

# *Missouri Revised Statutes*

## **Chapter 566 Sexual Offenses**

August 28, 2009

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### **Chapter 566 and chapter 568 definitions.**

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

- (1) "Deviate sexual intercourse", any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;
- (2) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;
- (3) "Sexual contact", any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person;
- (4) "Sexual intercourse", any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.

(L. 1977 S.B. 60, A.L. 1987 H.B. 341, A.L. 1991 H.B. 566, A.L. 1994 S.B. 693, A.L. 2000 S.B. 757 & 602, A.L. 2002 S.B. 969, et al., A.L. 2006 H.B. 1698, et al.)

Effective 6-05-06

### **Criminal investigations, site of criminal conduct undetermined, attorney general may subpoena witnesses and documents.**

566.013. In the course of a criminal investigation under this chapter, when the venue of the alleged criminal conduct cannot be readily determined without further investigation, the attorney general may request the prosecuting attorney of Cole County to request a circuit or associate circuit judge of Cole County to issue a subpoena to any witness who may have information for the purpose of oral examination under oath or to require access to data or the production of books, papers, records, or other material of evidentiary nature at the office of the attorney general. If, upon review of the evidence produced pursuant to the subpoenas, it appears that a violation of this chapter may have been committed, the attorney general shall provide the evidence produced pursuant to subpoena to an appropriate county prosecuting attorney or circuit attorney having venue over the criminal offense.

(L. 2009 H.B. 62)

CROSS REFERENCE:

Subpoena powers of attorney general, investigation of certain sexual offenses, RSMo 573.013

**Mistake as to incapacity or age--consent not a defense, when.**

566.020. 1. Whenever in this chapter the criminality of conduct depends upon a victim's being incapacitated, no crime is committed if the actor reasonably believed that the victim was not incapacitated and reasonably believed that the victim consented to the act. The defendant shall have the burden of injecting the issue of belief as to capacity and consent.

2. Whenever in this chapter the criminality of conduct depends upon a child being thirteen years of age or younger, it is no defense that the defendant believed the child to be older.

3. Whenever in this chapter the criminality of conduct depends upon a child being under seventeen years of age, it is an affirmative defense that the defendant reasonably believed that the child was seventeen years of age or older.

4. Consent is not an affirmative defense to any offense under chapter 566 if the alleged victim is less than twelve years of age.

(L. 1977 S.B. 60, A.L. 1994 S.B. 693, A.L. 2006 H.B. 1698, et al.)

Effective 6-05-06

**Marriage to victim, at time of offense, affirmative defense, for certain crimes.**

566.023. It shall be an affirmative defense to prosecutions pursuant to sections 566.032, 566.034, 566.062, 566.064, 566.068, and 566.090 that the defendant was married to the victim at the time of the offense.

(L. 1994 S.B. 693, A.L. 1998 H.B. 1918)

**Evidence that defendant has committed other charged and uncharged crimes of a sexual nature involving victims under fourteen admissible to prove propensity to commit crime, when.**

566.025. In prosecutions pursuant to this chapter or chapter 568, RSMo, of a sexual nature involving a victim under fourteen years of age, whether or not age is an element of the crime for which the defendant is on trial, evidence that the defendant has committed other charged or uncharged crimes of a sexual nature involving victims under fourteen years of age shall be admissible for the purpose of showing the propensity of the defendant to commit the crime or crimes with which he or she is charged unless the trial court finds that the probative value of such evidence is outweighed by the prejudicial effect.

(L. 1994 S.B. 693, A.L. 2000 S.B. 757 & 602)

(1998) Section was ruled unconstitutional because it violated Sections 17 and 18(a) of Article I of the Missouri Constitution by allowing uncharged conduct to be introduced for the purpose of showing a propensity to commit a crime. State v. Burns, 978 S.W.2d 759 (Mo.banc).

(2007) Section as amended in 2000 still violates state constitutional provisions; evidence of prior criminal acts is never admissible for purpose of demonstrating defendant's propensity to commit the crime presently charged. State v. Ellison, 239 S.W.3d 603 (Mo.banc).

**Forcible rape and attempted forcible rape, penalties--suspended sentences not granted, when.**

566.030. 1. A person commits the crime of forcible rape if such person has sexual intercourse with another person

by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

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

(1) In the course thereof the actor inflicts serious physical injury or 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, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than fifteen years;

(2) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such forcible rape is described under subdivision (3) of this subsection; or

(3) The victim is a child less than twelve years of age and such forcible rape was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible rape when the victim is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

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

(L. 1977 S.B. 60, A.L. 1980 H.B. 1138, et al., A.L. 1990 H.B. 1370, et al., A.L. 1993 S.B. 180, A.L. 1994 S.B. 693, A.L. 1998 H.B. 1779, A.L. 2006 H.B. 1698, et al., A.L. 2009 S.B. 36 & 112)

#### CROSS REFERENCES:

Child abuse, definitions, actions for civil damages may be brought, when, RSMo 537.046

No bail, certain defendants, certain offenses, RSMo 544.671

Prosecuting witness in rape case not to be interrogated as to prior sexual conduct, RSMo 491.015

(1997) Female can be held guilty of rape where she aids a male in committing the rape, even though she cannot commit a rape individually. *Bass v. State*, 950 S.W.2d 940 (Mo.App.W.D.).

### **Statutory rape and attempt to commit, first degree, penalties.**

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

2. Statutory rape in the first degree or an attempt to commit statutory rape in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, 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, 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 not less than ten years.

(L. 1994 S.B. 693, A.L. 2006 H.B. 1698, et al.)

Effective 6-05-06

### **Statutory rape, second degree, penalty.**

566.034. 1. A person commits the crime of statutory rape in the second degree if being twenty-one years of age or older, he 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.

(L. 1994 S.B. 693)

Effective 1-1-95

### **Sexual assault, penalties.**

566.040. 1. A person commits the crime of sexual assault if he has sexual intercourse with another person knowing that he does so without that person's consent.

2. Sexual assault is a class C felony.

(L. 1977 S.B. 60, A.L. 1994 S.B. 693)

Effective 1-1-95

CROSS REFERENCE:

Child abuse, definitions, actions for civil damages may be brought, when, RSMo 537.046

### **Forcible sodomy, penalties--suspended sentence not granted, when.**

566.060. 1. A person commits the crime of forcible sodomy if such person has deviate sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

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

(1) In the course thereof the actor inflicts serious physical injury or 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, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years; or

(2) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such forcible sodomy is described under subdivision (3) of this subsection; or

(3) The victim is a child less than twelve years of age and such forcible sodomy was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible sodomy when the victim is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

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

(L. 1977 S.B. 60, A.L. 1980 H.B. 1138, et al., A.L. 1990 H.B. 1370, et al., A.L. 1994 S.B. 693, A.L. 1998 H.B. 1779, A.L. 2006 H.B. 1698, et al., A.L. 2009 S.B. 36 & 112)

CROSS REFERENCE:

Child abuse definitions, actions for civil damages may be brought, when, RSMo 537.046

### **Statutory sodomy and attempt to commit, first degree, penalties.**

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

2. Statutory sodomy in the first degree or an attempt to commit statutory sodomy in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, 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, 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 not less than ten years.

(L. 1994 S.B. 693, A.L. 2006 H.B. 1698, et al.)

Effective 6-05-06

### **Statutory sodomy, second degree, penalty.**

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

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

(L. 1994 S.B. 693)

Effective 1-1-95

### **Child molestation, first degree, penalties.**

566.067. 1. A person commits the crime of child molestation in the first degree if he or she subjects another person who is less than fourteen years of age to sexual contact.

2. Child molestation in the first degree is a class B felony unless:

(1) The actor has previously been convicted of an offense under this chapter or in the course thereof the actor inflicts serious physical injury, displays a deadly weapon or deadly instrument in a threatening manner, or the offense is committed as part of a ritual or ceremony, in which case the crime is a class A felony; or

(2) The victim is a child less than twelve years of age and:

(a) The actor has previously been convicted of an offense under this chapter; or

(b) In the course thereof the actor inflicts serious physical injury, displays a deadly weapon or deadly instrument in a threatening manner, or if the offense is committed as part of a ritual or ceremony, in which case, the crime is a class A felony and such person shall serve his or her term of imprisonment without eligibility for probation or parole.

(L. 1994 S.B. 693, A.L. 2000 S.B. 757 & 602, A.L. 2006 H.B. 1698, et al.)

Effective 6-05-06

CROSS REFERENCE:

Child, genital mutilation of a female child, crime, penalty, defenses, RSMo 568.065

(2000) Suspended imposition of sentence is not a conviction and thus cannot be used to upgrade crime of child molestation in first degree. State v. Prell, 35 S.W.3d 447 (Mo.App.W.D.).

### **Child molestation, second degree, penalties.**

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

2. Child molestation in the second degree is a class A misdemeanor unless the actor has previously been convicted of an offense under this chapter or 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 the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony.

(L. 1994 S.B. 693, A.L. 2000 S.B. 757 & 602)

CROSS REFERENCE:

Child, genital mutilation of a female child, crime, penalty, defenses, RSMo 568.065

### **Deviate sexual assault, penalty.**

566.070. 1. A person commits the crime of deviate sexual assault if he has deviate sexual intercourse with another person knowing that he does so without that person's consent.

2. Deviate sexual assault is a class C felony.

(L. 1977 S.B. 60, A.L. 1994 S.B. 693)

Effective 1-1-95

CROSS REFERENCE:

Child abuse, definitions, actions for civil damages may be brought, when, RSMo 537.046

### **Sexual misconduct involving a child, penalty--applicability of section--affirmative defense not allowed, when.**

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 fifteen 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 fifteen 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 fifteen 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. The provisions of this section shall apply regardless of whether the person violates the section in person or via the Internet or other electronic means.

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

4. Sexual misconduct involving a child or attempted sexual misconduct involving a child is a class D felony unless the actor has previously pleaded guilty to or been found guilty of an offense pursuant to this chapter or the actor has previously pleaded guilty to or has been convicted 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.

(L. 1997 S.B. 56, A.L. 2004 H.B. 1055, A.L. 2005 H.B. 353 merged with H.B. 972, A.L. 2006 H.B. 1698, et al., A.L. 2008 S.B. 714, et al.)

(2004) Physical presence is not a necessary element of sexual misconduct involving a child; transmission of photographs of genitalia to person transmitter believed to be under the age of 14 qualifies as exposure. State v. Bouse, 150 S.W.3d 326 (Mo.App.W.D.).

### **Sexual contact with a student while on public school property.**

566.086. 1. A person commits the crime of sexual contact with a student while on public school property if he or she has sexual contact with a student of the public school while on any public school property and is:

(1) A teacher, as that term is defined in subdivisions (4), (5), and (7) of section 168.104, RSMo;

(2) A student teacher;

(3) An employee of the school;

(4) A volunteer of the school or of an organization working with the school on a project or program; or

(5) A person employed by an entity that contracts with the public school district to provide services.

2. For the purposes of this section, "public school property" shall mean property of any public school in this state serving kindergarten through grade twelve or any school bus used by the public school district.

3. Sexual contact with a student while on public school property is a class D felony.

(L. 2005 H.B. 353, A.L. 2006 H.B. 1698, et al.)

Effective 6-05-06

### **Sexual misconduct, first degree, penalties.**

566.090. 1. A person commits the crime of sexual misconduct in the first degree if such person purposely subjects another person to sexual contact without that person's consent.

2. Sexual misconduct in the first degree is a class A misdemeanor unless the actor has previously been convicted of an offense under this chapter or unless in the course thereof the actor displays a deadly weapon in a threatening manner or the offense is committed as a part of a ritual or ceremony, in which case it is a class D felony.

(L. 1977 S.B. 60, A.L. 1994 S.B. 693, A.L. 2002 S.B. 969, et al., A.L. 2006 H.B. 1698, et al.)

Effective 6-05-06

CROSS REFERENCE:

Child abuse, definitions, actions for civil damages may be brought, when, RSMo 537.046

(1986) This section does not violate the Fourteenth Amendment to the U.S. Constitution despite the facts that identical conduct which is legal if done by a person of one sex is illegal if done by a person of the other sex, and that such prohibited conduct is a highly intimate activity of private life. *State v. Walsh*, 713 S.W.2d 508 (Mo.banc)

(2003) Texas statute making it a crime for same-sex persons to engage in certain intimate sexual conduct, as applied to adult males engaging in consensual act of sodomy in privacy of home, is unconstitutional under Due Process Clause of Fourteenth Amendment. *Lawrence v. Texas*, 123 S.Ct. 2472.

### **Sexual misconduct, second degree, penalties.**

566.093. 1. A person commits the crime of sexual misconduct in the second degree if such person:

- (1) Exposes his or her genitals under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm;
- (2) Has sexual contact in the presence of a third person or persons under circumstances in which he or she knows that such conduct is likely to cause affront or alarm; or
- (3) Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person.

2. Sexual misconduct in the second degree is a class B misdemeanor unless the actor has previously been convicted of an offense under this chapter, in which case it is a class A misdemeanor.

(L. 1994 S.B. 693, A.L. 2004 H.B. 1055)

### **Sexual misconduct, third degree, penalty.**

566.095. 1. A person commits the crime of sexual misconduct in the third degree if he solicits or requests another person to engage in sexual conduct under circumstances in which he knows that his requests or solicitation is likely to cause affront or alarm.

2. Sexual misconduct in the third degree is a class C misdemeanor.

(L. 1994 S.B. 693)

Effective 1-1-95

(2002) Section does not violate the constitutional guarantee of freedom of speech. *State v. Moore*, 90 S.W.3d 64 (Mo.banc).



## **Sexual abuse, penalties.**

566.100. 1. A person commits the crime of sexual abuse if he subjects another person to sexual contact by the use of forcible compulsion.

2. Sexual abuse is a class C felony unless in the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual contact with more than one person or the victim is less than fourteen years of age, in which case the crime is a class B felony.

(L. 1977 S.B. 60, A.L. 1990 H.B. 1370, et al., A.L. 1991 H.B. 566, A.L. 1994 S.B. 693)

Effective 1-1-95

CROSS REFERENCE:

Child abuse, definitions, actions for civil damages may be brought, when, RSMo 537.046

(1981) Offenses of sexual abuse in the first, second, and third degree may be, but are not necessarily, lesser included offenses under sodomy statute and deviate sexual assault statutes. State v. Gibson (Mo.App.), 623 S.W.2d 93.

## **Crime of promoting on-line sexual solicitation, violation, penalty.**

566.103. 1. A person or entity commits the offense of promoting on-line sexual solicitation if such person or entity knowingly permits a web-based classified service owned or operated by such person or entity to be used by individuals to post advertisements promoting prostitution, enticing a child to engage in sexual conduct, or promoting sexual trafficking of a child after receiving notice under this section.

2. As used in this section, the term "web-based classified service" means a person or entity in whose name a specific URL or Internet domain name is registered which has advertisements for goods and services or personal advertisements.

3. An advertisement may be deemed to promote prostitution, entice a child to engage in sexual conduct, or promote sexual trafficking of a child, if the content of such advertisement would be interpreted by a reasonable person as offering to exchange sexual conduct for goods or services in violation of chapter 567, RSMo, as seeking a child for the purpose of sexual conduct or commercial sex act, or as offering a child as a participant in sexual conduct or commercial sex act in violation of section 566.151, 566.212, or 566.213.

4. It shall be prima facie evidence that a person or entity acts knowingly if an advertisement is not removed from the web-based classified service within seventy-two hours of that person or entity being notified that an advertisement has been posted on that service which is prohibited under this section.

5. Notice under this section may be provided by certified mail or facsimile transmission by the attorney general or any prosecuting attorney or circuit attorney.

6. A violation of this section shall be a felony, punishable by a fine in the amount of five thousand dollars per day that the advertisement remains posted on the web-based classified service after seventy-two hours of when notice has been provided pursuant to this section.

7. Original jurisdiction for prosecution of a violation of this section shall be with the local prosecuting attorney or circuit attorney.

(L. 2009 H.B. 62)

\*Words "or sections" appear in original rolls.

**Unlawful sex with an animal, penalties.**

566.111. 1. A person commits the crime of unlawful sex with an animal if that person engages in sexual conduct with an animal or engages in sexual conduct with an animal for commercial or recreational purposes.

2. Unlawful sex with an animal is a class A misdemeanor unless the defendant has previously been convicted under this section, in which case the crime is a class D felony.

3. In addition to any penalty imposed or as a condition of probation the court may:

(1) Prohibit the defendant from harboring animals or residing in any household where animals are present during the period of probation or if probation is not granted for a period of time not to exceed two years after the defendant's sentence is completed;

(2) Order all animals in the defendant's possession subject to a civil forfeiture action under chapter 513, RSMo; or

(3) Order psychological evaluation and counseling of the defendant at the defendant's expense.

4. Nothing in this section shall be construed to prohibit generally accepted animal husbandry, farming and ranching practices or generally accepted veterinary medical practices.

5. For purposes of this section, the following terms mean:

(1) "Animal", every creature, either alive or dead, other than a human being;

(2) "Sexual conduct with an animal", any touching of an animal with the genitals or any touching of the genitals or anus of an animal for the purpose of arousing or gratifying the person's sexual desire.

(L. 2002 S.B. 969, et al.)

**Defendant may be tested for various sexually transmitted diseases, when.**

566.135. 1. Pursuant to a motion filed by the prosecuting attorney or circuit attorney with notice given to the defense attorney and for good cause shown, in any criminal case in which a defendant has been charged by the prosecuting attorney's office or circuit attorney's office with any offense under this chapter or pursuant to section 575.150, 567.020, 565.050, 565.060, 565.070, 565.072, 565.073, 565.074, 565.075, 565.081, 565.082, 565.083, 568.045, 568.050, or 568.060, RSMo, or paragraph (a), (b), or (c), of subdivision (2) of subsection 1 of section 191.677, RSMo, the court may order that the defendant be conveyed to a state-, city-, or county-operated HIV clinic for testing for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia. The results of the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia tests shall be released to the victim and his or her parent or legal guardian if the victim is a minor. The results of the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia tests shall also be released to the prosecuting attorney or circuit attorney and the defendant's attorney. The state's motion to obtain said testing, the court's order of the same, and the test results shall be sealed in the court file.

2. As used in this section, "HIV" means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.

(L. 2002 H.B. 1756)

**Treatment and rehabilitation program for perpetrators of sexual offenses, when--assessment or counseling services, provision of, restrictions.**

566.140. 1. Any person who has pleaded guilty to or been found guilty of violating the provisions of this chapter and is granted a suspended imposition or execution of sentence or placed under the supervision of the board of probation and parole shall be required to participate in and successfully complete a program of treatment, education and rehabilitation designed for perpetrators of sexual offenses. Persons required to attend a program pursuant to this section may be charged a reasonable fee to cover the costs of such program.

2. No person who provides assessment services or who makes a report, finding, or recommendation for any probationer to attend any counseling or program of treatment, education or rehabilitation as a condition or requirement of probation, following the probationer's plea of guilty to or a finding of guilt of violating any provision of this chapter or chapter 565, RSMo, may be related within the third degree of consanguinity or affinity to any person who has a financial interest, whether direct or indirect, in the counseling or program of treatment, education or rehabilitation or any financial interest, whether direct or indirect, in any private entity which provides the counseling or program of treatment, education or rehabilitation. Any person who violates this subsection shall thereafter:

(1) Immediately remit to the state of Missouri any financial income gained as a direct or indirect result of the action constituting the violation;

(2) Be prohibited from providing assessment or counseling services or any program of treatment, education or rehabilitation to, for, on behalf of, at the direction of, or in contract with the state board of probation and parole or any office thereof; and

(3) Be prohibited from having any financial interest, whether direct or indirect, in any private entity which provides assessment or counseling services or any program of treatment, education or rehabilitation to, for, on behalf of, at the direction of, or in contract with the state board of probation and parole or any office thereof.

3. The provisions of subsection 2 of this section shall not apply when the department of corrections has identified only one qualified service provider within reasonably accessible distance from the offender or when the only providers available within a reasonable distance are related within the third degree of consanguinity or affinity to any person who has a financial interest in the service provider.

(L. 1984 H.B. 1255, A.L. 2004 H.B. 1055, A.L. 2005 H.B. 486)

**All probation or parole to be conditioned on receiving appropriate treatment.**

566.141. Any person who is convicted of or pleads guilty or nolo contendere to any sexual offense involving a child shall be required as a condition of probation or parole to be involved in and successfully complete an appropriate treatment program. Any person involved in such a program shall be required to follow all directives of the treatment program provider.

(L. 1990 H.B. 1370, et al. § 5, A.L. 2004 H.B. 1055)

**Sexual contact with prisoner or offender--definitions--penalty--consent not a defense.**

566.145. 1. A person commits the crime of sexual contact with a prisoner or offender if:

(1) Such person is an employee of, or assigned to work in, any jail, prison or correctional facility and such person

has sexual intercourse or deviate sexual intercourse with a prisoner or an offender who is confined in a jail, prison, or correctional facility; or

(2) Such person is a probation and parole officer and has sexual intercourse or deviate sexual intercourse with an offender who is under the direct supervision of the officer.

2. For the purposes of this section the following terms shall mean:

(1) "Offender", includes any person in the custody of a prison or correctional facility and any person who is under the supervision of the state board of probation and parole;

(2) "Prisoner", includes any person who is in the custody of a jail, whether pretrial or after disposition of a charge.

3. Sexual contact with a prisoner or offender is a class D felony.

4. Consent of a prisoner or offender is not an affirmative defense.

(L. 2002 S.B. 969, et al., A.L. 2006 H.B. 1698, et al., A.L. 2009 H.B. 747)

### **Certain offenders not to reside within one thousand feet of a school or child-care facility.**

566.147. 1. Any person who, since July 1, 1979, has been or hereafter has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography in the first degree; section 573.035, RSMo, promoting child pornography in the second degree; section 573.037, RSMo, possession of child pornography, or section 573.040, RSMo, furnishing pornographic material to minors; or

(2) Any offense in any other state or foreign country, or under federal, tribal, or military jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not reside within one thousand feet of any public school as defined in section 160.011, RSMo, or any private school giving instruction in a grade or grades not higher than the twelfth grade, or child-care facility as defined in section 210.201, RSMo, which is in existence at the time the individual begins to reside at the location.

2. If such person has already established a residence and a public school, a private school, or child-care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, private school, or child-care facility, notify the county sheriff where such public school, private school, or child-care facility is located that he or she is now residing within one thousand feet of such public school, private school, or child-care facility and shall provide verifiable proof to the sheriff that he or she resided there prior to the opening of such public school, private school, or child-care facility.

3. For purposes of this section, "resides" means sleeps in a residence, which may include more than one location and may be mobile or transitory.

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

(L. 2004 H.B. 1055, A.L. 2006 H.B. 1698, et al., A.L. 2008 S.B. 714, et al., A.L. 2009 H.B. 62)

(2005) Iowa statute prohibiting persons who had committed criminal sex offenses against minors from residing within two thousand feet of school or child care facilities does not violate various federal constitutional provisions. *Doe v. Miller*, 405 F.3d 700 (8th Cir.).

(2008) Section imposing residency restrictions on sex offenders whose conduct predated effective date of section is unconstitutional as retrospective law. *R. L. v. State of Missouri Department of Corrections*, 245 S.W.3d 236 (Mo.banc).

### **Certain offenders not to physically be present or loiter within five hundred feet of a child care facility--violation, penalty.**

566.148. 1. Any person who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography in the first degree; section 573.035, RSMo, promoting child pornography in the second degree; section 573.037, RSMo, possession of child pornography, or section 573.040, RSMo, furnishing pornographic material to minors; or

(2) Any offense in any other state or foreign country, or under federal, tribal, or military jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not knowingly be physically present in or loiter within five hundred feet of or to approach, contact, or communicate with any child under eighteen years of age in any child care facility building, on the real property comprising any child care facility when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building or on the grounds.

2. For purposes of this section, "child care facility" shall have the same meaning as such term is defined in section 210.201, RSMo.

3. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

(L. 2009 H.B. 62)

### **Certain offenders not to be present within five hundred feet of school property, exception--permission required for parents or guardians who are offenders, procedure--penalty.**

566.149. 1. Any person who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography; or section 573.040, RSMo, furnishing pornographic material to minors; or

(2) Any offense in any other state or foreign country, or under tribal, federal, or military jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not be present in or loiter within five hundred feet of any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building and has met the conditions set forth in subsection 2 of this section.

2. No parent, legal guardian, or custodian who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the offenses listed in subsection 1 of this section shall be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds or in the conveyance unless the parent, legal guardian, or custodian has permission to be present from the superintendent or school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Permission may be granted by the superintendent, school board, or in the case of a private school from the principal for more than one event at a time, such as a series of events, however, the parent, legal guardian, or custodian must obtain permission for any other event he or she wishes to attend for which he or she has not yet had permission granted.

3. Regardless of the person's knowledge of his or her proximity to school property or a school-related activity, violation of the provisions of this section shall be a class A misdemeanor.

(L. 2006 H.B. 1698, et al., A.L. 2008 S.B. 714, et al., A.L. 2009 H.B. 62)

### **Certain offenders not to be present or loiter within five hundred feet of a public park or swimming pool--violation, penalty.**

566.150. 1. Any person who has pleaded guilty to, or been convicted of, or been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography; or section 573.040, RSMo, furnishing pornographic material to minors; or

(2) Any offense in any other state or foreign country, or under federal, tribal, or military jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not knowingly be present in or loiter within five hundred feet of any real property comprising any public park with playground equipment or a public swimming pool.

2. The first violation of the provisions of this section shall be a class D felony.

3. A second or subsequent violation of this section shall be a class C felony.

(L. 2009 H.B. 62)

### **Enticement of a child, penalties.**

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 who is less than fifteen years of age for the purpose of

engaging in sexual conduct.

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. Enticement of a child or an attempt to commit enticement of a child is a felony for which the authorized term of imprisonment shall be not less than five years and not more than thirty years. No person convicted under this section shall be eligible for parole, probation, conditional release, or suspended imposition or execution of sentence for a period of five calendar years.

(L. 2002 S.B. 969, et al., A.L. 2006 H.B. 1698, et al.)

Effective 6-05-06

### **Age misrepresentation, crime of--penalty.**

566.153. 1. A person commits the crime of age misrepresentation with intent to solicit a minor when he or she knowingly misrepresents his or her age with the intent to use the Internet to engage in criminal sexual conduct involving a minor.

2. Age misrepresentation with intent to solicit a minor is a class D felony.

(L. 2008 S.B. 714, et al.)

### **Certain offenders not to serve as athletic coaches, managers, or trainers--violation, penalty.**

566.155. 1. Any person who has pleaded guilty to, or been convicted of, or been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography; or section 573.040, RSMo, furnishing pornographic material to minors; or

(2) Any offense in any other state or foreign country, or under federal, tribal, or military jurisdiction which, if committed in this state, would be a violation listed in this section;

shall not serve as an athletic coach, manager, or athletic trainer for any sports team in which a child less than seventeen years of age is a member.

2. The first violation of the provisions of this section shall be a class D felony.

3. A second or subsequent violation of this section shall be a class C felony.

(L. 2009 H.B. 62)

### **Definitions.**

566.200. As used in sections 566.200 to 566.221, the following terms shall mean:

- (1) "Basic rights information", information applicable to a noncitizen, including but not limited to information about human rights, immigration, emergency assistance and resources, and the legal rights and resources for victims of domestic violence;
- (2) "Client", a person who is a resident of the United States and the state of Missouri and who contracts with an international marriage broker to meet recruits;
- (3) "Commercial sex act", any sex act on account of which anything of value is given to or received by any person;
- (4) "Criminal history record information", criminal history record information, including information provided in a criminal background check, obtained from the Missouri state highway patrol and the Federal Bureau of Investigation;
- (5) "International marriage broker":
  - (a) A corporation, partnership, business, individual, or other legal entity, whether or not organized under any law of the United States or any other state, that charges fees to residents of Missouri for providing dating, matrimonial, or social referrals or matching services between United States citizens or residents and nonresident aliens by providing information or a forum that would permit individuals to contact each other. Such contact shall include, but is not limited to:
    - a. Providing the name, telephone number, postal address, electronic mail address, or voice message mailbox of an individual, or otherwise facilitating communication between individuals; or
    - b. Providing an opportunity for an in-person meeting;
  - (b) Such term shall not include:
    - a. A traditional matchmaking organization of a religious nature that operates on a nonprofit basis and otherwise operates in compliance with the laws of the countries in which it operates, including the laws of the United States;
    - b. An entity that provides dating services between United States citizens or residents and other individuals who may be aliens, but does not do so as its principal business, and charges comparable rates to all individuals it serves regardless of the gender or country of citizenship or residence of the individual; or
    - c. An organization that does not charge a fee to any party for the services provided;
- (6) "Involuntary servitude or forced labor", a condition of servitude induced by means of:
  - (a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that, if the person does not enter into or continue the servitude, such person or another person will suffer substantial bodily harm or physical restraint; or
  - (b) The abuse or threatened abuse of the legal process;
- (7) "Marital history information", a declaration of the person's current marital status, the number of times the person has previously been married, and whether any previous marriages occurred as a result of service from an international marriage broker;
- (8) "Peonage", illegal and involuntary servitude in satisfaction of debt;
- (9) "Recruit", a noncitizen, nonresident, recruited by an international marriage broker for the purpose of providing dating, matrimonial, or social referral services.



(L. 2004 H.B. 1487, A.L. 2005 H.B. 353)

### **Abusing an individual through forced labor--penalty.**

566.203. 1. A person commits the crime of abusing an individual through forced labor by knowingly providing or obtaining the labor or services of a person:

- (1) By threats of serious harm or physical restraint against such person or another person;
- (2) By means of any scheme, plan, or pattern of behavior intended to cause such person to believe that, if the person does not perform the labor services, the person or another person will suffer substantial bodily harm or physical restraint; or
- (3) By means of the abuse or threatened abuse of the law or the legal process.

2. A person who pleads guilty to or is found guilty of the crime of abuse through forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, RSMo, unless such person is otherwise required to register pursuant to the provisions of such section.

3. The crime of abuse through forced labor is a class B felony.

(L. 2004 H.B. 1487)

### **Trafficking for the purpose of slavery, involuntary servitude, peonage, or forced labor--penalty.**

566.206. 1. A person commits the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor if a person knowingly recruits, harbors, transports, provides, or obtains by any means another person for labor or services, for the purposes of slavery, involuntary servitude, peonage, or forced labor.

2. A person who pleads guilty to or is found guilty of the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, RSMo, unless such person is otherwise required to register pursuant to the provisions of such section.

3. The crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor is a class B felony.

(L. 2004 H.B. 1487)

### **Trafficking for the purpose of sexual exploitation--penalty.**

566.209. 1. A person commits the crime of trafficking for the purposes of sexual exploitation if a person knowingly recruits, transports, provides, or obtains by any means another person for the use or employment of such person in sexual conduct as defined in section 556.061, RSMo, without his or her consent.

2. The crime of trafficking for the purposes of sexual exploitation is a class B felony.

(L. 2004 H.B. 1487)

**Sexual trafficking of a child--penalty.**

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

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

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

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

3. The crime of sexual trafficking of a child is a class A felony if the child is under the age of eighteen.

(L. 2004 H.B. 1487)

**Sexual trafficking of a child under age twelve--affirmative defense not allowed, when--penalty.**

566.213. 1. A person commits the crime of sexual trafficking of a child under the age of twelve if the individual knowingly:

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

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

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

3. Sexual trafficking of a child less than twelve years of age shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or been found guilty of sexual trafficking of a child less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

(L. 2006 H.B. 1698, et al.)

Effective 6-05-06

**Contributing to human trafficking--penalty.**

566.215. 1. A person commits the crime of contributing to human trafficking through the misuse of documentation when the individual knowingly:

(1) Destroys, conceals, removes, confiscates, or possesses a valid or purportedly valid passport, government identification document, or other immigration document of another person while committing crimes or with the

intent to commit crimes, pursuant to sections 566.200 to 566.218; or

(2) Prevents, restricts, or attempts to prevent or restrict, without lawful authority, a person's ability to move or travel by restricting the proper use of identification, in order to maintain the labor or services of a person who is the victim of a crime committed pursuant to sections 566.200 to 566.218.

2. A person who pleads guilty to or is found guilty of the crime of contributing to human trafficking through the misuse of documentation shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, RSMo, unless such person is otherwise required to register pursuant to the provisions of such section.

3. The crime of contributing to human trafficking through the misuse of documentation is a class D felony.

(L. 2004 H.B. 1487)

### **Restitution required for certain offenders.**

566.218. A court sentencing an offender convicted of violating the provisions of sections 566.203, 566.206, 566.209, 566.212, and 566.215 shall order the offender to pay restitution to the victim of the offense.

(L. 2004 H.B. 1487)

### **International marriage brokers, notice to recruits--criminal history record and marital history record to be disseminated--client requirements--violations, penalty.**

566.221. 1. An international marriage broker shall provide notice to each recruit that the criminal history record information and marital history information of clients and basic rights information are available from the organization. The notice of the availability of such information must be in a conspicuous location, in the recruit's native language, in lettering that is at least one-quarter of an inch in height, and presented in a manner that separates the different types of information available.

2. An international marriage broker shall disseminate to a recruit the criminal history record information and marital history information of a client and basic rights information no later than thirty days after the date the international marriage broker receives the criminal history record information and the marital history information on the client. Such information must be provided in the recruit's native language and the organization shall pay the costs incurred to translate the information.

3. A client of an international marriage broker shall:

(1) Obtain a copy of his or her own criminal history record information;

(2) Provide the criminal history record information to the international marriage broker; and

(3) Provide to the international marriage broker his or her own marital history information.

4. An international marriage broker shall require the client to affirm that the marital history information is complete and accurate and includes information regarding marriages, annulments, and dissolutions that occurred in another state or foreign country.

5. An international marriage broker shall not provide any further services to the client or the recruit until the organization has obtained the required criminal history record information and marital history information and

provided the information to the recruit.

6. An international marriage broker shall be deemed to be doing business in Missouri if it contracts for matchmaking services with a Missouri resident or is considered to be doing business pursuant to other laws of the state.

7. A person who pleads guilty to or is found guilty of violating the provisions of this section shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, RSMo, unless such person is otherwise required to register pursuant to the provisions of such section.

8. It shall be a class D felony to willfully provide incomplete or false information pursuant to this section.

9. Failure to provide the information and notice required pursuant to this section shall be a class D felony.

10. No provision of this section shall preempt any other right or remedy available under law to any party utilizing the services of an international marriage broker or other international marriage organization.

(L. 2005 H.B. 353)

### **Federal Trafficking Victims Protection Act of 2000 to apply, when.**

566.223. Any individual who is alleging that a violation of sections 566.200 to 566.221 has occurred against his or her person shall be afforded the rights and protections provided in the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended.

(L. 2004 H.B. 1487, A.L. 2005 H.B. 353)

### **Polygraph tests and psychological stress evaluator exams not permitted, when.**

566.224. No prosecuting or circuit attorney, peace officer, governmental official, or employee of a law enforcement agency shall request or require a victim of sexual assault under section 566.040 or forcible rape under section 566.030 to submit to any polygraph test or psychological stress evaluator exam as a condition for proceeding with a criminal investigation of such crime.

(L. 2007 H.B. 583)

### **Identifiable information in court records to be redacted, when--access to information permitted, when--disclosure of identifying information regarding defendant, when.**

566.226. 1. After August 28, 2007, any information contained in any court record, whether written or published on the Internet, that could be used to identify or locate any victim of sexual assault, domestic assault, stalking, or forcible rape shall be closed and redacted from such record prior to disclosure to the public. Identifying information shall include the name, home or temporary address, telephone number, Social Security number or physical characteristics.

2. If the court determines that a person or entity who is requesting identifying information of a victim has a legitimate interest in obtaining such information, the court may allow access to the information, but only if the court determines that disclosure to the person or entity would not compromise the welfare or safety of such victim.

3. Notwithstanding the provisions of subsection 1 of this section, the judge presiding over a sexual assault, domestic assault, stalking, or forcible rape case shall have the discretion to publicly disclose identifying information regarding the defendant which could be used to identify or locate the victim of the crime. The victim may provide a statement to the court regarding whether he or she desires such information to remain closed. When making the decision to disclose such information, the judge shall consider the welfare and safety of the victim and any statement to the court received from the victim regarding the disclosure.

(L. 2007 H.B. 583, A.L. 2009 H.B. 177 & H.B. 622)

### **Penalties for violations by corporations or businesses.**

566.265. If a corporation or other business pleads guilty to or is found guilty of violating section 566.203, 566.206, 566.209, 566.212, 566.213, or 566.215, in addition to the criminal penalties described in such sections and other remedies provided for by law, the court may:

- (1) Order its dissolution or reorganization;
- (2) Order the suspension or revocation of any license, permit, or prior approval granted to it by the state;
- (3) Order the surrender of its charter if it is organized under Missouri law or the revocation of its certificate to conduct business in Missouri if it is not organized under Missouri law.

(L. 2006 H.B. 1698, et al.)

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