

SECOND REGULAR SESSION

HOUSE BILL NO. 1290

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SCHAAF (Sponsor), LEMBKE, KINGERY,
SUTHERLAND AND TILLEY (Co-sponsors).

Read 1st time January 10, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3505L.011

AN ACT

To repeal sections 558.018, 559.100, 566.032, 566.034, 566.062, 566.064, 566.083, 566.151, and 566.212, RSMo, and to enact in lieu thereof twelve new sections relating to sexual offenders, with penalty provisions.

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

Section A. Sections 558.018, 559.100, 566.032, 566.034, 566.062, 566.064, 566.083,
2 566.151, and 566.212, RSMo, are repealed and twelve new sections enacted in lieu thereof, to
3 be known as sections 558.018, 559.100, 566.032, 566.034, 566.035, 566.062, 566.063, 566.064,
4 566.083, 566.151, 566.212, and 566.250, to read as follows:

558.018. 1. The court shall sentence a person who has pleaded guilty to or has been
2 found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy,
3 statutory sodomy in the first degree or an attempt to commit any of the crimes designated in this
4 subsection to an extended term of imprisonment if it finds the defendant is a persistent sexual
5 offender.

6 2. A "persistent sexual offender" is one who has previously pleaded guilty to or has been
7 found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible
8 sodomy, sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes
9 designated in this subsection.

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.

10 3. The term of imprisonment for one found to be a persistent sexual offender shall be
11 [not less than thirty years, which term shall be served without] **imprisonment for life without**
12 **eligibility for** probation or parole.

13 4. The court shall sentence a person who has pleaded guilty to or has been found guilty
14 of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory
15 sodomy in the first degree, or an attempt to commit any of the preceding crimes or child
16 molestation in the first degree when classified as a class B felony or sexual abuse when classified
17 as a class B felony to an extended term of imprisonment as provided for in this section if it finds
18 the defendant is a predatory sexual offender.

19 5. For purposes of this section, a "predatory sexual offender" is a person who:

20 (1) Has previously pleaded guilty to or has been found guilty of the felony of forcible
21 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the
22 first degree, or an attempt to commit any of the preceding crimes or child molestation in the first
23 degree when classified as a class B felony or sexual abuse when classified as a class B felony;
24 or

25 (2) Has previously committed an act which would constitute an offense listed in
26 subsection 4 of this section, whether or not the act resulted in a conviction; or

27 (3) Has committed an act or acts against more than one victim which would constitute
28 an offense or offenses listed in subsection 4 of this section, whether or not the defendant was
29 charged with an additional offense or offenses as a result of such act or acts.

30 6. A person found to be a predatory sexual offender shall be imprisoned for life with
31 eligibility for parole, however subsection 4 of section 558.019 shall not apply to persons found
32 to be predatory sexual offenders for the purposes of determining the minimum prison term or the
33 length of sentence as defined or used in such subsection. Notwithstanding any other provision
34 of law, in no event shall a person found to be a predatory sexual offender receive a final
35 discharge from parole.

36 7. Notwithstanding any other provision of law, the court shall set the minimum time
37 required to be served before a predatory sexual offender is eligible for parole, conditional release
38 or other early release by the department of corrections. The minimum time to be served by a
39 person found to be a predatory sexual offender who:

40 (1) Has previously pleaded guilty to or has been found guilty of the felony of forcible
41 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the
42 first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found
43 guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory
44 sodomy in the first degree or an attempt to commit any of the preceding crimes shall be any
45 number of years but not less than thirty years;

46 (2) Has previously pleaded guilty to or has been found guilty of child molestation in the
47 first degree when classified as a class B felony or sexual abuse when classified as a class B
48 felony and pleads guilty to or is found guilty of attempting to commit or committing forcible
49 rape, statutory rape in the first degree, forcible sodomy or statutory sodomy in the first degree
50 shall be any number of years but not less than fifteen years;

51 (3) Has previously pleaded guilty to or has been found guilty of the felony of forcible
52 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the
53 first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found
54 guilty of child molestation in the first degree when classified as a class B felony or sexual abuse
55 when classified as a class B felony shall be any number of years but not less than fifteen years;

56 (4) Has previously pleaded guilty to or has been found guilty of child molestation in the
57 first degree when classified as a class B felony or sexual abuse when classified as a class B
58 felony, and pleads guilty to or is found guilty of child molestation in the first degree when
59 classified as a class B felony or sexual abuse when classified as a class B felony shall be any
60 number of years but not less than fifteen years;

61 (5) Is found to be a predatory sexual offender pursuant to subdivision (2) or (3) of
62 subsection 5 of this section shall be any number of years within the range to which the person
63 could have been sentenced pursuant to the applicable law if the person was not found to be a
64 predatory sexual offender.

65 8. Notwithstanding any provision of law to the contrary, the department of corrections,
66 or any division thereof, may not furlough an individual found to be and sentenced as a persistent
67 sexual offender or a predatory sexual offender.

559.100. 1. The circuit courts of this state shall have power, herein provided, to place
2 on probation or to parole persons convicted of any offense over which they have jurisdiction,
3 except as otherwise provided in sections 195.275 to 195.296, RSMo, section 558.018, RSMo,
4 section 565.020, RSMo, **sections 566.032, 566.062, and 566.212, RSMo**, section 571.015,
5 RSMo, and section 559.115.

6 2. The circuit court shall have the power to revoke the probation or parole previously
7 granted and commit the person to the department of corrections. The circuit court shall
8 determine any conditions of probation or parole for the defendant that it deems necessary to
9 ensure the successful completion of the probation or parole term, including the extension of any
10 term of supervision for any person while on probation or parole. The circuit court may require
11 that the defendant pay restitution for his crime. The probation or parole may be revoked for
12 failure to pay restitution or for failure to conform his behavior to the conditions imposed by the
13 circuit court. The circuit court may, in its discretion, credit any period of probation or parole as
14 time served on a sentence.

566.032. 1. A person commits the crime of statutory rape in the first degree if [he] **such person** has sexual intercourse with another person who is less than [fourteen] **thirteen** years old.

2. Statutory rape in the first degree is a felony [for] which [the authorized term of imprisonment is life imprisonment or] **shall be punished by** a term of [years] **imprisonment** not less than [five] **twenty-five** years, **which term shall be served without probation or parole**, unless in the course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner, **or** subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person[, or the victim is less than twelve years of age] in which case the [authorized] term of imprisonment [is life imprisonment or a term of years] **shall be** not less than [ten] **thirty-five** years, **which term shall be served without probation or parole**.

566.034. 1. A person commits the crime of statutory rape in the [second] **third** degree if being twenty-one years of age or older[, he] **such person** has sexual intercourse with another person who is less than seventeen years of age.

2. Statutory rape in the second degree is a class C felony.

566.035. 1. A person commits the crime of statutory rape in the second degree if such person has sexual intercourse with another person who is less than fifteen years old.

2. Statutory rape in the second degree is a class B felony.

566.062. 1. A person commits the crime of statutory sodomy in the first degree if [he] **such person** has deviate sexual intercourse with another person who is less than [fourteen] **thirteen** years old.

2. Statutory sodomy in the first degree is a felony [for] which [the authorized term of imprisonment is life imprisonment or] **shall be punished by** a term of [years] **imprisonment** not less than [five] **twenty-five** years, **which term shall be served without probation or parole**, unless in the course thereof the [actor] **offender** inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner, **or** subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person[, or the victim is less than twelve years of age,] in which case the [authorized] term of imprisonment [is life imprisonment or a term of years] **shall be** not less than [ten] **thirty-five** years **which term shall be served without probation or parole**.

566.063. 1. A person commits the crime of statutory sodomy in the second degree if such person has deviate sexual intercourse with another person who is less than fifteen years old.

2. Statutory sodomy in the second degree is a class B felony.

566.064. 1. A person commits the crime of statutory sodomy in the [second] **third** degree if being twenty-one years of age or older[, he] **such person** has deviate sexual intercourse with another person who is less than seventeen years of age.

2. Statutory sodomy in the [second] **third** degree is a class C felony.

566.083. 1. A person commits the crime of sexual misconduct involving a child if the person:

(1) Knowingly exposes his or her genitals to a child less than fourteen years of age under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm to the child;

(2) Knowingly exposes his or her genitals to a child less than fourteen years of age for the purpose of arousing or gratifying the sexual desire of any person, including the child; or

(3) Knowingly coerces or induces a child less than fourteen years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person, including the child.

2. [As used in this section, the term "sexual act" means any of the following, whether performed or engaged in either with any other person or alone: sexual or anal intercourse, masturbation, bestiality, sadism, masochism, fetishism, fellatio, cunnilingus, any other sexual activity or nudity, if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any individual who may view such depiction.

3. Violation of this section] **Sexual misconduct involving a child** is a class D felony unless the actor has previously pleaded guilty to or been [convicted] **found guilty** of an offense pursuant to this chapter or the actor has previously pleaded guilty to or has been [convicted] **found guilty** of an offense against the laws of another state or jurisdiction which would constitute an offense under this chapter, in which case it is a class C felony.

566.151. 1. A person [at least] twenty-one years of age or older commits the crime of enticement of a child if that person persuades, solicits, coaxes, entices, or lures whether by words, actions or through communication via the Internet or any electronic communication, [any person] **a child** who is less than fifteen years of age [for the purpose of engaging] **to engage** in sexual conduct [with a child].

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

3. [Attempting to entice a child is a class D felony.

4.] Enticement of a child is a class C felony unless the person has previously pled guilty to or been found guilty of violating the provisions of this section, section 568.045, 568.050, or 568.060, RSMo, or this chapter, in which case it is a class B felony.

566.212. 1. A person commits the crime of sexual trafficking of a child if the individual
2 knowingly:

3 (1) Recruits, entices, harbors, transports, provides, or obtains by any means a person
4 under the age of eighteen to participate in a commercial sex act or benefits, financially or by
5 receiving anything of value, from participation in such activities; or

6 (2) Causes a person under the age of eighteen to engage in a commercial sex act.

7 2. It shall not be an affirmative defense that the defendant believed that the person was
8 eighteen years of age or older.

9 3. [The crime of sexual] **Sexual** trafficking of a child is a [class A] felony [if the child
10 is under the age of eighteen] **which shall be punished by a term of imprisonment not less**
11 **than fifteen years, which term shall be served without probation or parole.**

566.250. Notwithstanding any other provision of law, any time a child under the
2 **age of seventeen is missing any law enforcement agency investigating the missing child**
3 **report and any law enforcement agency assisting that law enforcement agency in**
4 **investigating that missing child report shall have the right to search for the missing child**
5 **in the home or other property of a registered sexual offender whose home or property is**
6 **within a three mile radius from where the child was last seen or thought to have been.**

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