, which shall reflect the reasonable
8 cost of providing the forensic exam.

9 2. A minor may consent to examination under this section. Such consent is not subject
10 to disaffirmance because of minority, and consent of parent or guardian of the minor is not
11 required for such examination. The appropriate medical provider making the examination shall
12 give written notice to the parent or guardian of a minor that such an examination has taken place.

13 3. The attorney general, with the advice of the department of public safety, shall develop
14 the forms and procedures for gathering evidence during the forensic examination under the
15 provisions of this section. The department of health and senior services shall develop a

16 checklist, protocols, and procedures for appropriate medical providers to refer to while providing
17 medical treatment to victims of a sexual offense, including those specific to victims who are
18 minors.

19 4. Evidentiary collection kits shall be developed and made available, subject to
20 appropriation, to appropriate medical providers by the highway patrol or its designees and
21 eligible crime laboratories. Such kits shall be distributed with the forms and procedures for
22 gathering evidence during forensic examinations of victims of a sexual offense to appropriate
23 medical providers upon request of the provider, in the amount requested, and at no charge to the
24 medical provider. All appropriate medical providers shall, with the written consent of the victim,
25 perform a forensic examination using the evidentiary collection kit, or other collection
26 procedures developed for victims who are minors, and forms and procedures for gathering
27 evidence following the checklist for any person presenting as a victim of a sexual offense.

28 5. In reviewing claims submitted under this section, the department shall first determine
29 if the claim was submitted within ninety days of the examination. If the claim is submitted
30 within ninety days, the department shall, at a minimum, use the following criteria in reviewing
31 the claim: examination charges submitted shall be itemized and fall within the definition of
32 forensic examination as defined in subdivision (3) of subsection [7] 8 of this section.

33 6. All appropriate medical provider charges for eligible forensic examinations shall be
34 billed to and paid by the department of public safety. No appropriate medical provider
35 conducting forensic examinations and providing medical treatment to victims of sexual offenses
36 shall charge the victim for the forensic examination. For appropriate medical provider charges
37 related to the medical treatment of victims of sexual offenses, if the victim is an eligible claimant
38 under the crime victims' compensation fund, the victim shall seek compensation under sections
39 595.010 to 595.075.

40 7. **The department of public safety shall establish rules regarding the**
41 **reimbursement of the costs of forensic examinations for children under fourteen years of**
42 **age, including establishing conditions and definitions for emergency and non-emergency**
43 **forensic examinations and may by rule establish additional qualifications for appropriate**
44 **medical providers performing non-emergency forensic examinations for children under**
45 **fourteen years of age.**

46 8. For purposes of this section, the following terms mean:

47 (1) "Appropriate medical provider",

48 (a) Any licensed nurse, physician, or physician assistant, and any institution employing
49 licensed nurses, physicians, or physician assistants, provided that such licensed professionals are
50 the only persons at such institution to perform tasks under the provisions of this section; **or**

51 **(b) For the purposes of any non-emergency forensic examination of a child under**
52 **fourteen years of age, the department of public safety may establish additional**
53 **qualifications for any provider listed in subparagraph (a) under rules authorized under**
54 **subsection 7 of this section;**

55 (2) "Evidentiary collection kit", a kit used during a forensic examination that includes
56 materials necessary for appropriate medical providers to gather evidence in accordance with the
57 forms and procedures developed by the attorney general for forensic examinations;

58 (3) "Forensic examination", an examination performed by an appropriate medical
59 provider on a victim of an alleged sexual offense to gather evidence for the evidentiary collection
60 kit or using other collection procedures developed for victims who are minors;

61 (4) "Medical treatment", the treatment of all injuries and health concerns resulting
62 directly from a patient's sexual assault or victimization;

63 **(5) "Emergency forensic examination", an examination of a person under fourteen**
64 **years of age that occurs within five days of the alleged sexual offense. The department of**
65 **public safety may further define the term "emergency forensic examination" by rule;**

66 **(6) "Non-emergency forensic examination", an examination of a person under**
67 **fourteen years of age that occurs more than five days after the alleged sexual offense. The**
68 **department of public safety may further define the term "non-emergency forensic**
69 **examination" by rule.**

70 [8.] 9. The department shall have authority to promulgate rules and regulations necessary
71 to implement the provisions of this section. Any rule or portion of a rule, as that term is defined
72 in section 536.010, that is created under the authority delegated in this section shall become
73 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
74 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
75 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
76 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
77 rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid
78 and void.

 Section B. Because immediate action is necessary to protect children the repeal and
2 reenactment of sections 556.061 and 568.060 of section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution, and the repeal and reenactment
5 of sections 556.061 and 568.060 of section A of this act shall be in full force and effect upon its
6 passage and approval.

✓