

SECOND REGULAR SESSION

SENATE BILL NO. 869

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOSTER.

Read 1st time January 12, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4154S.02I

AN ACT

To repeal sections 217.735, 559.106, 566.030, 566.032, 566.060, 566.062, 566.067, 566.083, 566.090, 566.212, 568.080, 568.090, 589.407, and 589.414, RSMo, and to enact in lieu thereof fourteen new sections relating to crime, with penalty provisions.

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

Section A. Sections 217.735, 559.106, 566.030, 566.032, 566.060, 566.062, 566.067, 566.083, 566.090, 566.212, 568.080, 568.090, 589.407, and 589.414, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 217.735, 559.106, 566.030, 566.032, 566.060, 566.062, 566.067, 566.083, 566.090, 566.212, 568.080, 568.090, 589.407, and 589.414 to read as follows:

217.735. 1. Notwithstanding any other provision of law to the contrary, the board shall supervise an offender for the duration of his or her natural life when the offender has pleaded guilty to or been found guilty of an offense under section 566.030, 566.032, 566.060, or 566.062, RSMo, based on an act committed on or after August 28, 2006, or the offender has pleaded guilty to or has been found guilty of an offense under section 566.067, 566.083, 566.100, 566.151, 566.212, 568.020, 568.080, or 568.090, RSMo, based on an act committed on or after August 28, 2005, against a victim who was less than fourteen years old and the offender is a prior sex offender as defined in subsection 2 of this section.

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

3. Subsection 1 of this section applies to offenders who have been granted

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

14 probation, and to offenders who have been released on parole, conditional release,
15 or upon serving their full sentence without early release. Supervision of an
16 offender who was released after serving his or her full sentence will be considered
17 as supervision on parole.

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

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

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

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 section 566.030, 566.032, 566.060, **or** 566.062,
4 **RSMo, based on an act committed on or after August 28, 2006, or the**
5 **offender has pleaded guilty to or has been found guilty of an offense**
6 **under section** 566.067, 566.083, 566.100, 566.151, 566.212, 568.020, 568.080, or
7 568.090, RSMo, based on an act committed on or after August 28, 2005, against
8 a victim who was less than fourteen years old and the offender is a prior sex
9 offender as defined in subsection 2 of this section, the court shall order that the
10 offender be supervised by the board of probation and parole for the duration of
11 his or her natural life.

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

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

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

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
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.

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

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

15 **(2)** **The victim is a child less than twelve years of age, in which**
16 **case the authorized term of imprisonment is life imprisonment without**
17 **eligibility for probation or parole until the defendant has served not**
18 **less than twenty-five years of such sentence or unless the defendant has**
19 **reached the age of seventy-five years and has served at least fifteen**
20 **years of such sentence.**

21 **3. No person convicted of or pleading guilty to forcible rape or**
22 **an attempt to commit forcible rape shall be granted a suspended**
23 **imposition of sentence or suspended execution of 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 fourteen
3 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 a term of years not less than five
6 years, unless:

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

13 **(2)** The victim is less than twelve years of age, in which case the
14 authorized term of imprisonment is life imprisonment [or a term of years not less

15 than ten years] **with eligibility for parole after twenty-five years.**

16 **3. No person convicted of or pleading guilty to statutory rape in**
17 **the first degree shall be granted a suspended imposition of sentence or**
18 **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.

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

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

15 (2) **The victim is a child less than twelve years of age, in which**
16 **case the authorized term of imprisonment is life imprisonment without**
17 **eligibility for probation or parole until the defendant has served not**
18 **less than twenty-five years of such sentence or unless the defendant has**
19 **reached the age of seventy-five years and has served at least fifteen**
20 **years of such sentence.**

21 **3. No person convicted of or pleading guilty to forcible sodomy**
22 **or an attempt to commit forcible sodomy shall be granted a suspended**
23 **imposition of sentence or suspended execution of sentence.**

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 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 a term of years not less
6 than five years, unless:

7 (1) In the course thereof the actor inflicts serious physical injury on any
8 person, displays a deadly weapon or dangerous instrument in a threatening
9 manner, subjects the victim to sexual intercourse or deviate sexual intercourse

10 with more than one person, **in which case the authorized term of**
11 **imprisonment is life imprisonment or a term of years not less than ten**
12 **years; or**

13 (2) The victim is less than twelve years of age, in which case the
14 authorized term of imprisonment is life imprisonment [or a term of years not less
15 than ten years] **with eligibility for parole after twenty-five years.**

16 **3. No person convicted of or pleading guilty to statutory sodomy**
17 **in the first degree shall be granted a suspended imposition of sentence**
18 **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 the actor
5 has previously been convicted of an offense under this chapter or in the course
6 thereof the actor inflicts serious physical injury, displays a deadly weapon or
7 deadly instrument in a threatening manner, or the offense is committed as part
8 of a ritual or ceremony, in which case the crime is a class A felony.

9 **3. No person convicted of or pleading guilty to child molestation**
10 **in the first degree shall be granted a suspended imposition of sentence**
11 **or suspended execution of sentence.**

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**
19 **whether the person violates the section in person or via the Internet or**
20 **other electronic means.**

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

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

 566.212. 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 child
12 is under the age of eighteen.

13 **4. No person convicted of or pleading guilty to sexual trafficking**

14 **of a child shall be granted a suspended imposition of sentence or**
15 **suspended execution of sentence.**

568.080. 1. A person commits the crime of use of a child in a sexual
2 performance if, knowing the character and content thereof, the person employs,
3 authorizes, or induces a child less than seventeen years of age to engage in a
4 sexual performance or, being a parent, legal guardian, or custodian of such child,
5 consents to the participation by such child in such sexual performance.

6 2. Use of a child in a sexual performance is a class C felony[,] unless in
7 the course thereof, the person inflicts serious emotional injury on the child, in
8 which case the crime is a class B felony.

9 **3. No person convicted of or pleading guilty to use of a child in**
10 **a sexual performance shall be granted a suspended imposition of**
11 **sentence or suspended execution of sentence.**

568.090. 1. A person commits the crime of promoting a sexual
2 performance if, knowing the character and content thereof, the person promotes
3 a sexual performance by a child less than seventeen years of age or produces,
4 directs, or promotes any performance which includes sexual conduct by a child
5 less than seventeen years of age.

6 2. Promoting a sexual performance is a class C felony.

7 **3. No person convicted of or pleading guilty to promoting a**
8 **sexual performance by a child shall be granted a suspended imposition**
9 **of sentence or suspended execution of sentence.**

589.407. Any registration pursuant to sections 589.400 to 589.425 shall
2 consist of completion of an offender registration form developed by the Missouri
3 state highway patrol. Such form shall include, but is not limited to the following:

4 (1) A statement in writing signed by the person, giving the name, address,
5 Social Security number and phone number of the person, the place of employment
6 of such person, enrollment within any institutions of higher education, the crime
7 which requires registration, whether the person was sentenced as a persistent or
8 predatory offender pursuant to section 558.018, RSMo, the date, place, and a brief
9 description of such crime, the date and place of the conviction or plea regarding
10 such crime, the age and gender of the victim at the time of the offense and
11 whether the person successfully completed the Missouri sexual offender program
12 pursuant to section 589.040, if applicable; [and]

13 (2) The fingerprints and a photograph of the person; **and**

14 **(3) A physical description of the offender's vehicle, including**

15 **make, model, color, and license plate number.**

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. **Any person required by sections 589.400 to 589.425 to register**
31 **who changes the ownership of his or her vehicle shall inform the chief**
32 **law enforcement officer of such vehicle change within seven days after**
33 **such change is made.**

34 6. In addition to the requirements of subsections 1 and 2 of this section,
35 the following offenders shall report in person to the county law enforcement

36 agency every ninety days to verify the information contained in their statement
37 made pursuant to section 589.407:

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

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

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

45 [6.] 7. In addition to the requirements of subsections 1 and 2 of this
46 section, all registrants shall report annually in person in the month of their birth
47 to the county law enforcement agency to verify the information contained in their
48 statement made pursuant to section 589.407.

49 [7.] 8. In addition to the requirements of subsections 1 and 2 of this
50 section, all Missouri registrants who work or attend school or training on a
51 full-time or part-time basis in any other state shall be required to report in
52 person to the chief law enforcement officer in the area of the state where they
53 work or attend school or training and register in that state. "Part-time" in this
54 subsection means for more than fourteen days in any twelve-month period.

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