

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

**SENATE BILLS NOS. 588,
557, 579, 563, 869, 619, 570,
753, 764, 782, 783 & 890**

93RD GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, February 9, 2006, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

3083S.06C

AN ACT

To repeal sections 217.735, 556.061, 558.018, 559.106, 566.010, 566.030, 566.060, 566.067, 566.083, 566.086, 566.090, 566.145, 566.151, 573.010, 575.195, 589.400, 589.402, 589.414, 589.425, 632.484, 632.489, and 632.495, RSMo, and to enact in lieu thereof twenty-six new sections relating to sexual offenders, with penalty provisions.

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

Section A. Sections 217.735, 556.061, 558.018, 559.106, 566.010, 566.030, 2 566.060, 566.067, 566.083, 566.086, 566.090, 566.145, 566.151, 573.010, 575.195, 3 589.400, 589.402, 589.414, 589.425, 632.484, 632.489, and 632.495, RSMo, are 4 repealed and twenty-six new sections enacted in lieu thereof, to be known as 5 sections 43.533, 188.023, 217.735, 351.609, 489.042, 556.061, 558.018, 559.106, 6 566.010, 566.030, 566.060, 566.067, 566.083, 566.086, 566.090, 566.145, 566.151, 7 573.010, 575.195, 589.400, 589.402, 589.414, 589.425, 632.484, 632.489, and 8 632.495, to read as follows:

43.533. 1. The highway patrol shall, subject to appropriation, 2 operate a toll-free telephone number in order to disseminate registration 3 information provided by individuals who are required to register under 4 sections 589.400 to 589.425, RSMo, and receive information from persons 5 regarding the residency of a registered sexual offender. The information 6 available via the telephone number shall include only information that

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

7 offenders are required to provide under section 589.407, RSMo. When
8 the highway patrol provides such information regarding a sexual
9 offender, the patrol personnel shall advise the person making the
10 inquiry that positive identification of a person believed to be a sexual
11 offender cannot be established unless a fingerprint comparison is made,
12 and that it is illegal to use such information regarding a registered
13 sexual offender to facilitate the commission of a crime.

14 2. The patrol shall promulgate rules to effect the enforcement of
15 this section. Any rule or portion of a rule, as that term is defined in
16 section 536.010, RSMo, that is created under the authority delegated in
17 this section shall become effective only if it complies with and is subject
18 to all of the provisions of chapter 536, RSMo, and, if applicable, section
19 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
20 and if any of the powers vested with the general assembly pursuant to
21 chapter 536, RSMo, to review, to delay the effective date, or to
22 disapprove and annul a rule are subsequently held unconstitutional,
23 then the grant of rulemaking authority and any rule proposed or
24 adopted after August 28, 2006, shall be invalid and void.

 188.023. Any abortion clinic personnel who have prima facie
2 evidence that a client has been the victim of statutory rape are required
3 to report such crime in the same manner as provided by section 210.115,
4 RSMo.

 217.735. 1. Notwithstanding any other provision of law to the contrary,
2 the board shall supervise an offender for the duration of his or her natural life
3 when the offender has pleaded guilty to or been found guilty of an offense under:

4 (1) Section 566.030, 566.032, 566.060, or 566.062, RSMo, based on an
5 act committed on or after August 28, 2006; or

6 (2) Section 566.030, 566.032, 566.060, or 566.062, RSMo, based on an
7 act committed on or after August 28, 2005, but before August 28, 2006,
8 against a victim who was less than fourteen years old and the offender
9 is a prior sex offender as defined in subsection 2 of this section; or

10 (3) Section 566.067, 566.083, 566.100, 566.151, 566.212, 568.020, 568.080,
11 or 568.090, RSMo, based on an act committed on or after August 28, 2005, against
12 a victim who was less than fourteen years old and the offender is a prior sex
13 offender as defined in subsection 2 of this section.

14 2. For the purpose of this section, a prior sex offender is a person who has
15 previously been found guilty of an offense contained in chapter 566, RSMo.

16 3. Subsection 1 of this section applies to offenders who have been granted
17 probation, and to offenders who have been released on parole, conditional release,
18 or upon serving their full sentence without early release. Supervision of an
19 offender who was released after serving his or her full sentence will be considered
20 as supervision on parole.

21 4. A mandatory condition of lifetime supervision of an offender under this
22 section is that the offender be electronically monitored. Electronic monitoring
23 shall be based on a global positioning system or other technology that identifies
24 and records the offender's location at all times.

25 5. In appropriate cases as determined by a risk assessment, the board may
26 terminate the supervision of an offender who is being supervised under this
27 section when the offender is sixty-five years of age or older.

28 6. In accordance with section 217.040, the board may adopt rules relating
29 to supervision and electronic monitoring of offenders under this section.

**351.609. 1. For the purposes of this section, the following terms
2 shall mean:**

3 **(1) "Adverse result", danger to the life or physical safety of an
4 individual, a flight from prosecution, the destruction of or tampering
5 with evidence, the intimidation of potential witnesses, or serious
6 jeopardy to an investigation or undue delay of a trial that occurs as a
7 result of the notification of a subpoena.**

8 **(2) "Electronic communication services" and "remote computing
9 services", the same meaning as provided by the Electronic
10 Communications Private Act in Chapter 121 (commencing with Section
11 2701) of Part I of Title 18 of the United States Code Annotated, as
12 amended. This section shall not apply to corporations that do not
13 provide electronic communication services or remote computing services
14 to the general public.**

15 **(3) "Foreign corporation", the same meaning as defined in section
16 351.015, and in addition, those corporations organized under the laws of
17 the United States government.**

18 **(4) "Missouri corporation", any corporation governed by the
19 general and business corporation law of Missouri under the provisions**

20 of this chapter that files its articles of incorporation with the Missouri
21 secretary of state and is issued a certificate of incorporation under
22 section 351.060, RSMo.

23 (5) "Properly served", a subpoena that has been delivered by hand,
24 or in a manner reasonably allowing for proof of delivery by United
25 States mail, overnight delivery service, or facsimile to any officer of a
26 foreign corporation or its general manager in this state, or if the
27 corporation is a bank to a cashier or an assistant cashier, or to any
28 natural person designated by the foreign corporation as an agent for the
29 service of process, or any person named in the latest certificate of the
30 corporate agent if the corporation has designated such a corporate
31 agent. A copy of the statement and designation, or a copy of the latest
32 statement filed and certified by the secretary of state is sufficient
33 evidence of the appointment of an agent for the service of process.

34 2. The provisions of this section shall apply to any subpoena
35 issued to search for records that are in the actual or constructive
36 possession of a foreign corporation that provides electronic
37 communication services or remote computing services to the general
38 public, where those records would reveal the identity of the customers
39 using the service, data stored by, or on behalf of, the customer, the
40 customer's usage of those services, the recipient or destination of
41 communications sent to or from those customers, or the content of those
42 communications.

43 3. When properly served with a subpoena issued by a Missouri
44 court, a foreign corporation shall provide to the peace officer to whom
45 the subpoena was issued, all records sought under the subpoena within
46 five business days of receipt, including any records maintained or
47 located outside the state.

48 4. Where the peace officer to whom a subpoena was issued makes
49 a showing and the issuing judge finds that failure to produce records
50 within five business days will cause an adverse result, the subpoena may
51 require production of records within less than five business days. A
52 court may reasonably extend the time required for production of the
53 records upon finding that the foreign corporation has shown good cause
54 for that extension and that an extension of time would not cause an

55 **adverse result.**

56 **5. A foreign corporation seeking to quash the subpoena must seek**
57 **relief from the court that issued the subpoena within the time required**
58 **for production of records under this section. The issuing court shall**
59 **hear and decide that motion no later than five court days after the**
60 **motion is filed.**

61 **6. The foreign corporation shall verify the authenticity of records**
62 **that it produces by providing a verified affidavit. Such records shall be**
63 **admissible as evidence.**

64 **7. A Missouri corporation that provides electronic communication**
65 **services or remote computing services to the general public, when**
66 **served with a subpoena issued by another state to produce records that**
67 **reveal the identity of the customers using those services, data stored by,**
68 **or on behalf of, the customer, the customer's usage of those services, the**
69 **recipient or destination of communications sent to or from those**
70 **customers, or the content of those communications, shall produce those**
71 **records as if the subpoena was issued by a court of this state.**

72 **8. No cause of action shall lie against any foreign corporation or**
73 **Missouri corporation subject to this section, its officers, employees,**
74 **agents, or other specified persons for providing records, information,**
75 **facilities, or assistance in accordance with the terms of a subpoena**
76 **subject to this section.**

489.042. The court or the board of probation and parole shall have
2 **the authority to require a person who is required to register as a sexual**
3 **offender under sections 589.400 to 589.425, RSMo, to give his or her**
4 **assigned probation or parole officer access to his or her personal home**
5 **computer as a condition of probation or parole in order to monitor and**
6 **prevent such offender from obtaining and keeping child pornography or**
7 **from committing an offense under chapter 566, RSMo. Such access shall**
8 **allow the probation or parole officer to view the internet use history,**
9 **computer hardware, and computer software of any computer, including**
10 **a laptop computer, that the offender owns.**

556.061. In this code, unless the context requires a different definition,
2 **the following shall apply:**

3 (1) "Affirmative defense" has the meaning specified in section 556.056;

4 (2) "Burden of injecting the issue" has the meaning specified in section
5 556.051;

6 (3) "Commercial film and photographic print processor", any person who
7 develops exposed photographic film into negatives, slides or prints, or who makes
8 prints from negatives or slides, for compensation. The term commercial film and
9 photographic print processor shall include all employees of such persons but shall
10 not include a person who develops film or makes prints for a public agency;

11 (4) "Confinement":

12 (a) A person is in confinement when such person is held in a place of
13 confinement pursuant to arrest or order of a court, and remains in confinement
14 until:

15 a. A court orders the person's release; or

16 b. The person is released on bail, bond, or recognizance, personal or
17 otherwise; or

18 c. A public servant having the legal power and duty to confine the person
19 authorizes his release without guard and without condition that he return to
20 confinement;

21 (b) A person is not in confinement if:

22 a. The person is on probation or parole, temporary or otherwise; or

23 b. The person is under sentence to serve a term of confinement which is
24 not continuous, or is serving a sentence under a work-release program, and in
25 either such case is not being held in a place of confinement or is not being held
26 under guard by a person having the legal power and duty to transport the person
27 to or from a place of confinement;

28 (5) "Consent": consent or lack of consent may be expressed or
29 implied. Assent does not constitute consent if:

30 (a) It is given by a person who lacks the mental capacity to authorize the
31 conduct charged to constitute the offense and such mental incapacity is manifest
32 or known to the actor; or

33 (b) It is given by a person who by reason of youth, mental disease or
34 defect, or intoxication, is manifestly unable or known by the actor to be unable
35 to make a reasonable judgment as to the nature or harmfulness of the conduct
36 charged to constitute the offense; or

37 (c) It is induced by force, duress or deception;

38 (6) "Criminal negligence" has the meaning specified in section 562.016,

39 RSMo;

40 (7) "Custody", a person is in custody when the person has been arrested
41 but has not been delivered to a place of confinement;

42 (8) "Dangerous felony" means the felonies of arson in the first degree,
43 assault in the first degree, attempted forcible rape if physical injury results,
44 attempted forcible sodomy if physical injury results, forcible rape, forcible sodomy,
45 kidnaping, murder in the second degree, assault of a law enforcement officer in
46 the first degree, domestic assault in the first degree, elder abuse in the first
47 degree, robbery in the first degree, statutory rape in the first degree when the
48 victim is a child less than twelve years of age at the time of the commission of the
49 act giving rise to the offense, statutory sodomy in the first degree when the victim
50 is a child less than twelve years of age at the time of the commission of the act
51 giving rise to the offense, and, abuse of a child pursuant to subdivision (2) of
52 subsection 3 of section 568.060, RSMo, **and child kidnapping;**

53 (9) "Dangerous instrument" means any instrument, article or substance,
54 which, under the circumstances in which it is used, is readily capable of causing
55 death or other serious physical injury;

56 (10) "Deadly weapon" means any firearm, loaded or unloaded, or any
57 weapon from which a shot, readily capable of producing death or serious physical
58 injury, may be discharged, or a switchblade knife, dagger, billy, blackjack or
59 metal knuckles;

60 (11) "Felony" has the meaning specified in section 556.016;

61 (12) "Forcible compulsion" means either:

62 (a) Physical force that overcomes reasonable resistance; or

63 (b) A threat, express or implied, that places a person in reasonable fear
64 of death, serious physical injury or kidnapping of such person or another person;
65 ADD about kids being not able to consent

66 (13) "Incapacitated" means that physical or mental condition, temporary
67 or permanent, in which a person is unconscious, unable to appraise the nature of
68 such person's conduct, or unable to communicate unwillingness to an act. A
69 person is not incapacitated with respect to an act committed upon such person if
70 he or she became unconscious, unable to appraise the nature of such person's
71 conduct or unable to communicate unwillingness to an act, after consenting to the
72 act;

73 (14) "Infraction" has the meaning specified in section 556.021;

74 (15) "Inhabitable structure" has the meaning specified in section 569.010,
75 RSMo;

76 (16) "Knowingly" has the meaning specified in section 562.016, RSMo;

77 (17) "Law enforcement officer" means any public servant having both the
78 power and duty to make arrests for violations of the laws of this state, and federal
79 law enforcement officers authorized to carry firearms and to make arrests for
80 violations of the laws of the United States;

81 (18) "Misdemeanor" has the meaning specified in section 556.016;

82 (19) "Offense" means any felony, misdemeanor or infraction;

83 (20) "Physical injury" means physical pain, illness, or any impairment of
84 physical condition;

85 (21) "Place of confinement" means any building or facility and the grounds
86 thereof wherein a court is legally authorized to order that a person charged with
87 or convicted of a crime be held;

88 (22) "Possess" or "possessed" means having actual or constructive
89 possession of an object with knowledge of its presence. A person has actual
90 possession if such person has the object on his or her person or within easy reach
91 and convenient control. A person has constructive possession if such person has
92 the power and the intention at a given time to exercise dominion or control over
93 the object either directly or through another person or persons. Possession may
94 also be sole or joint. If one person alone has possession of an object, possession
95 is sole. If two or more persons share possession of an object, possession is joint;

96 (23) "Public servant" means any person employed in any way by a
97 government of this state who is compensated by the government by reason of such
98 person's employment, any person appointed to a position with any government of
99 this state, or any person elected to a position with any government of this state.
100 It includes, but is not limited to, legislators, jurors, members of the judiciary and
101 law enforcement officers. It does not include witnesses;

102 (24) "Purposely" has the meaning specified in section 562.016, RSMo;

103 (25) "Recklessly" has the meaning specified in section 562.016, RSMo;

104 (26) "Ritual" or "ceremony" means an act or series of acts performed by
105 two or more persons as part of an established or prescribed pattern of activity;

106 (27) "Serious emotional injury", an injury that creates a substantial risk
107 of temporary or permanent medical or psychological damage, manifested by
108 impairment of a behavioral, cognitive or physical condition. Serious emotional

109 injury shall be established by testimony of qualified experts upon the reasonable
110 expectation of probable harm to a reasonable degree of medical or psychological
111 certainty;

112 (28) "Serious physical injury" means physical injury that creates a
113 substantial risk of death or that causes serious disfigurement or protracted loss
114 or impairment of the function of any part of the body;

115 (29) "Sexual conduct" means acts of human masturbation; deviate sexual
116 intercourse; sexual intercourse; or physical contact with a person's clothed or
117 unclothed genitals, pubic area, buttocks, or the breast of a female in an act of
118 apparent sexual stimulation or gratification;

119 (30) "Sexual contact" means any touching of the genitals or anus of any
120 person, or the breast of any female person, or any such touching through the
121 clothing, for the purpose of arousing or gratifying sexual desire of any person;

122 (31) "Sexual performance", any performance, or part thereof, which
123 includes sexual conduct by a child who is less than seventeen years of age;

124 (32) "Voluntary act" has the meaning specified in section 562.011, RSMo.

558.018. 1. The court shall sentence a person who has pleaded guilty to
2 or has been found guilty of the felony of forcible rape, statutory rape in the first
3 degree, forcible sodomy, statutory sodomy in the first degree or an attempt to
4 commit any of the crimes designated in this subsection to an extended term of
5 imprisonment if it finds the defendant is a persistent sexual offender.

6 2. A "persistent sexual offender" is one who has previously pleaded guilty
7 to or has been found guilty of the felony of forcible rape, rape, statutory rape in
8 the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree or
9 an attempt to commit any of the crimes designated in this subsection.

10 3. The term of imprisonment for one found to be a persistent sexual
11 offender shall be [not less than thirty years, which term shall be served without]
12 **imprisonment for life without eligibility for** probation or
13 parole. **Subsection 4 of section 558.019 shall not apply to any person**
14 **imprisoned under this subsection, and "imprisonment for life" shall mean**
15 **imprisonment for the duration of the person's natural life.**

16 4. The court shall sentence a person who has pleaded guilty to or has been
17 found guilty of the felony of forcible rape, statutory rape in the first degree,
18 forcible sodomy, statutory sodomy in the first degree, or an attempt to commit
19 any of the preceding crimes or child molestation in the first degree when

20 classified as a class B felony or sexual abuse when classified as a class B felony
21 to an extended term of imprisonment as provided for in this section if it finds the
22 defendant is a predatory sexual offender.

23 5. For purposes of this section, a "predatory sexual offender" is a person
24 who:

25 (1) Has previously pleaded guilty to or has been found guilty of the felony
26 of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy,
27 statutory sodomy in the first degree, or an attempt to commit any of the
28 preceding crimes or child molestation in the first degree when classified as a class
29 B felony or sexual abuse when classified as a class B felony; or

30 (2) Has previously committed an act which would constitute an offense
31 listed in subsection 4 of this section, whether or not the act resulted in a
32 conviction; or

33 (3) Has committed an act or acts against more than one victim which
34 would constitute an offense or offenses listed in subsection 4 of this section,
35 whether or not the defendant was charged with an additional offense or offenses
36 as a result of such act or acts.

37 6. A person found to be a predatory sexual offender shall be imprisoned
38 for life with eligibility for parole, however subsection 4 of section 558.019 shall
39 not apply to persons found to be predatory sexual offenders for the purposes of
40 determining the minimum prison term or the length of sentence as defined or
41 used in such subsection. Notwithstanding any other provision of law, in no event
42 shall a person found to be a predatory sexual offender receive a final discharge
43 from parole.

44 7. Notwithstanding any other provision of law, the court shall set the
45 minimum time required to be served before a predatory sexual offender is eligible
46 for parole, conditional release or other early release by the department of
47 corrections. The minimum time to be served by a person found to be a predatory
48 sexual offender who:

49 (1) Has previously pleaded guilty to or has been found guilty of the felony
50 of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy,
51 statutory sodomy in the first degree, or an attempt to commit any of the
52 preceding crimes and pleads guilty to or is found guilty of the felony of forcible
53 rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the
54 first degree or an attempt to commit any of the preceding crimes shall be any

55 number of years but not less than thirty years;

56 (2) Has previously pleaded guilty to or has been found guilty of child
57 molestation in the first degree when classified as a class B felony or sexual abuse
58 when classified as a class B felony and pleads guilty to or is found guilty of
59 attempting to commit or committing forcible rape, statutory rape in the first
60 degree, forcible sodomy or statutory sodomy in the first degree shall be any
61 number of years but not less than fifteen years;

62 (3) Has previously pleaded guilty to or has been found guilty of the felony
63 of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy,
64 statutory sodomy in the first degree, or an attempt to commit any of the
65 preceding crimes and pleads guilty to or is found guilty of child molestation in the
66 first degree when classified as a class B felony or sexual abuse when classified as
67 a class B felony shall be any number of years but not less than fifteen years;

68 (4) Has previously pleaded guilty to or has been found guilty of child
69 molestation in the first degree when classified as a class B felony or sexual abuse
70 when classified as a class B felony, and pleads guilty to or is found guilty of child
71 molestation in the first degree when classified as a class B felony or sexual abuse
72 when classified as a class B felony shall be any number of years but not less than
73 fifteen years;

74 (5) Is found to be a predatory sexual offender pursuant to subdivision (2)
75 or (3) of subsection 5 of this section shall be any number of years within the
76 range to which the person could have been sentenced pursuant to the applicable
77 law if the person was not found to be a predatory sexual offender.

78 8. Notwithstanding any provision of law to the contrary, the department
79 of corrections, or any division thereof, may not furlough an individual found to be
80 and sentenced as a persistent sexual offender or a predatory sexual offender.

559.106. 1. Notwithstanding any statutory provision to the contrary,
2 when a court grants probation to an offender who has pleaded guilty to or has
3 been found guilty of an offense in:

4 (1) Section 566.030, 566.032, 566.060, or 566.062, RSMo, based on an
5 act committed on or after August 28, 2006; or

6 (2) Section 566.030, 566.032, 566.060, 566.062, RSMo, based on an
7 act committed on or after August 28, 2005, but before August 28, 2006,
8 against a victim who was less than fourteen years old and the offender
9 is a prior sex offender as defined in subsection 2 of this section; or

10 **(3) Section** 566.067, 566.083, 566.100, 566.151, 566.212, 568.020, 568.080,
11 or 568.090, RSMo, based on an act committed on or after August 28, 2005, against
12 a victim who was less than fourteen years old and the offender is a prior sex
13 offender as defined in subsection 2 of this section, the court shall order that the
14 offender be supervised by the board of probation and parole for the duration of his
15 or her natural life.

16 2. For the purpose of this section, a prior sex offender is a person who has
17 previously pleaded guilty to or has been found guilty of an offense contained in
18 chapter 566, RSMo.

19 3. When probation for the duration of the offender's natural life has been
20 ordered, a mandatory condition of such probation is that the offender be
21 electronically monitored. Electronic monitoring shall be based on a global
22 positioning system or other technology that identifies and records the offender's
23 location at all times.

24 4. In appropriate cases as determined by a risk assessment, the court may
25 terminate the probation of an offender who is being supervised under this section
26 when the offender is sixty-five years of age or older.

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

3 (1) "Deviate sexual intercourse", any act involving the genitals of one
4 person and the hand, mouth, tongue, or anus of another person or a sexual act
5 involving the penetration, however slight, of the male or female sex organ or the
6 anus by a finger, instrument or object done for the purpose of arousing or
7 gratifying the sexual desire of any person **or for the purpose of terrorizing**
8 **the victim;**

9 (2) "Sexual conduct", sexual intercourse, deviate sexual intercourse or
10 sexual contact;

11 (3) "Sexual contact", any touching of another person with the genitals or
12 any touching of the genitals or anus of another person, or the breast of a female
13 person, or such touching through the clothing, for the purpose of arousing or
14 gratifying sexual desire of any person;

15 (4) "Sexual intercourse", any penetration, however slight, of the female sex
16 organ by the male sex organ, whether or not an emission results.

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

3 compulsion includes the use of a substance administered without a victim's
4 knowledge or consent which renders the victim physically or mentally impaired
5 so as to be incapable of making an informed consent to sexual intercourse. **Any**
6 **sexual intercourse with a child under the age of twelve shall be deemed**
7 **to have been committed by use of forcible compulsion.**

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

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

16 **(2)** **The victim is a child less than twelve years of age, in which**
17 **case the authorized term of imprisonment is life imprisonment without**
18 **eligibility for probation or parole until the defendant has served not less**
19 **than twenty-five years of such sentence or unless the defendant has**
20 **reached the age of seventy-five years and has served at least fifteen**
21 **years of such sentence. Subsection 4 of section 558.019, RSMo, shall not**
22 **apply to the sentence of a person convicted of forcible rape when the**
23 **victim is under the age of twelve, and "life imprisonment" shall mean**
24 **imprisonment for the duration of a person's natural life for the purposes**
25 **of this section.**

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

566.060. 1. A person commits the crime of forcible sodomy if such person
2 has deviate sexual intercourse with another person by the use of forcible
3 compulsion. Forcible compulsion includes the use of a substance administered
4 without a victim's knowledge or consent which renders the victim physically or
5 mentally impaired so as to be incapable of making an informed consent to sexual
6 intercourse. **Any deviate sexual intercourse with a child under the age of**
7 **twelve shall be deemed to have been committed by use of forcible**
8 **compulsion.**

9 2. Forcible sodomy or an attempt to commit forcible sodomy is a felony for

10 which the authorized term of imprisonment is life imprisonment or a term of
11 years not less than five years, unless:

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

17 **(2) The victim is a child less than twelve years of age, in which**
18 **case the authorized term of imprisonment is life imprisonment without**
19 **eligibility for probation or parole until the defendant has served not less**
20 **than twenty-five years of such sentence or unless the defendant has**
21 **reached the age of seventy-five years and has served at least fifteen**
22 **years of such sentence. Subsection 4 of section 558.019, RSMo, shall not**
23 **apply to the sentence of a person convicted of forcible sodomy when the**
24 **victim is under the age of twelve, and "life imprisonment" shall mean**
25 **imprisonment for the duration of a person's natural life for the purposes**
26 **of this section.**

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

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

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

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

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

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

13 **(b) In the course thereof the actor inflicts serious physical injury,**
14 **displays a deadly weapon or deadly instrument in a threatening manner,**
15 **or if the offense is committed as part of a ritual or ceremony;**

16 **in which case, the crime is a class A felony and such person shall serve**
17 **his or her term of imprisonment without eligibility for probation or**
18 **parole.**

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

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

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

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

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

18 **3.] The provisions of this section shall apply regardless of whether**
19 **the person violates the section in person or via the Internet or other**
20 **electronic means.**

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

24 4. Violation of this section is a class D felony unless the actor has
25 previously pleaded guilty to or been convicted of an offense pursuant to this
26 chapter or the actor has previously pleaded guilty to or has been convicted of an
27 offense against the laws of another state or jurisdiction which would constitute
28 an offense under this chapter, in which case it is a class C felony.

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

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

5 section 168.104, RSMo[, and he or she has sexual contact with a student of the
6 public school while on any public school property];

7 **(2) A student teacher;**

8 **(3) An employee of the school;**

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

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

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

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

566.090. 1. A person commits the crime of sexual misconduct in the first
2 degree if he **or she** has deviate sexual intercourse with another person of the
3 same sex [or he], purposely subjects another person to sexual contact without that
4 person's consent, **or knowingly exposes his or her genitals to another**
5 **person without consent for the purpose of sexual gratification.**

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

566.145. 1. A person commits the crime of sexual contact with [an
2 inmate] **a prisoner or offender** if:

3 **(1) Such person is an employee of, or assigned to work in, any jail, prison**
4 **or correctional facility and such person has sexual intercourse or deviate sexual**
5 **intercourse with [an inmate or resident of the facility] a prisoner or offender;**
6 **or**

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

10 2. For the purposes of this section, "prisoner" includes any person
11 in the custody of a jail, whether pre-trial or after disposition of a
12 charge. "Offender" includes any person who is in the custody of a prison

13 **or correctional facility or any person who is under the supervision of the**
14 **state board of probation and parole.**

15 [2.] **3. Sexual contact with [an inmate] a prisoner or offender** is a
16 class D felony.

17 [3. The victim's] **4. Consent of a prisoner or offender** is not an
18 affirmative defense.

566.151. 1. A person at least twenty-one years of age or older commits the
2 crime of enticement of a child if that person persuades, solicits, coaxes, entices,
3 or lures whether by words, actions or through communication via the Internet or
4 any electronic communication, any person who is less than fifteen years of age for
5 the purpose of engaging in sexual conduct with a child.

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

8 3. [Attempting to entice a child is a class D felony.

9 **4.] Enticement of a child is a class [C] B felony unless the person has**
10 **previously pled guilty to or been found guilty of violating the provisions of this**
11 **section, section 568.045, 568.050, or 568.060, RSMo, [or] this chapter, in which**
12 **case it is a class [B] A felony.**

573.010. As used in this chapter the following terms shall mean:

2 (1) "Child", any person under the age of fourteen;

3 (2) "Child pornography"[,]:

4 **(a) Any obscene material or performance depicting sexual conduct, sexual**
5 **contact, or a sexual performance, as these terms are defined in section 556.061,**
6 **RSMo, and which has as one of its participants or portrays as an observer of such**
7 **conduct, contact, or performance a [child] minor under the age of eighteen; or**

8 **(b) Any visual depiction, including any photograph, film, video,**
9 **picture, or computer or computer-generated image or picture, whether**
10 **made or produced by electronic, mechanical, or other means, of sexually**
11 **explicit conduct where:**

12 **a. The production of such visual depiction involves the use of a**
13 **minor engaging in sexually explicit conduct;**

14 **b. Such visual depiction is a digital image, computer image, or**
15 **computer-generated image that is, or is indistinguishable from, that of**
16 **a minor engaging in sexually explicit conduct; or**

17 **c. Such visual depiction has been created, adapted, or modified**

18 **to appear that an identifiable minor is engaging in sexually explicit**
19 **conduct;**

20 (3) "Displays publicly", exposing, placing, posting, exhibiting, or in any
21 fashion displaying in any location, whether public or private, an item in such a
22 manner that it may be readily seen and its content or character distinguished by
23 normal unaided vision viewing it from a street, highway or public sidewalk, or
24 from the property of others or from any portion of the person's store, or the
25 exhibitor's store or property when items and material other than this material are
26 offered for sale or rent to the public;

27 (4) "Explicit sexual material", any pictorial or three dimensional material
28 depicting human masturbation, deviate sexual intercourse, sexual intercourse,
29 direct physical stimulation or unclothed genitals, sadomasochistic abuse, or
30 emphasizing the depiction of postpubertal human genitals; provided, however,
31 that works of art or of anthropological significance shall not be deemed to be
32 within the foregoing definition;

33 (5) "Furnish", to issue, sell, give, provide, lend, mail, deliver, transfer,
34 circulate, disseminate, present, exhibit or otherwise provide;

35 (6) "Graphic", when used with respect to a depiction of sexually
36 explicit conduct, that a viewer can observe any part of the genitals or
37 pubic area of any depicted person or animal during any part of the time
38 that the sexually explicit conduct is being depicted;

39 (7) "Identifiable minor":

40 (a) A person:

41 a. (i) Who was a minor at the time the visual depiction was
42 created, adapted, or modified; or

43 (ii) Whose image as a minor was used in creating, adapting, or
44 modifying the visual depiction; and

45 b. Who is recognizable as an actual person by the person's face,
46 likeness, or other distinguishing characteristic, such as a unique
47 birthmark or other recognizable feature; and

48 (b) The term shall not be construed to require proof of the actual
49 identity of the identifiable minor;

50 (8) "Indistinguishable", when used with respect to a depiction,
51 virtually indistinguishable, in that the depiction is such that an ordinary
52 person viewing the depiction would conclude that the depiction is of an

53 **actual minor engaged in sexually explicit conduct. Indistinguishable**
54 **does not apply to depictions that are drawings, cartoons, sculptures, or**
55 **paintings depicting minors or adults;**

56 (9) "Material", anything printed or written, or any picture, drawing,
57 photograph, motion picture film, videotape or videotape production, or pictorial
58 representation, or any recording or transcription, or any mechanical, chemical, or
59 electrical reproduction, or stored computer data, or anything which is or may be
60 used as a means of communication. "Material" includes undeveloped photographs,
61 molds, printing plates, stored computer data and other latent representational
62 objects;

63 [(7)] (10) "Minor", any person under the age of eighteen;

64 [(8)] (11) "Nudity", the showing of postpubertal human genitals or pubic
65 area, with less than a fully opaque covering;

66 [(9)] (12) "Obscene", any material or performance is obscene if, taken as
67 a whole:

68 (a) Applying contemporary community standards, its predominant appeal
69 is to prurient interest in sex; and

70 (b) The average person, applying contemporary community standards,
71 would find the material depicts or describes sexual conduct in a patently offensive
72 way; and

73 (c) A reasonable person would find the material lacks serious literary,
74 artistic, political or scientific value;

75 [(10)] (13) "Performance", any play, motion picture film, videotape, dance
76 or exhibition performed before an audience of one or more;

77 [(11)] (14) "Pornographic for minors", any material or performance is
78 pornographic for minors if the following apply:

79 (a) The average person, applying contemporary community standards,
80 would find that the material or performance, taken as a whole, has a tendency to
81 cater or appeal to a prurient interest of minors; and

82 (b) The material or performance depicts or describes nudity, sexual
83 conduct, sexual excitement, or sadomasochistic abuse in a way which is patently
84 offensive to the average person applying contemporary adult community
85 standards with respect to what is suitable for minors; and

86 (c) The material or performance, taken as a whole, lacks serious literary,
87 artistic, political, or scientific value for minors;

88 [(12)] (15) "Promote", to manufacture, issue, sell, provide, mail, deliver,
89 transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit,
90 or advertise, or to offer or agree to do the same, by any means including a
91 computer;

92 [(13)] (16) "Sadomasochistic abuse", flagellation or torture by or upon a
93 person as an act of sexual stimulation or gratification;

94 [(14)] (17) "Sexual conduct", actual or simulated, normal
95 or perverted acts of human masturbation; deviate sexual intercourse; sexual
96 intercourse; or physical contact with a person's clothed or unclothed genitals,
97 pubic area, buttocks, or the breast of a female in an act of apparent sexual
98 stimulation or gratification or any sadomasochistic abuse or acts including
99 animals or any latent objects in an act of apparent sexual stimulation or
100 gratification;

101 (18) "Sexually explicit conduct", actual or simulated:

102 (a) Sexual intercourse, including genital-genital, oral-genital,
103 anal-genital, or oral-anal, whether between persons of the same or
104 opposite sex:

105 (b) Bestiality;

106 (c) Masturbation;

107 (d) Sadistic or masochistic abuse; or

108 (e) Lascivious exhibition of the genitals or pubic area of any
109 person;

110 [(15)] (19) "Sexual excitement", the condition of human male or female
111 genitals when in a state of sexual stimulation or arousal;

112 (20) "Visual depiction", includes undeveloped film and videotape,
113 and data stored on computer disk or by electronic means which is
114 capable of conversion into a visual image;

115 [(16)] (21) "Wholesale promote", to manufacture, issue, sell, provide,
116 mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, or
117 to offer or agree to do the same for purposes of resale or redistribution.

575.195. 1. A person commits the crime of escape from commitment or
2 detention if he or she has been committed to a state mental hospital under the
3 provisions of sections 552.010 to 552.080, RSMo, or [of] sections 632.480 to
4 632.513, RSMo, or has been ordered to be taken into custody, detained, or held
5 pursuant to sections 632.480 to 632.513, RSMo, or as provided by section

6 **632.475, RSMo, has been committed to the department of mental health**
7 **as a criminal sexual psychopath under statutes in effect before August**
8 **13, 1980,** and he or she escapes from such commitment or detention.

9 2. Escape from commitment or detention is a class D felony.

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

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

6 (2) Any person who, since July 1, 1979, has been or is hereafter convicted
7 of, been found guilty of, or pled guilty or nolo contendere to committing, or
8 attempting to commit one or more of the following offenses: [kidnapping,
9 pursuant to section 565.110, RSMo; felonious restraint;] **sexual contact or**
10 **sexual intercourse with a resident of a nursing home, under section**
11 **565.700, RSMo; endangering the welfare of a child, under subdivision (2)**
12 **of subsection 1 of section 568.045, RSMo; genital mutilation of a female**
13 **child, under section 568.065, RSMo; promoting prostitution in the first degree;**
14 **promoting prostitution in the second degree; promoting prostitution in the third**
15 **degree; sexual exploitation of a minor; promoting child pornography in the first**
16 **degree; promoting child pornography in the second degree; possession of child**
17 **pornography; furnishing pornographic material to minors; public display of**
18 **explicit sexual material; coercing acceptance of obscene material; promoting**
19 **obscenity in the first degree; promoting pornography for minors or obscenity in**
20 **the second degree; incest; abuse of a child, pursuant to **subdivision (2) of****
21 **subsection 1 of section 568.060, RSMo; use of a child in a sexual performance;**
22 **or promoting sexual performance by a child; and committed or attempted to**
23 **commit the offense against a victim who is a minor, defined for the purposes of**
24 **sections 589.400 to 589.425 as a person under eighteen years of age; or**

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

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

30 (5) Any person who is a resident of this state who has, since July 1, 1979,
31 or is hereafter convicted of, been found guilty of, or pled guilty to or nolo

32 contendere in any other state, foreign country, or under federal or military
33 jurisdiction to committing, or attempting to commit, an offense which, if
34 committed in this state, would be a violation of chapter 566, RSMo, or a felony
35 violation of any offense listed in subdivision (2) of this subsection or has been or
36 is required to register in another state or has been or is required to register
37 under federal or military law; or

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

43 2. Any person to whom sections 589.400 to 589.425 apply shall, within ten
44 days of conviction, release from incarceration, or placement upon probation,
45 register with the chief law enforcement official of the county in which such person
46 resides unless such person has already registered in that county for the same
47 offense. Any person to whom sections 589.400 to 589.425 apply if not currently
48 registered in their county of residence shall register with the chief law
49 enforcement official of such county within ten days of August 28, 2003. The chief
50 law enforcement official shall forward a copy of the registration form required by
51 section 589.407 to a city, town, village, or campus law enforcement agency located
52 within the county of the chief law enforcement official, if so requested. Such
53 request may ask the chief law enforcement official to forward copies of all
54 registration forms filed with such official. The chief law enforcement official may
55 forward a copy of such registration form to any city, town, village, or campus law
56 enforcement agency, if so requested.

57 3. The registration requirements of sections 589.400 through 589.425 are
58 lifetime registration requirements unless:

59 (1) All offenses requiring registration are reversed, vacated or set aside
60 [or unless];

61 (2) The registrant is pardoned of the offenses requiring registration;

62 (3) **The registrant is no longer required to register and his or her**
63 **name shall be removed from the registry under the provisions of**
64 **subsection 6 of this section; or**

65 (4) **The registrant may petition the court for removal from the**
66 **registry under subsection 7 of this section and the court orders the**

67 **removal of such person from the registry.**

68 4. For processing an initial sex offender registration the chief law
69 enforcement officer of the county may charge the offender registering a fee of up
70 to ten dollars.

71 5. For processing any change in registration required pursuant to section
72 589.414 the chief law enforcement official of the county may charge the person
73 changing their registration a fee of five dollars for each change made after the
74 initial registration.

75 **6. Effective August 28, 2006, persons currently on the sexual**
76 **offender registry for being convicted of, found guilty of, or pleading**
77 **guilty or nolo contendere to, committing felonious restraint, child abuse**
78 **that was committed under subdivision (1) of subsection 1 of section**
79 **568.060, RSMo, or kidnapping under section 565.110, RSMo, shall be**
80 **removed from the registry. However, such person shall remain on the**
81 **sexual offender registry for any other offense for which he or she is**
82 **required to register under sections 589.400 to 589.425.**

83 **7. Effective August 28, 2006, any person currently on the sexual**
84 **offender registry for having been convicted of, found guilty of, or having**
85 **pleaded guilty or nolo contendere to, committing or promoting**
86 **prostitution in the first degree, promoting prostitution in the second**
87 **degree, promoting prostitution in the third degree, public display of**
88 **explicit sexual material, or statutory rape in the second degree, may**
89 **petition the sentencing court for removal of his or her name from the**
90 **sexual offender registry after ten years have passed from the date he or**
91 **she was required to register. The court may order such individual's**
92 **name removed from the registry if the individual has no pending charges**
93 **for an offense for which he or she would have to register if found guilty**
94 **of, or pleaded guilty to, the offense. In addition, such person must not**
95 **have been found guilty of or pleaded guilty to any other offense for**
96 **which he or she is required to register during the ten-year period from**
97 **the date he or she was required to register.**

98 **8. Any person whose name is removed from the sexual offender**
99 **registry under subsections 6 or 7 of this section shall no longer be**
100 **required to fulfill the registration requirements of sections 589.400 to**
101 **589.475.**

589.402. 1. The chief law enforcement officer of the county may maintain
2 a web page on the Internet, which shall be open to the public and shall include
3 a registered sexual offender search capability.

4 2. The registered sexual offender search shall make it possible for any
5 person using the Internet to search for and find the information specified in
6 subdivisions (1) to (4) of subsection 3 of this section, if known, on offenders
7 registered in this state pursuant to sections 589.400 to 589.425, except that only
8 persons who have been convicted of, found guilty of, or plead guilty to committing
9 or attempting to commit sexual offenses shall be included on this web site.

10 3. Only the information listed in subdivisions (1) to (4) of this subsection
11 shall be provided to the public in the registered sexual offender search:

12 (1) The name of the offender;

13 (2) The last known address of the offender, including the street address,
14 city, county, state, and zip code;

15 (3) A photograph of the offender; and

16 (4) The crime or crimes for which the offender was convicted that caused
17 him or her to have to register.

18 **4. The chief law enforcement officer of any county or city not**
19 **within a county may publish in any newspaper distributed in the county**
20 **or city not within a county the sexual offender information provided**
21 **under subsection 3 of this section for any offender residing in the county**
22 **or city not within a county.**

589.414. 1. If any person required by sections 589.400 to 589.425 to
2 register changes residence or address within the same county as such person's
3 previous address, the person shall inform the chief law enforcement official in
4 writing within ten days of such new address and phone number, if the phone
5 number is also changed.

6 2. If any person required by sections 589.400 to 589.425 to register
7 changes such person's residence or address to a different county, the person shall
8 appear in person and shall inform both the chief law enforcement official with
9 whom the person last registered and the chief law enforcement official of the
10 county having jurisdiction over the new residence or address in writing within ten
11 days of such new address and phone number, if the phone number is also
12 changed. If any person required by sections 589.400 to 589.425 to register
13 changes their state of residence, the person shall appear in person and shall

14 inform both the chief law enforcement official with whom the person was last
15 registered and the chief law enforcement official of the area in the new state
16 having jurisdiction over the new residence or address within ten days of such new
17 address. Whenever a registrant changes residence, the chief law enforcement
18 official of the county where the person was previously registered shall promptly
19 inform the Missouri state highway patrol of the change. When the registrant is
20 changing the residence to a new state, the Missouri state highway patrol shall
21 promptly inform the responsible official in the new state of residence.

22 3. Any person required by sections 589.400 to 589.425 to register who
23 changes his or her enrollment or employment status with any institution of
24 higher education within this state, by either beginning or ending such enrollment
25 or employment, shall inform the chief law enforcement officer of such change
26 within seven days after such change is made.

27 4. Any person required by sections 589.400 to 589.425 to register who
28 officially changes such person's name shall inform the chief law enforcement
29 officer of such name change within seven days after such change is made.

30 5. In addition to the requirements of subsections 1 and 2 of this section,
31 the following offenders shall report in person to the county law enforcement
32 agency every ninety days to verify the information contained in their statement
33 made pursuant to section 589.407:

34 (1) Any offender registered as a predatory or persistent sexual offender
35 under the definitions found in section 558.018, RSMo;

36 (2) Any offender who is registered for a crime where the victim was less
37 than eighteen years of age at the time of the offense; and

38 (3) Any offender who has pled guilty or been found guilty pursuant to
39 section 589.425 of failing to register or submitting false information when
40 registering.

41 6. In addition to the requirements of subsections 1 and 2 of this section,
42 all registrants shall report annually in person in the month of their birth to the
43 county law enforcement agency to verify the information contained in their
44 statement made pursuant to section 589.407. **All registrants shall provide an**
45 **updated photograph of himself or herself every five years when**
46 **reporting annually to the county law enforcement agency.**

47 7. In addition to the requirements of subsections 1 and 2 of this section,
48 all Missouri registrants who work or attend school or training on a full-time or

49 part-time basis in any other state shall be required to report in person to the
50 chief law enforcement officer in the area of the state where they work or attend
51 school or training and register in that state. "Part-time" in this subsection means
52 for more than fourteen days in any twelve-month period.

589.425. 1. Any person who is required to register pursuant to sections
2 589.400 to 589.425 and does not meet all requirements of sections 589.400 to
3 589.425 is guilty of a class A misdemeanor, unless the person has been convicted
4 pursuant to chapter 566 of an unclassified felony, class A felony, class B felony,
5 or any felony involving a child under the age of fourteen, in which case the person
6 is guilty of a class D felony.

7 2. Any person who commits a second or subsequent violation of subsection
8 1 of this section is guilty of a class D felony, unless the person has been convicted
9 pursuant to chapter 566 of an unclassified felony, class A felony, class B felony,
10 or any felony involving a child under the age of fourteen, in which case the person
11 is guilty of a class C felony.

12 **3. Any person who is required to register under sections 589.400**
13 **to 589.425 and commits a second violation of this section shall be**
14 **electronically monitored in the same manner as those individuals who**
15 **are monitored under section 217.735, RSMo, for a period of ten**
16 **years. Any person who commits a third or subsequent violation of this**
17 **section shall be electronically monitored for an additional ten-year**
18 **period for each violation.**

632.484. 1. When the attorney general receives written notice from any
2 law enforcement agency that a person, who has pled guilty to or been convicted
3 of a sexually violent offense and who is not presently in the physical custody of
4 an agency with jurisdiction:

5 (1) Has committed a recent overt act; or

6 (2) Has been in the custody of an agency with jurisdiction within the
7 preceding ten years and may meet the criteria of a sexually violent predator;
8 the attorney general may file a petition for detention and evaluation with the
9 probate division of the court in which the person was convicted, or committed
10 pursuant to chapter 552, RSMo, alleging the respondent may meet the definition
11 of a sexually violent predator and should be detained for evaluation for a period
12 of up to nine days. The written notice shall include the previous conviction record
13 of the person, a description of the recent overt act, if applicable, and any other

14 evidence which tends to show the person to be a sexually violent predator. The
15 attorney general shall provide notice of the petition to the prosecuting attorney
16 of the county where the petition was filed.

17 2. Upon a determination by the court that the person may meet the
18 definition of a sexually violent predator, the court shall order the detention and
19 transport of such person to a secure facility to be determined by the department
20 of mental health **under provisions of section 632.495**. The attorney general
21 shall immediately give written notice of such to the department of mental health.

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

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

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

47 6. The provisions of subdivision (2) of subsection 1 of this section shall
48 expire December 31, 2001.

632.489. 1. Upon filing a petition pursuant to section 632.484 or 632.486,
2 the judge shall determine whether probable cause exists to believe that the person
3 named in the petition is a sexually violent predator. If such probable cause
4 determination is made, the judge shall direct that person be taken into custody
5 and direct that the person be transferred to an appropriate secure facility,
6 including, but not limited to, a county jail. If the person is ordered to the
7 department of mental health, the director of the department of mental health
8 shall determine the appropriate secure facility to house the person **under the**
9 **provisions of section 632.495.**

10 2. Within seventy-two hours after a person is taken into custody pursuant
11 to subsection 1 of this section, excluding Saturdays, Sundays and legal holidays,
12 such person shall be provided with notice of, and an opportunity to appear in
13 person at, a hearing to contest probable cause as to whether the detained person
14 is a sexually violent predator. At this hearing the court shall:

- 15 (1) Verify the detainee's identity; and
- 16 (2) Determine whether probable cause exists to believe that the person is
17 a sexually violent predator. The state may rely upon the petition and supplement
18 the petition with additional documentary evidence or live testimony.

19 3. At the probable cause hearing as provided in subsection 2 of this
20 section, the detained person shall have the following rights in addition to the
21 rights previously specified:

- 22 (1) To be represented by counsel;
- 23 (2) To present evidence on such person's behalf;
- 24 (3) To cross-examine witnesses who testify against such person; and
- 25 (4) To view and copy all petitions and reports in the court file, including
26 the assessment of the multidisciplinary team.

27 4. If the probable cause determination is made, the court shall direct that
28 the person be transferred to an appropriate secure facility, including, but not
29 limited to, a county jail, for an evaluation as to whether the person is a sexually
30 violent predator. If the person is ordered to the department of mental health, the
31 director of the department of mental health shall determine the appropriate
32 secure facility to house the person. The court shall direct the director of the
33 department of mental health to have the person examined by a psychiatrist or
34 psychologist as defined in section 632.005 who was not a member of the
35 multidisciplinary team that previously reviewed the person's records. In addition,

36 such person may be examined by a consenting psychiatrist or psychologist of the
37 person's choice at the person's own expense. Any examination shall be conducted
38 in the facility in which the person is confined. Any examinations ordered shall
39 be made at such time and under such conditions as the court deems proper;
40 except that, if the order directs the director of the department of mental health
41 to have the person examined, the director shall determine the time, place and
42 conditions under which the examination shall be conducted. The psychiatrist or
43 psychologist conducting such an examination shall be authorized to interview
44 family and associates of the person being examined, as well as victims and
45 witnesses of the person's offense or offenses, for use in the examination unless the
46 court for good cause orders otherwise. The psychiatrist or psychologist shall have
47 access to all materials provided to and considered by the multidisciplinary team
48 and to any police reports related to sexual offenses committed by the person being
49 examined. Any examination performed pursuant to this section shall be
50 completed and filed with the court within sixty days of the date the order is
51 received by the director or other evaluator unless the court for good cause orders
52 otherwise. One examination shall be provided at no charge by the department.
53 All costs of any subsequent evaluations shall be assessed to the party requesting
54 the evaluation.

632.495. The court or jury shall determine whether, beyond a reasonable
2 doubt, the person is a sexually violent predator. If such determination that the
3 person is a sexually violent predator is made by a jury, such determination shall
4 be by unanimous verdict of such jury. Any determination as to whether a person
5 is a sexually violent predator may be appealed. If the court or jury determines
6 that the person is a sexually violent predator, the person shall be committed to
7 the custody of the director of the department of mental health for control, care
8 and treatment until such time as the person's mental abnormality has so changed
9 that the person is safe to be at large. Such control, care and treatment shall be
10 provided by the department of mental health. At all times, **persons ordered to**
11 **the department of mental health after a determination by the court that**
12 **such persons may meet the definition of a sexually violent predator,**
13 **persons ordered to the department of mental health after a finding of**
14 **probable cause under section 632.489, and** persons committed for control,
15 care and treatment by the department of mental health pursuant to sections
16 632.480 to 632.513 shall be kept in a secure facility designated by the director of

17 the department of mental health and such persons shall be segregated at all times
18 from any other patient under the supervision of the director of the department of
19 mental health. The department of mental health shall not place or house [an
20 offender determined to be a sexually violent predator] **a person ordered to the**
21 **department of mental health after a determination by the court that**
22 **such person may meet the definition of a sexually violent predator, a**
23 **person ordered to the department of mental health after a finding of**
24 **probable cause under section 632.489, or a person committed for control,**
25 **care, and treatment by the department of mental health,** pursuant to
26 sections 632.480 to 632.513, with other mental health patients who have not been
27 determined to be sexually violent predators. The department of mental health is
28 authorized to enter into an interagency agreement with the department of
29 corrections for the confinement of such persons. Such persons who are in the
30 confinement of the department of corrections pursuant to an interagency
31 agreement shall be housed and managed separately from offenders in the custody
32 of the department of corrections, and except for occasional instances of supervised
33 incidental contact, shall be segregated from such offenders. If the court or jury
34 is not satisfied beyond a reasonable doubt that the person is a sexually violent
35 predator, the court shall direct the person's release. Upon a mistrial, the court
36 shall direct that the person be held at an appropriate secure facility, including,
37 but not limited to, a county jail, until another trial is conducted. If the person is
38 ordered to the department of mental health, the director of the department of
39 mental health shall determine the appropriate secure facility to house the
40 person. Any subsequent trial following a mistrial shall be held within ninety days
41 of the previous trial, unless such subsequent trial is continued as provided in
42 section 632.492.

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