

SECOND REGULAR SESSION

SENATE BILL NO. 588

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARTLE.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3083S.03I

AN ACT

To repeal sections 558.018, 559.100, 566.032, 566.034, 566.062, 566.064, 566.083, 566.151, and 566.212, RSMo, and to enact in lieu thereof eleven 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Section A. Sections 558.018, 559.100, 566.032, 566.034, 566.062, 566.064, 566.083, 566.151, and 566.212, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 558.018, 559.100, 566.032, 566.033, 566.034, 566.062, 566.063, 566.064, 566.083, 566.151, and 566.212, to read as follows:

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

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

3. The term of imprisonment for one found to be a persistent sexual offender shall be [not less than thirty years, which term shall be served without] **imprisonment for life without eligibility for** probation or parole.

4. The court shall sentence a person who has pleaded guilty to or has been found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree, or an attempt to commit

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

16 any of the preceding crimes or child molestation in the first degree when
17 classified as a class B felony or sexual abuse when classified as a class B felony
18 to an extended term of imprisonment as provided for in this section if it finds the
19 defendant is a predatory sexual offender.

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

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

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

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

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

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

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

52 number of years but not less than thirty years;

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

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

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

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

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

559.100. 1. The circuit courts of this state shall have power, herein
2 provided, to place on probation or to parole persons convicted of any offense over
3 which they have jurisdiction, except as otherwise provided in sections 195.275 to
4 195.296, RSMo, section 558.018, RSMo, section 565.020, RSMo, **sections**
5 **566.032, 566.062, and 566.212, RSMo**, section 571.015, RSMo, and section
6 559.115.

7 2. The circuit court shall have the power to revoke the probation or parole
8 previously granted and commit the person to the department of corrections. The
9 circuit court shall determine any conditions of probation or parole for the
10 defendant that it deems necessary to ensure the successful completion of the

11 probation or parole term, including the extension of any term of supervision for
12 any person while on probation or parole. The circuit court may require that the
13 defendant pay restitution for his crime. The probation or parole may be revoked
14 for failure to pay restitution or for failure to conform his behavior to the
15 conditions imposed by the circuit court. The circuit court may, in its discretion,
16 credit any period of probation or parole as time served on a sentence.

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

4 2. Statutory rape in the first degree is a felony [for] which [the authorized
5 term of imprisonment is life imprisonment or] **shall be punished by** a term of
6 [years] **imprisonment of** not less than [five] **twenty-five** years, **which term**
7 **shall be served without probation or parole**, unless in the course thereof
8 the actor inflicts serious physical injury on any person, displays a deadly weapon
9 or dangerous instrument in a threatening manner, **or** subjects the victim to
10 sexual intercourse or deviate sexual intercourse with more than one person, [or
11 the victim is less than twelve years of age] in which case the [authorized] term
12 of imprisonment [is life imprisonment or a term of years] **shall be** not less than
13 [ten] **thirty-five** years, **which term shall be served without probation or**
14 **parole**.

566.033. 1. A person commits the crime of statutory rape in the
2 **second degree if he or she has sexual intercourse with another person**
3 **who is less than fifteen years old**.

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

566.034. 1. A person commits the crime of statutory rape in the [second]
2 **third** degree if, being twenty-one years of age or older, he has sexual intercourse
3 with another person who is less than seventeen years of age.

4 2. Statutory rape in the [second] **third** degree is a class C felony.

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

4 2. Statutory sodomy in the first degree is a felony [for] which [the
5 authorized term of imprisonment is life imprisonment or] **shall be punished by**
6 a term of [years] **imprisonment of** not less than [five] **twenty-five** years,
7 **which term shall be served without probation or parole**, unless in the
8 course thereof the actor inflicts serious physical injury on any person, displays

9 a deadly weapon or dangerous instrument in a threatening manner, **or** subjects
10 the victim to sexual intercourse or deviate sexual intercourse with more than one
11 person, [or the victim is less than twelve years of age,] in which case the
12 [authorized] term of imprisonment [is life imprisonment or a term of years] **shall**
13 **be** not less than [ten] **thirty-five** years, **which term shall be served without**
14 **probation or parole.**

566.063. 1. A person commits the crime of statutory sodomy in
2 **the second degree if he or she has deviate sexual intercourse with**
3 **another person who is less than fifteen years old.**

4 **2. Statutory sodomy in the second degree is a class B felony.**

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

4 2. Statutory sodomy in the [second] **third** degree is a class C felony.

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. Violation of this section] **Sexual misconduct involving a child** is
19 a class D felony unless the actor has previously pleaded guilty to or been
20 [convicted] **found guilty** of an offense pursuant to this chapter or the actor has
21 previously pleaded guilty to or has been [convicted] **found guilty** of an offense
22 against the laws of another state or jurisdiction which would constitute an offense

23 under this chapter, in which case it is a class C felony.

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

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

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

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

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

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

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

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

11 3. [The crime of] Sexual trafficking of a child is a [class A] felony [if the
12 child is under the age of eighteen] **which shall be punished by a term of**
13 **imprisonment of not less than fifteen years, which term shall be served**
14 **without probation or parole.**

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