

SECOND REGULAR SESSION

HOUSE BILL NO. 1741

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ENGLER.

4139H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 632.480, 632.483, and 632.484, RSMo, and to enact in lieu thereof three new sections relating to sexually violent predators, with penalty provisions.

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

Section A. Sections 632.480, 632.483, and 632.484, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 632.480, 632.483, and 632.484, to read as follows:

632.480. As used in sections 632.480 to 632.513, the following terms mean:

(1) "Agency with jurisdiction", the department of corrections or the department of mental health;

(2) "Mental abnormality", a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to commit sexually violent offenses in a degree constituting such person a menace to the health and safety of others;

(3) "Predatory", acts directed towards individuals, including family members, for the primary purpose of victimization;

(4) "Sexually violent offense", the felonies of rape in the first degree, forcible rape, rape, statutory rape in the first degree, sodomy in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes, or child molestation in the first or second degree, sexual abuse, sexual abuse in the first degree, rape in the second degree, sexual assault, sexual assault in the first degree, sodomy in the second degree, deviate sexual assault, deviate sexual assault in the first degree, or the act of abuse of a child involving either sexual contact, a prohibited sexual act, sexual abuse, or sexual exploitation of

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.

16 a minor, or any felony offense that contains elements substantially similar to the offenses listed
17 above;

18 (5) "Sexually violent predator", any person who suffers from a mental abnormality which
19 makes the person more likely than not to engage in predatory acts of sexual violence if not
20 confined in a secure facility and who:

21 (a) Has pled guilty or been found guilty **in this state or any other jurisdiction**, or been
22 found not guilty by reason of mental disease or defect pursuant to section 552.030, of a sexually
23 violent offense; or

24 (b) Has been committed as a criminal sexual psychopath pursuant to section 632.475 and
25 statutes in effect before August 13, 1980.

632.483. 1. When it appears that a person may meet the criteria of a sexually violent
2 predator, the agency with jurisdiction shall give written notice of such to the attorney general and
3 the multidisciplinary team established in subsection 4 of this section. Written notice shall be
4 given:

5 (1) Within three hundred sixty days prior to the anticipated release from a correctional
6 center of the department of corrections of a person who has been convicted of a sexually violent
7 offense, except that in the case of persons who are returned to prison for no more than one
8 hundred eighty days as a result of revocation of postrelease supervision, written notice shall be
9 given as soon as practicable following the person's readmission to prison;

10 (2) At any time prior to the release of a person who has been found not guilty by reason
11 of mental disease or defect of a sexually violent offense; or

12 (3) At any time prior to the release of a person who was committed as a criminal sexual
13 psychopath pursuant to section 632.475 and statutes in effect before August 13, 1980.

14 2. The agency with jurisdiction shall provide the attorney general and the
15 multidisciplinary team established in subsection 4 of this section with the following:

16 (1) The person's name, identifying factors, anticipated future residence and offense
17 history;

18 (2) Documentation of institutional adjustment and any treatment received or refused,
19 including the Missouri sexual offender program; and

20 (3) A determination by either a psychiatrist or a psychologist as defined in section
21 632.005 as to whether the person meets the definition of a sexually violent predator.

22 3. The agency with jurisdiction, its employees, officials, members of the
23 multidisciplinary team established in subsection 4 of this section, members of the prosecutor's
24 review committee appointed as provided in subsection 5 of this section and individuals
25 contracting or appointed to perform services hereunder shall be immune from liability for any

26 conduct performed in good faith and without gross negligence pursuant to the provisions of
27 sections 632.480 to 632.513.

28 4. The director of the department of mental health and the director of the department of
29 corrections shall establish a multidisciplinary team consisting of no more than seven members,
30 at least one from the department of corrections and the department of mental health, and which
31 may include individuals from other state agencies to review available records of each person
32 referred to such team pursuant to subsection 1 of this section. The team, within thirty days of
33 receiving notice, shall assess whether or not the person meets the definition of a sexually violent
34 predator. The team shall notify the attorney general of its assessment.

35 5. The prosecutors coordinators training council established pursuant to section 56.760
36 shall appoint a five-member prosecutors' review committee composed of a cross section of
37 county prosecutors from urban and rural counties. No more than three shall be from urban
38 counties, and one member shall be the prosecuting attorney of the county in which the person
39 was convicted or committed pursuant to chapter 552, **if the conviction was in this state**. The
40 committee shall review the records of each person referred to the attorney general pursuant to
41 subsection 1 of this section. The prosecutors' review committee shall make a determination of
42 whether or not the person meets the definition of a sexually violent predator. The determination
43 of the prosecutors' review committee or any member pursuant to this section or section 632.484
44 shall not be admissible evidence in any proceeding to prove whether or not the person is a
45 sexually violent predator. The assessment of the multidisciplinary team shall be made available
46 to the attorney general and the prosecutors' review committee.

632.484. 1. When the attorney general receives written notice from any law enforcement
2 agency that a person, who has pled guilty to or been convicted of a sexually violent offense and
3 who is not presently in the physical custody of an agency with jurisdiction has committed a
4 recent overt act, the attorney general may file a petition for detention and evaluation with the
5 probate division of the court in which the person was convicted, or committed pursuant to
6 chapter 552, alleging the respondent may meet the definition of a sexually violent predator and
7 should be detained for evaluation for a period of up to nine days. **If the person was convicted**
8 **in another jurisdiction, the attorney general may file the petition for detention and**
9 **evaluation with the probate division of the court in the county where the overt act was**
10 **committed**. The written notice shall include the previous conviction record of the person, a
11 description of the recent overt act, if applicable, and any other evidence which tends to show the
12 person to be a sexually violent predator. The attorney general shall provide notice of the petition
13 to the prosecuting attorney of the county where the petition was filed.

14 2. Upon a determination by the court that the person may meet the definition of a
15 sexually violent predator, the court shall order the detention and transport of such person to a

16 secure facility to be determined by the department of mental health. The attorney general shall
17 immediately give written notice of such to the department of mental health.

18 3. Upon receiving physical custody of the person and written notice pursuant to
19 subsection 2 of this section, the department of mental health shall, through either a psychiatrist
20 or psychologist as defined in section 632.005, make a determination whether or not the person
21 meets the definition of a sexually violent predator. The department of mental health shall, within
22 seven days of receiving physical custody of the person, provide the attorney general with a
23 written report of the results of its investigation and evaluation. The attorney general shall
24 provide any available records of the person that are retained by the department of corrections to
25 the department of mental health for the purposes of this section. If the department of mental
26 health is unable to make a determination within seven days, the attorney general may request an
27 additional detention of ninety-six hours from the court for good cause shown.

28 4. If the department determines that the person may meet the definition of a sexually
29 violent predator, the attorney general shall provide the results of the investigation and evaluation
30 to the prosecutors' review committee. The prosecutors' review committee shall, by majority vote,
31 determine whether or not the person meets the definition of a sexually violent predator within
32 twenty-four hours of written notice from the attorney general's office. If the prosecutors' review
33 committee determines that the person meets the definition of a sexually violent predator, the
34 prosecutors' review committee shall provide written notice to the attorney general of its
35 determination. The attorney general may file a petition pursuant to section 632.486 within
36 forty-eight hours after obtaining the results from the department.

37 5. For the purposes of this section "recent overt act" means any act that creates a
38 reasonable apprehension of harm of a sexually violent nature.

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