

SECOND REGULAR SESSION

HOUSE BILL NO. 1362

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOPER (158).

Read 1st time January 12, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4273L.01I

AN ACT

To repeal sections 559.100, 566.032, 566.034, 566.062, 566.064, 566.068, 566.083, 566.147, 568.060, and 589.400, RSMo, and to enact in lieu thereof fourteen new sections relating to sex offenders, with penalty provisions.

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

Section A. Sections 559.100, 566.032, 566.034, 566.062, 566.064, 566.068, 566.083, 566.147, 568.060, and 589.400, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 559.100, 566.032, 566.034, 566.036, 566.062, 566.064, 566.065, 566.068, 566.083, 566.147, 568.060, 573.024, 575.155, and 589.400, to read as follows:

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

2. The circuit court shall have the power to revoke the probation or parole previously granted and commit the person to the department of corrections. The circuit court shall determine any conditions of probation or parole for the defendant that it deems necessary to ensure the successful completion of the probation or parole term, including the extension of any term of supervision for any person while on probation or parole. The circuit court may require that the defendant pay restitution for his crime. The probation or parole may be revoked for

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.

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**
2 **person** has sexual intercourse with another person who is less than [fourteen] **thirteen** years old.

3 2. Statutory rape in the first degree is a felony for which the authorized term of
4 imprisonment is life imprisonment or a term of years not less than [five years, unless in the
5 course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon
6 or dangerous instrument in a threatening manner, subjects the victim to sexual intercourse or
7 deviate sexual intercourse with more than one person, or the victim is less than twelve years of
8 age in which case the authorized term of imprisonment is life imprisonment or a term of years
9 not less than ten] **twenty-five years, and followed by supervision by the board of probation**
10 **and parole for the duration of the offender's natural life.**

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

4 2. Statutory rape in the second degree is a [class C] felony **for which the authorized**
5 **term of imprisonment is life imprisonment or a term of years not less than ten years, unless**
6 **in the course thereof the actor inflicts serious physical injury on any person, displays a**
7 **deadly weapon or dangerous instrument in a threatening manner, or subjects the victim**
8 **to sexual intercourse or deviate sexual intercourse with more than one person, in which**
9 **case the authorized term of imprisonment is life imprisonment or a term of years not less**
10 **than fifteen years.**

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

4 2. Statutory rape in the third degree is a class C felony **unless the actor is a person**
5 **who is thirty years of age or older, in which case the crime is a class B felony.**

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

4 2. Statutory sodomy in the first degree is a felony for which the authorized term of
5 imprisonment is life imprisonment or a term of years not less than [five years, unless in the
6 course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon
7 or dangerous instrument in a threatening manner, subjects the victim to sexual intercourse or
8 deviate sexual intercourse with more than one person, or the victim is less than twelve years of

9 age, in which case the authorized term of imprisonment is life imprisonment or a term of years
10 not less than ten] **twenty-five years, and followed by supervision by the board of probation**
11 **and parole for the duration of the offender's natural life.**

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

5 2. Statutory sodomy in the second degree is a [class C] felony **for which the authorized**
6 **term of imprisonment is life imprisonment or a term of years not less than ten years, unless**
7 **in the course thereof the actor inflicts serious physical injury on any person, displays a**
8 **deadly weapon or dangerous instrument in a threatening manner, or subjects the victim**
9 **to sexual intercourse or deviate sexual intercourse with more than one person, in which**
10 **case the authorized term of imprisonment is life imprisonment or a term of years not less**
11 **than fifteen years.**

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

4 2. Statutory sodomy in the third degree is a class C felony unless the actor is a
5 **person who is thirty years of age or older, in which case the crime is a class B felony.**

566.068. 1. A person commits the crime of child molestation in the second degree if he
2 or she subjects another person who is less than seventeen years of age to sexual contact.

3 2. Child molestation in the second degree is a class [A misdemeanor] **D felony** unless
4 the actor has previously been convicted of an offense under this chapter or in the course thereof
5 the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous
6 instrument in a threatening manner, or the offense is committed as part of a ritual or ceremony,
7 in which case the crime is a class [D] **C felony.**

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

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

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

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

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

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

 566.147. 1. Any person who has pleaded guilty or nolo contendere to, or been convicted
2 of, or been found guilty of violating any of the provisions of this chapter or the provisions of
3 section 565.253, RSMo, invasion of privacy; subsection 2 of section 568.020, RSMo, incest;
4 section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of
5 section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo,
6 promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a
7 minor; section 573.025, RSMo, promoting child pornography in the first degree; section 573.035,
8 RSMo, promoting child pornography in the second degree; section 573.037, RSMo, possession
9 of child pornography, or section 573.040, RSMo, furnishing pornographic material to minors;
10 shall not establish residency within one thousand feet of any public school as defined in section
11 160.011, RSMo, or any private school giving instruction in a grade or grades not higher than the
12 twelfth grade, or child-care facility as defined in section 210.201, RSMo, which is in existence
13 at the time such residency is established, **or a community residential program, including but**
14 **not limited to group homes, individualized supported living arrangements, and residential**
15 **care facilities serving a person or persons with developmental disabilities that are licensed**
16 **or certified or funded by the department of mental health.**

17 2. If such person has already established a residence and a public school, a private
18 school, [or] a child-care facility, **or a community residential program, as described in**
19 **subsection 1 of this section**, is subsequently built or placed within one thousand feet of such
20 person's residence, then such person shall, within one week of the opening of such public school,
21 private school, [or] child-care facility, **or community residential program as described in**
22 **subsection 1 of this section**, notify the county sheriff where such public school, private school,
23 [or] child-care facility, **or community residential program as described in subsection 1 of**
24 **this section** is located that he or she is now residing within one thousand feet of such public
25 school, private school, [or] child-care facility, **or community residential program as described**
26 **in subsection 1 of this section**, and shall provide verifiable proof to the sheriff that he or she

27 resided there prior to the opening of such public school, private school, [or] child-care facility,
28 **or community residential program as described in subsection 1 of this section.**

29 3. Violation of the provisions of subsection 1 of this section is a class D felony except
30 that the second or any subsequent violation is a class B felony. Violation of the provisions of
31 subsection 2 of this section is a class A misdemeanor except that the second or subsequent
32 violation is a class D felony.

568.060. 1. A person commits the crime of abuse of a child if such person[:

2 (1)] knowingly inflicts cruel and inhuman punishment upon a child less than seventeen
3 years old[; or

4 (2) Photographs or films a child less than eighteen years old engaging in a prohibited
5 sexual act or in the simulation of such an act or who causes or knowingly permits a child to
6 engage in a prohibited sexual act or in the simulation of such an act for the purpose of
7 photographing or filming the act.

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

13 [3.] 2. Abuse of a child is a class C felony, unless:

14 (1) In the course thereof the person inflicts serious emotional injury on the child, or the
15 offense is committed as part of a ritual or ceremony in which case the crime is a class B felony;
16 or

17 (2) A child dies as a result of injuries sustained from conduct chargeable pursuant to the
18 provisions of this section, in which case the crime is a class A felony.

19 [4. As used in this section, the word "fetishism" means a condition in which erotic
20 feelings are excited by an object or body part whose presence is psychologically necessary for
21 sexual stimulation or gratification.]

573.024. 1. **If a person photographs or films a child less than seventeen years old
2 engaging in a prohibited sexual act or in the simulation of such an act or causes or
3 knowingly permits a child less than seventeen years old to engage in a prohibited sexual
4 act or in the simulation of such an act for the purpose of photographing or filming the act,
5 such person is guilty of a class C felony, unless the person photographs or films a child less
6 than fourteen years of age engaging in a prohibited sexual act or in the simulation of such
7 an act or causes or knowingly permits a child to engage in a prohibited sexual act for the
8 purpose of photographing or filming the act, in which case such person is guilty of a class
9 B felony.**

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

 575.155. Any person who has knowledge that a sexual predator is not complying,
2 or has not complied, with the requirements of sections 589.400 to 589.425, RSMo, and who
3 with the intent to assist the sexual predator in eluding a law enforcement agency that is
4 seeking to find the sexual predator to question the sexual predator about, or to arrest the
5 sexual predator for his or her noncompliance with the requirements of sections 589.400 to
6 589.425, RSMo:

7 (1) Withholds information from, or does not notify, the law enforcement agency
8 about the sexual predator's noncompliance with the requirements of sections 589.400 to
9 589.425, RSMo, and, if known, the whereabouts of the sexual predator;

10 (2) Harbors or attempts to harbor, or assists another person in harboring or
11 attempting to harbor, the sexual predator;

12 (3) Conceals or attempts to conceal, or assists another person in concealing or
13 attempting to conceal, the sexual predator; or

14 (4) Provides information to the law enforcement agency regarding the sexual
15 predator which the person knows to be false information;

16

17 shall be guilty of a class A misdemeanor.

 589.400. 1. Sections 589.400 to 589.425 shall apply to:

2 (1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found
3 guilty of, or pled guilty or nolo contendere to committing, or attempting to commit, a felony
4 offense of chapter 566, RSMo, or any offense of chapter 566, RSMo, where the victim is a
5 minor; or

6 (2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found
7 guilty of, or pled guilty or nolo contendere to committing, or attempting to commit one or more
8 of the following offenses: kidnapping, pursuant to section 565.110, RSMo; felonious restraint;
9 promoting prostitution in the first degree; promoting prostitution in the second degree; promoting
10 prostitution in the third degree; sexual exploitation of a minor; promoting child pornography in
11 the first degree; promoting child pornography in the second degree; possession of child
12 pornography; furnishing pornographic material to minors; public display of explicit sexual
13 material; coercing acceptance of obscene material; promoting obscenity in the first degree;
14 promoting pornography for minors or obscenity in the second degree; incest; [abuse of a child,

15 pursuant to section 568.060, RSMo;] use of a child in a sexual performance; or promoting sexual
16 performance by a child; and committed or attempted to commit the offense against a victim who
17 is a minor, defined for the purposes of sections 589.400 to 589.425 as a person under eighteen
18 years of age; or

19 (3) Any person who, since July 1, 1979, has been committed to the department of mental
20 health as a criminal sexual psychopath; or

21 (4) Any person who, since July 1, 1979, has been found not guilty as a result of mental
22 disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

23 (5) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter
24 convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, foreign
25 country, or under federal or military jurisdiction to committing, or attempting to commit, an
26 offense which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony
27 violation of any offense listed in subdivision (2) of this subsection or has been or is required to
28 register in another state or has been or is required to register under federal or military law; or

29 (6) Any person who has been or is required to register in another state or has been or is
30 required to register under federal or military law and who works or attends school or training on
31 a full-time or on a part-time basis in Missouri. "Part-time" in this subdivision means for more
32 than fourteen days in any twelve-month period.

33 2. Any person to whom sections 589.400 to 589.425 apply shall, within ten days of
34 conviction, release from incarceration, or placement upon probation, register with the chief law
35 enforcement official of the county in which such person resides unless such person has already
36 registered in that county for the same offense. Any person to whom sections 589.400 to 589.425
37 apply if not currently registered in their county of residence shall register with the chief law
38 enforcement official of such county within ten days of August 28, 2003. The chief law
39 enforcement official shall forward a copy of the registration form required by section 589.407
40 to a city, town, village, or campus law enforcement agency located within the county of the chief
41 law enforcement official, if so requested. Such request may ask the chief law enforcement
42 official to forward copies of all registration forms filed with such official. The chief law
43 enforcement official may forward a copy of such registration form to any city, town, village, or
44 campus law enforcement agency, if so requested.

45 3. The registration requirements of sections 589.400 through 589.425 are lifetime
46 registration requirements unless all offenses requiring registration are reversed, vacated or set
47 aside, **or the offender is exempt under subsection 4 of this section**, or unless the registrant is
48 pardoned of the offenses requiring registration.

49 4. **Any person to whom sections 589.400 to 589.425 apply who was under twenty-**
50 **one years of age at the time the crime was committed which caused such person to have to**

51 **register as a sex offender may file a petition in the circuit court in the county in which such**
52 **person was convicted for removal of such person's name from the sex offender registry if**
53 **at least ten years have elapsed since the date of the conviction which is the subject of the**
54 **petition. If the petition is denied, such person shall wait at least twelve months before**
55 **petitioning the court again. If the petition is granted, such person is exempt from the**
56 **requirements of sections 589.400 to 589.425 for the crime which is the subject of the**
57 **petition.**

58 5. For processing an initial sex offender registration the chief law enforcement officer
59 of the county may charge the offender registering a fee of up to ten dollars.

60 [5.] 6. For processing any change in registration required pursuant to section 589.414 the
61 chief law enforcement official of the county may charge the person changing their registration
62 a fee of five dollars for each change made after the initial registration.

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