

FIRST REGULAR SESSION

HOUSE BILL NO. 936

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WILDBERGER (Sponsor), WALSH, MORRIS, SALVA, ATKINS, PACE, HUMMEL, KRATKY, DUSENBERG, BROWN (30), BROWN (50), QUINN, TODD, SCHUPP, FALLERT, SCHOEMEHL, CALLOWAY, RUCKER, JONES (117), BRUNS AND FAITH (Co-sponsors).

1788L.01H

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 556.036, 556.037, 566.030, 566.034, 566.060, 566.064, 571.070, 595.209, 595.210, 595.212, and 650.055, RSMo, and to enact in lieu thereof fourteen new sections relating to the criminal justice system, with penalty provisions.

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

Section A. Sections 556.036, 556.037, 566.030, 566.034, 566.060, 566.064, 571.070, 595.209, 595.210, 595.212, and 650.055, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 191.220, 556.036, 556.037, 566.030, 566.034, 566.060, 566.064, 571.070, 589.025, 589.150, 595.209, 595.210, 595.212, and 650.055, to read as follows:

- 191.220. 1. This section shall be known and may be cited as "Christy's Law".**
- 2. The department of health and senior services shall require that appropriate medical providers involved in the forensic examination or medical treatment, as defined in section 191.225, of victims of sexual offenses inform such victims of their right to request a drug test for the presence of specific drugs used to facilitate a rape or sexual assault. After informing the victim of a sexual offense of his or her right to request such a drug test, the appropriate medical provider shall:**
- (1) Provide the victim with a release form to sign stating that the victim has been informed of the victim's right to request such a drug test; and**
- (2) If such a drug test is requested, to administer the test and include any results from the test with all other evidence and test results collected during the forensic**

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.

examination and shall be treated in the same manner as other evidence and test results so collected. The cost of such test or tests shall be considered as part of the forensic examination for which reimbursement may be sought under section 191.225.

3. As used in this section, "rape drug" means any drug described in Section 7(c) of the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000, P.L. 106-172, including but not limited to GHB (gamma-hydroxybutyrate), rohypnol, ketamine, and ecstasy.

4. The department may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

556.036. 1. A prosecution for murder, forcible rape, attempted forcible rape, forcible sodomy, attempted forcible sodomy, or any sexual offense for which DNA evidence of the perpetrator has been collected from the victim or the crime scene, or any class A felony may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

(1) For any felony, three years;

(2) For any misdemeanor, one year;

(3) For any infraction, six months.

3. If the period prescribed in subsection 2 of this section has expired, a prosecution may nevertheless be commenced for:

(1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation by more than three years. As used in this subdivision, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having jurisdiction pursuant to section 407.553, RSMo, for purposes of offenses committed pursuant to sections 407.511 to 407.556, RSMo; and

20 (2) Any offense based upon misconduct in office by a public officer or employee at any
21 time when the defendant is in public office or employment or within two years thereafter, but in
22 no case shall this provision extend the period of limitation by more than three years; and

23 (3) Any offense based upon an intentional and willful fraudulent claim of child support
24 arrearage to a public servant in the performance of his or her duties within one year after
25 discovery of the offense, but in no case shall this provision extend the period of limitation by
26 more than three years.

27 4. An offense is committed either when every element occurs, or, if a legislative purpose
28 to prohibit a continuing course of conduct plainly appears, at the time when the course of
29 conduct or the defendant's complicity therein is terminated. Time starts to run on the day after
30 the offense is committed.

31 5. A prosecution is commenced for a misdemeanor or infraction when the information
32 is filed and for a felony when the complaint or indictment is filed.

33 6. The period of limitation does not run:

34 (1) During any time when the accused is absent from the state, but in no case shall this
35 provision extend the period of limitation otherwise applicable by more than three years; or

36 (2) During any time when the accused is concealing himself from justice either within
37 or without this state; or

38 (3) During any time when a prosecution against the accused for the offense is pending
39 in this state; or

40 (4) During any time when the accused is found to lack mental fitness to proceed pursuant
41 to section 552.020, RSMo.

556.037. Notwithstanding the provisions of section 556.036, prosecutions for unlawful
2 sexual offenses involving a person eighteen years of age or under must be commenced within
3 twenty years after the victim reaches the age of eighteen unless the prosecutions are for forcible
4 rape, attempted forcible rape, forcible sodomy, kidnapping, [or] attempted forcible sodomy **or**
5 **any sexual offense for which DNA evidence of the perpetrator has been collected from the**
6 **victim or the crime scene**, in which case such prosecutions may be commenced at any time.

566.030. 1. A person commits the crime of forcible rape if such person has sexual
2 intercourse with another person by the use of forcible compulsion. Forcible compulsion
3 includes:

4 (1) The use of [a] **alcohol or other** substance administered without a victim's knowledge
5 or consent which renders the victim physically or mentally impaired so as to be incapable of
6 making an informed consent to sexual intercourse;

7 (2) **The use of fraud or deceit which tricks the victim into consenting to sexual**
8 **intercourse;**

9 **(3) The use of blackmail to force the victim to consent to sexual intercourse; or**

10 **(4) The use of a position of authority over a child less than eighteen years of age to**
11 **force the victim to consent to sexual intercourse, including but not limited to a teacher or**
12 **employer of a child less than eighteen years of age.**

13 2. Forcible rape or an attempt to commit forcible rape is a felony for which the
14 authorized term of imprisonment is life imprisonment or a term of years not less than five years,
15 unless:

16 (1) In the course thereof the actor inflicts serious physical injury or displays a deadly
17 weapon or dangerous instrument in a threatening manner or subjects the victim to sexual
18 intercourse or deviate sexual intercourse with more than one person, in which case the authorized
19 term of imprisonment is life imprisonment or a term of years not less than fifteen years; or

20 (2) The victim is a child less than twelve years of age, in which case the required term
21 of imprisonment is life imprisonment without eligibility for probation [or] , parole [until the
22 defendant has served not less than thirty years of such sentence or unless the defendant has
23 reached the age of seventy-five years and has served at least fifteen years of such sentence] , **or**
24 **conditional release.** Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of
25 a person who has pleaded guilty to or has been found guilty of forcible rape when the victim is
26 under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of
27 a person's natural life for the purposes of this section.

28 3. No person found guilty of or pleading guilty to forcible rape or an attempt to commit
29 forcible rape shall be granted a suspended imposition of sentence or suspended execution of
30 sentence.

 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] **at least three years older than the victim, [he] such person**
3 has sexual intercourse with another person who is less than seventeen years of age.

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

 566.060. 1. A person commits the crime of forcible sodomy if such person has deviate
2 sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion
3 includes:

4 **(1) The use of [a] alcohol or other** substance administered without a victim's knowledge
5 or consent which renders the victim physically or mentally impaired so as to be incapable of
6 making an informed consent to **deviate** sexual intercourse;

7 **(2) The use of fraud or deceit which tricks the victim into consenting to deviate**
8 **sexual intercourse;**

9 **(3) The use of blackmail to force the victim to consent to deviate sexual intercourse;**
10 **or**

11 **(4) The use of a position of authority over a child less than eighteen years of age to**
12 **force the victim to consent to deviate sexual intercourse, including but not limited to a**
13 **teacher or employer of a child less than eighteen years of age.**

14 2. Forcible sodomy or an attempt to commit forcible sodomy is a felony for which the
15 authorized term of imprisonment is life imprisonment or a term of years not less than five years,
16 unless:

17 (1) In the course thereof the actor inflicts serious physical injury or displays a deadly
18 weapon or dangerous instrument in a threatening manner or subjects the victim to sexual
19 intercourse or deviate sexual intercourse with more than one person, in which case the authorized
20 term of imprisonment is life imprisonment or a term of years not less than ten years; or

21 (2) The victim is a child less than twelve years of age, in which case the required term
22 of imprisonment is life imprisonment without eligibility for probation [or] , parole [until the
23 defendant has served not less than thirty years of such sentence or unless the defendant has
24 reached the age of seventy-five years and has served at least fifteen years of such sentence] , **or**
25 **conditional release.** Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of
26 a person who has pleaded guilty to or has been found guilty of forcible sodomy when the victim
27 is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of
28 a person's natural life for the purposes of this section.

29 3. No person found guilty of or pleading guilty to forcible sodomy or an attempt to
30 commit forcible sodomy shall be granted a suspended imposition of sentence or suspended
31 execution of sentence.

 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] **at least three years older than the victim, [he] such**
3 **person** has deviate sexual intercourse with another person who is less than seventeen years of
4 age.

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

 571.070. 1. A person commits the crime of unlawful possession of a firearm if such
2 person knowingly has any firearm in his or her possession and:

3 (1) Such person has been convicted of a felony under the laws of this state, or of a crime
4 under the laws of any state or of the United States which, if committed within this state, would
5 be a felony; [or]

6 (2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged
7 condition, or is currently adjudged mentally incompetent;

8 **(3) Such person is subject to a court order that:**

9 **(a) Was issued after a hearing of which such person received actual notice, and at**
10 **which such person had an opportunity to participate;**

11 (b) Restrains such person from harassing, stalking, or threatening a family or
12 household member of such person or a child of such family or household member or
13 person, or engaging in other conduct that would place a family or household member in
14 reasonable fear of bodily injury to the family or household member or child; and

15 (c) Includes a finding that such person represents a credible threat to the physical
16 safety of such family or household member or a child; or by its terms explicitly prohibits
17 the use, attempted use, or threatened use of physical force against such family or household
18 member or child that would reasonably be expected to cause bodily injury; or

19 (4) Such person has been found guilty of or pleaded guilty to a misdemeanor crime
20 of domestic assault in a court of competent jurisdiction.

21 2. For the purposes of this section, the term "family" or "household member" shall
22 be defined as such term is defined in section 455.010, RSMo.

23 3. Unlawful possession of a firearm is a class C felony.

589.025. 1. As used in this section "institutions of higher education", shall include
2 all universities, colleges, junior colleges, and teacher colleges.

3 2. All institutions of higher education in this state shall:

4 (1) Develop sexual assault policies which:

5 (a) Are reader-friendly, widely distributed, and easily accessible to students,
6 faculty, and staff;

7 (b) Clearly define all forms of sexual assault;

8 (c) Develop procedures for victims of sexual assaults to follow and for persons who
9 become aware of a victim of sexual assault to follow;

10 (d) Include school sanctions for violation of sexual misconduct; and

11 (e) Allow victims, or persons who become aware of victims, to report an incident
12 confidentially or anonymously;

13 (2) Develop a rape education office which shall:

14 (a) House and provide resources and education regarding sexual violence;

15 (b) Develop an educational program which discusses the prevalence of nonstranger
16 sexual assault and informs students what to do if they are being stalked;

17 (c) Develop educational programs which include information on rape myths,
18 common circumstances under which a sexual assault may occur, rapist characteristics,
19 prevention strategies, trauma response, the healing process, and campus and community
20 resources for victims;

21 (d) Identify an individual who is available or an office which is open twenty-four
22 hours a day, seven days a week, which a victim may contact whenever a sexual assault
23 occurs;

24 (e) Strongly encourage victims to report any sexual assault incident to campus
25 authorities and to the local law enforcement agency; and

26 (3) Provide an official statement which:

27 (a) Strictly protects an individual from retaliation for reporting a sexual assault,
28 and clearly outlines the disciplinary procedures associated with a retaliatory act; and

29 (b) Informs the victim of the separate actions available to them, including but not
30 limited to reporting, investigation, administrative action, campus adjudication, and
31 criminal proceedings.

589.150. Any law enforcement officer investigating a sexual offense shall:

2 (1) Request that the victim of such offense consent to undergo a forensic
3 examination;

4 (2) Inform the victim that there will be no cost to the victim for such examination
5 under the provisions of section 191.225, RSMo;

6 (3) If such consent is given, assist the victim in locating an appropriate medical
7 provider as defined in section 191.225, RSMo, and as soon as reasonably possible,
8 transport the victim, if necessary to such medical provider for examination;

9 (4) Inform the victim of their right to request a drug test for the presence of specific
10 drugs used to facilitate a rape or sexual assault under the provisions of section 191.220,
11 RSMo; and

12 (5) Collect and preserve or cause to be collected and preserved any DNA evidence
13 which might identify or exclude a person as the perpetrator of the sexual offense.

595.209. 1. The following rights shall automatically be afforded to **victims of sexually**
2 **violent offenses as defined in section 632.480, RSMo**, victims of dangerous felonies, as defined
3 in section 556.061, RSMo, victims of murder in the first degree, as defined in section 565.020,
4 RSMo, victims of voluntary manslaughter, as defined in section 565.023, RSMo, and victims
5 of an attempt to commit one of the preceding crimes, as defined in section 564.011, RSMo; and,
6 upon written request, the following rights shall be afforded to victims of all other crimes and
7 witnesses of crimes:

8 (1) **For victims, the right to be treated with dignity, fairness, respect, and**
9 **compassion, and the right to be informed about their rights and the services available to**
10 **them;**

11 (2) For victims, the right to be present at all criminal justice proceedings at which the
12 defendant has such right, including juvenile proceedings where the offense would have been a
13 felony if committed by an adult, even if the victim is called to testify or may be called to testify
14 as a witness in the case;

15 [(2)] (3) For victims, the right to information about the crime, as provided for in
16 subdivision (5) of this subsection;

17 [(3)] (4) For victims and witnesses, to be informed, in a timely manner, by the
18 prosecutor's office of the filing of charges, preliminary hearing dates, trial dates, continuances
19 and the final disposition of the case. Final disposition information shall be provided within five
20 days;

21 [(4)] (5) For victims, the right to confer with **probation and parole officers** and to
22 **confer with and** be informed by the prosecutor regarding bail hearings, guilty pleas, pleas under
23 chapter 552, RSMo, or its successors, hearings, sentencing and probation revocation hearings
24 and the right to be heard at such hearings, including juvenile proceedings, unless in the
25 determination of the court the interests of justice require otherwise;

26 [(5)] (6) The right to be informed by local law enforcement agencies, the appropriate
27 juvenile authorities or the custodial authority of the following:

28 (a) The status of any case concerning a crime against the victim, including juvenile
29 offenses;

30 (b) The right to be informed by local law enforcement agencies or the appropriate
31 juvenile authorities of the availability of victim compensation assistance, assistance in obtaining
32 documentation of the victim's losses, including, but not limited to and subject to existing law
33 concerning protected information or closed records, access to copies of complete, unaltered,
34 unedited investigation reports of motor vehicle, pedestrian, and other similar accidents upon
35 request to the appropriate law enforcement agency by the victim or the victim's representative,
36 and emergency crisis intervention services available in the community;

37 (c) Any release of such person on bond or for any other reason;

38 (d) Within twenty-four hours, any escape by such person from a municipal detention
39 facility, county jail, a correctional facility operated by the department of corrections, mental
40 health facility, or the division of youth services or any agency thereof, and any subsequent
41 recapture of such person;

42 [(6)] (7) For victims, the right to be informed by appropriate juvenile authorities of
43 probation revocation hearings initiated by the juvenile authority and the right to be heard at such
44 hearings or to offer a written statement, video or audio tape, or a statement by counsel or a
45 representative designated by the victim on behalf of the victim in lieu of a personal appearance,
46 the right to be informed by the board of probation and parole of probation revocation hearings
47 initiated by the board and of parole hearings, the right to be present at each and every phase of
48 parole hearings, the right to be heard at probation revocation and parole hearings or to offer a
49 written statement, video or audio tape in lieu of a personal appearance, and the right to have,
50 upon written request of the victim, a partition set up in the probation or parole hearing room in

51 such a way that the victim is shielded from the view of the probationer or parolee, and the right
52 to be informed by the custodial mental health facility or agency thereof of any hearings for the
53 release of a person committed pursuant to the provisions of chapter 552, RSMo, the right to be
54 present at such hearings, the right to be heard at such hearings or to offer a written statement,
55 video or audio tape, or a statement by counsel or a representative designated by the victim in lieu
56 of personal appearance;

57 [(7)] (8) For victims and witnesses, upon their written request, the right to be informed
58 by the appropriate custodial authority, including any municipal detention facility, juvenile
59 detention facility, county jail, correctional facility operated by the department of corrections,
60 mental health facility, division of youth services or agency thereof if the offense would have been
61 a felony if committed by an adult, postconviction or commitment pursuant to the provisions of
62 chapter 552, RSMo, of the following:

63 (a) The projected date of such person's release from confinement;

64 (b) Any release of such person on bond;

65 (c) Any release of such person on furlough, work release, trial release, electronic
66 monitoring program, or to a community correctional facility or program or release for any other
67 reason, in advance of such release;

68 (d) Any scheduled parole or release hearings, including hearings under section 217.362,
69 RSMo, regarding such person and any changes in the scheduling of such hearings. No such
70 hearing shall be conducted without thirty days' advance notice;

71 (e) Within twenty-four hours, any escape by such person from a municipal detention
72 facility, county jail, a correctional facility operated by the department of corrections, mental
73 health facility, or the division of youth services or any agency thereof, and any subsequent
74 recapture of such person;

75 (f) Any decision by a parole board, by a juvenile releasing authority or by a circuit court
76 presiding over releases pursuant to the provisions of chapter 552, RSMo, or by a circuit court
77 presiding over releases under section 217.362, RSMo, to release such person or any decision by
78 the governor to commute the sentence of such person or pardon such person;

79 (g) Notification within thirty days of the death of such person;

80 [(8)] (9) For witnesses who have been summoned by the prosecuting attorney and for
81 victims, to be notified by the prosecuting attorney in a timely manner when a court proceeding
82 will not go on as scheduled;

83 [(9)] (10) For victims and witnesses, the right to reasonable protection from the
84 defendant or any person acting on behalf of the defendant from harm and threats of harm arising
85 out of their cooperation with law enforcement and prosecution efforts;

86 [(10)] **(11)** For victims and witnesses, on charged cases or submitted cases where no
87 charge decision has yet been made, to be informed by the prosecuting attorney of the status of
88 the case and of the availability of victim compensation assistance and of financial assistance and
89 emergency and crisis intervention services available within the community and information
90 relative to applying for such assistance or services, and of any final decision by the prosecuting
91 attorney not to file charges;

92 [(11)] **(12)** For victims, to be informed by the prosecuting attorney of the right to
93 restitution which shall be enforceable in the same manner as any other cause of action as
94 otherwise provided by law;

95 [(12)] **(13)** For victims and witnesses, to be informed by the court and the prosecuting
96 attorney of procedures to be followed in order to apply for and receive any witness fee to which
97 they are entitled;

98 [(13)] **(14)** When a victim's property is no longer needed for evidentiary reasons or needs
99 to be retained pending an appeal, the prosecuting attorney or any law enforcement agency having
100 possession of the property shall, upon request of the victim, return such property to the victim
101 within five working days unless the property is contraband or subject to forfeiture proceedings,
102 or provide written explanation of the reason why such property shall not be returned;

103 [(14)] **(15)** An employer may not discharge or discipline any witness, victim or member
104 of a victim's immediate family for honoring a subpoena to testify in a criminal proceeding,
105 attending a criminal proceeding, or for participating in the preparation of a criminal proceeding,
106 or require any witness, victim, or member of a victim's immediate family to use vacation time,
107 personal time, or sick leave for honoring a subpoena to testify in a criminal proceeding, attending
108 a criminal proceeding, or participating in the preparation of a criminal proceeding;

109 [(15)] **(16)** For victims, to be provided with creditor intercession services by the
110 prosecuting attorney if the victim is unable, as a result of the crime, temporarily to meet financial
111 obligations;

112 [(16)] **(17)** For victims and witnesses, the right to speedy disposition of their cases, and
113 for victims, the right to speedy appellate review of their cases, provided that nothing in this
114 subdivision shall prevent the defendant from having sufficient time to prepare such defendant's
115 defense. The attorney general shall provide victims, upon their written request, case status
116 information throughout the appellate process of their cases. The provisions of this subdivision
117 shall apply only to proceedings involving the particular case to which the person is a victim or
118 witness;

119 [(17)] **(18)** For victims and witnesses, to be provided by the court, a secure waiting area
120 during court proceedings and to receive notification of the date, time and location of any hearing

121 conducted by the court for reconsideration of any sentence imposed, modification of such
122 sentence or recall and release of any defendant from incarceration.

123 2. The provisions of subsection 1 of this section shall not be construed to imply any
124 victim who is incarcerated by the department of corrections or any local law enforcement agency
125 has a right to be released to attend any hearing or that the department of corrections or the local
126 law enforcement agency has any duty to transport such incarcerated victim to any hearing.

127 3. Those persons entitled to notice of events pursuant to the provisions of subsection 1
128 of this section shall provide the appropriate person or agency with their current addresses and
129 telephone numbers or the addresses or telephone numbers at which they wish notification to be
130 given.

131 4. Notification by the appropriate person or agency utilizing the statewide automated
132 crime victim notification system as established in section 650.310, RSMo, shall constitute
133 compliance with the victim notification requirement of this section. If notification utilizing the
134 statewide automated crime victim notification system cannot be used, then written notification
135 shall be sent by certified mail to the most current address provided by the victim.

136 5. Victims' rights as established in section 32 of article I of the Missouri Constitution or
137 the laws of this state pertaining to the rights of victims of crime shall be granted and enforced
138 regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor
139 of the defendant to exclude victims or prevent their full participation in each and every phase of
140 parole hearings or probation revocation hearings. The rights of the victims granted in this section
141 are absolute and the policy of this state is that the victim's rights are paramount to the defendant's
142 rights. The victim has an absolute right to be present at any hearing in which the defendant is
143 present before a probation and parole hearing officer.

595.210. 1. Any victim of a sexually violent offense, as defined in section 632.480,
2 RSMo, shall have the right to testify at any parole hearing scheduled for the sexually violent
3 predator, as defined in section 632.480, RSMo, who victimized such person, provided that the
4 sexually violent predator is being considered for parole from imprisonment for a crime which
5 arose out of such sexually violent predator's escape or attempted escape from commitment as a
6 sexually violent predator under chapter 632, RSMo. Such crimes shall not be limited to the
7 crimes of escape or attempted escape, but shall include any crime which was committed during
8 the course of the sexually violent predator's escape or attempted escape from commitment as a
9 sexually violent predator.

10 2. Any victim of a sexually violent offense, as defined in section 632.480, RSMo,
11 shall have the right to the services of a court advocate. Such advocate shall not make any
12 reports to the court, but shall serve as a support mechanism for the victim as he or she goes
13 through the court process, including but not limited to accompanying the victim to the

14 **hospital or other appropriate medical provider for forensic examination, drug testing, and**
15 **medical treatment, and providing the victim with information about the legal proceedings**
16 **involved.**

595.212. 1. Each prosecuting attorney shall create and maintain, but not be limited to,
2 a program to afford victims and witnesses of crimes the rights and services described in sections
3 595.200 to 595.215, **including the right of victims of sexually violent offenses to a court**
4 **advocate under section 595.210.**

5 2. State funding shall be only for rights and services actually afforded victims and
6 witnesses of crimes as set forth in sections 595.200 to 595.215. State and local government
7 agencies which seek state funding shall have an operating victims' services program before said
8 agency seeks state funding. The attorney general's office through the Missouri office of
9 prosecution services utilizing existing staff and volunteers shall approve agency programs before
10 such agency seeks state funding. Said approved programs shall be funded by the general
11 assembly within the limits of funds appropriated for such purposes.

650.055. 1. Every individual, in a Missouri circuit court, who pleads guilty to or is
2 found guilty of a felony or any offense under chapter 566, RSMo, or has been determined beyond
3 a reasonable doubt to be a sexually violent predator pursuant to sections 632.480 to 632.513,
4 RSMo, shall have a blood or scientifically accepted biological sample collected for purposes of
5 DNA profiling analysis:

6 (1) Upon entering or before release from the department of corrections reception and
7 diagnostic centers; or

8 (2) Upon entering or before release from a county jail or detention facility, state
9 correctional facility, or any other detention facility or institution, whether operated by private,
10 local, or state agency, or any mental health facility if committed as a sexually violent predator
11 pursuant to sections 632.480 to 632.513, RSMo; or

12 (3) When the state accepts a person from another state under any interstate compact, or
13 under any other reciprocal agreement with any county, state, or federal agency, or any other
14 provision of law, whether or not the person is confined or released, the acceptance is conditional
15 on the person providing a DNA sample if the person was convicted of, pleaded guilty to, or
16 pleaded nolo contendere to an offense in any other jurisdiction which would be considered a
17 qualifying offense as defined in this section if committed in this state, or if the person was
18 convicted of, pleaded guilty to, or pleaded nolo contendere to any equivalent offense in any other
19 jurisdiction; or

20 (4) If such individual is under the jurisdiction of the department of corrections. Such
21 jurisdiction includes persons currently incarcerated, persons on probation, as defined in section
22 217.650, RSMo, and on parole, as also defined in section 217.650, RSMo.

23 2. The Missouri state highway patrol and department of corrections shall be responsible
24 for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to
25 this section shall be required to provide such sample, without the right of refusal, at a collection
26 site designated by the Missouri state highway patrol and the department of corrections.
27 Authorized personnel collecting or assisting in the collection of samples shall not be liable in any
28 civil or criminal action when the act is performed in a reasonable manner. Such force may be
29 used as necessary to the effectual carrying out and application of such processes and operations.
30 The enforcement of these provisions by the authorities in charge of state correctional institutions
31 and others having custody or jurisdiction over those who have been convicted of, pleaded guilty
32 to, or pleaded nolo contendere to felony offenses which shall not be set aside or reversed is
33 hereby made mandatory. The board of probation or parole shall recommend that an individual
34 who refuses to provide a DNA sample have his or her probation or parole revoked. In the event
35 that a person's DNA sample is not adequate for any reason, the person shall provide another
36 sample for analysis.

37 3. The procedure and rules for the collection, analysis, storage, expungement, use of
38 DNA database records and privacy concerns shall not conflict with procedures and rules
39 applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA
40 databank system.

41 4. Unauthorized uses or dissemination of individually identifiable DNA information in
42 a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

43 5. Implementation of sections 650.050 to 650.100 shall be subject to future
44 appropriations to keep Missouri's DNA system compatible with the Federal Bureau of
45 Investigation's DNA databank system.

46 6. All DNA records and biological materials retained in the DNA profiling system are
47 considered closed records pursuant to chapter 610, RSMo. All records containing any
48 information held or maintained by any person or by any agency, department, or political
49 subdivision of the state concerning an individual's DNA profile shall be strictly confidential and
50 shall not be disclosed, except to:

51 (1) Peace officers, as defined in section 590.010, RSMo, and other employees of law
52 enforcement agencies who need to obtain such records to perform their public duties;

53 (2) The attorney general or any assistant attorneys general acting on his or her behalf, as
54 defined in chapter 27, RSMo;

55 (3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, and their
56 employees who need to obtain such records to perform their public duties; or

57 (4) Associate circuit judges, circuit judges, judges of the courts of appeals, supreme court
58 judges, and their employees who need to obtain such records to perform their public duties.

59 7. Any person who obtains records pursuant to the provisions of this section shall use
60 such records only for investigative and prosecutorial purposes, including but not limited to use
61 at any criminal trial, hearing, or proceeding; or for law enforcement identification purposes,
62 including identification of human remains. Such records shall be considered strictly confidential
63 and shall only be released as authorized by this section.

64 8. An individual may request expungement of his or her DNA sample and DNA profile
65 through the court issuing the reversal or dismissal. A certified copy of the court order
66 establishing that such conviction has been reversed or guilty plea or plea of nolo contendere has
67 been set aside shall be sent to the Missouri state highway patrol crime laboratory. Upon receipt
68 of the court order, the laboratory will determine that the requesting individual has no other
69 qualifying offense as a result of any separate plea or conviction prior to expungement.

70 (1) A person whose DNA record or DNA profile has been included in the state DNA
71 database in accordance with this section, section 488.5050, RSMo, and sections 650.050,
72 650.052, and 650.100 may request expungement on the grounds that the conviction has been
73 reversed, or the guilty plea or plea of nolo contendere on which the authority for including that
74 person's DNA record or DNA profile was based has been set aside.

75 (2) Upon receipt of a written request for expungement, a certified copy of the final court
76 order reversing the conviction or setting aside the plea and any other information necessary to
77 ascertain the validity of the request, the Missouri state highway patrol crime laboratory shall
78 expunge all DNA records and identifiable information in the database pertaining to the person
79 and destroy the DNA sample of the person, unless the Missouri state highway patrol determines
80 that the person is otherwise obligated to submit a DNA sample. Within thirty days after the
81 receipt of the court order, the Missouri state highway patrol shall notify the individual that it has
82 expunged his or her DNA sample and DNA profile, or the basis for its determination that the
83 person is otherwise obligated to submit a DNA sample.

84 (3) The Missouri state highway patrol is not required to destroy any item of physical
85 evidence obtained from a DNA sample if evidence relating to another person would thereby be
86 destroyed.

87 (4) Any identification, warrant, arrest, or evidentiary use of a DNA match derived from
88 the database shall not be excluded or suppressed from evidence, nor shall any conviction be
89 invalidated or reversed or plea set aside due to the failure to expunge or a delay in expunging
90 DNA records.

91 **9. Any DNA collected under the provisions of this section shall be submitted for**
92 **inclusion in the federal Combined DNA Index System (CODIS).**

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