

SECOND REGULAR SESSION

HOUSE BILL NO. 2633

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE INGLE.

3524H.03I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 566.010, 566.115, and 566.116, RSMo, and to enact in lieu thereof three new sections relating to sexual offenses, with penalty provisions.

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

Section A. Sections 566.010, 566.115, and 566.116, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 566.010, 566.115, and 566.116, to read as follows:

566.010. As used in this chapter and chapter 568, the following terms mean:

(1) "Aggravated sexual offense", any sexual offense, in the course of which, the actor:

(a) Inflicts serious physical injury on the victim;

(b) Displays a deadly weapon or dangerous instrument in a threatening manner;

(c) Subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person;

(d) Had previously been found guilty of an offense under this chapter or under section 573.200, child used in sexual performance; section 573.205, promoting sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography; or section 573.040, furnishing pornographic materials to minors; or has previously been found guilty of an offense in another jurisdiction which would constitute an offense under this chapter or said sections;

(e) Commits the offense as part of an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity; or

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 (f) Engages in the act that constitutes the offense with a person the actor knows to be,
17 without regard to legitimacy, the actor's:

- 18 a. Ancestor or descendant by blood or adoption;
- 19 b. Stepchild while the marriage creating that relationship exists;
- 20 c. Brother or sister of the whole or half blood; or
- 21 d. Uncle, aunt, nephew, or niece of the whole blood;

22 (2) "Commercial sex act", any sex act on account of which anything of value is given
23 to or received by any person;

24 (3) "Deviate sexual intercourse", any act involving the genitals of one person and the
25 hand, mouth, tongue, or anus of another person or a sexual act involving the penetration,
26 however slight, of the penis, female genitalia, or the anus by a finger, instrument or object done
27 for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of
28 terrorizing the victim;

29 (4) "Forced labor", a condition of servitude induced by means of:

30 (a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that,
31 if the person does not enter into or continue the servitude, such person or another person will
32 suffer substantial bodily harm or physical restraint; or

33 (b) The abuse or threatened abuse of the legal process;

34 (5) **"Mental health treatment", any effort to accomplish a significant change in**
35 **the mental or emotional conditions or the behavior of the patient consistent with generally**
36 **recognized principles or standards in the mental health professions;**

37 (6) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;

38 [~~6~~] (7) "Sexual contact", any touching of another person with the genitals or any
39 touching of the genitals or anus of another person, or the breast of a female person, or such
40 touching through the clothing, for the purpose of arousing or gratifying the sexual desire of any
41 person or for the purpose of terrorizing the victim;

42 [~~7~~] (8) "Sexual intercourse", any penetration, however slight, of the female genitalia
43 by the penis.

566.115. 1. A person commits the offense of sexual conduct with a nursing facility
2 resident [~~or~~], vulnerable person, **or recipient of mental health treatment** in the first degree if
3 he or she:

4 (1) Being an owner or employee of a skilled nursing facility, as defined in section
5 198.006, or an Alzheimer's special care unit or program, as defined in section 198.505, has
6 sexual intercourse or deviate sexual intercourse with a resident; [~~or~~]

7 (2) Being a vender, provider, agent, or employee of a certified program operated, funded,
8 licensed, or certified by the department of mental health, has sexual intercourse or deviate sexual
9 intercourse with a vulnerable person; or

10 (3) **Being a mental health professional licensed to practice under chapter 334, 335,**
11 **or 337, has sexual intercourse or deviate sexual intercourse with a person who is currently**
12 **receiving mental health treatment from the professional or received mental health**
13 **treatment from the professional at any time within the previous five years.**

14 2. The offense of sexual conduct with a nursing facility resident [øf] , vulnerable person,
15 **or recipient of mental health treatment** in the first degree is a class A misdemeanor. Any
16 second or subsequent violation of this section is a class E felony.

17 3. The provisions of this section shall not apply to any person who is married to the
18 resident [øf] , vulnerable person, **or recipient of mental health treatment.**

19 4. Consent of the victim is not a defense to a prosecution under this section.

566.116. 1. A person commits the offense of sexual conduct with a nursing facility
2 resident [øf] , vulnerable person, **or recipient of mental health treatment** in the second degree
3 if he or she:

4 (1) Being an owner or employee of a skilled nursing facility as defined in section
5 198.006, or an Alzheimer's special care unit program as defined in section 198.505, has sexual
6 contact with a resident; [øf]

7 (2) Being a vender, provider, agent, or employee of a certified program operated, funded,
8 licensed, or certified by the department of mental health, has sexual contact with a vulnerable
9 person; or

10 (3) **Being a mental health professional licensed under chapter 334, 335, or 337, has**
11 **sexual contact with a person who is currently receiving mental health treatment from the**
12 **professional or received mental health treatment from the professional at any time within**
13 **the previous five years.**

14 2. The offense of sexual conduct with a nursing facility resident [øf] , vulnerable person,
15 **or recipient of mental health treatment** in the second degree is a class B misdemeanor. Any
16 second or subsequent violation of this section is a class A misdemeanor.

17 3. The provisions of this section shall not apply to any person who is married to the
18 resident [øf] , vulnerable person, **or recipient of mental health treatment.**

19 4. Consent of the victim is not a defense to a prosecution pursuant to this section.

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