

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 394 & 331

96TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, March 31, 2011, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

1860S.03C

AN ACT

To repeal sections 566.200, 566.203, 566.206, 566.209, 566.212, 566.213, 566.218, and 566.223, RSMo, and to enact in lieu thereof eight new sections relating to human trafficking, with penalty provisions.

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

Section A. Sections 566.200, 566.203, 566.206, 566.209, 566.212, 566.213, 2 566.218, and 566.223, RSMo, are repealed and eight new sections enacted in lieu 3 thereof, to be known as sections 566.200, 566.203, 566.206, 566.209, 566.212, 4 566.213, 566.218, and 566.223, to read as follows:

566.200. As used in sections 566.200 to 566.221, the following terms shall 2 mean:

3 (1) "Basic rights information", information applicable to a noncitizen, 4 including but not limited to information about human rights, immigration, 5 emergency assistance and resources, and the legal rights and resources for 6 victims of domestic violence;

7 (2) "**Blackmail**", **any threat to reveal damaging or embarrassing** 8 **information about a person to that person's spouse, family, associates,** 9 **or the public at large, including a threat to expose any secret tending** 10 **to subject any person to hatred, contempt, or ridicule;**

11 (3) "Client", a person who is a resident of the United States and the state 12 of Missouri and who contracts with an international marriage broker to meet 13 recruits;

14 (4) "Coercion":

15 (a) **Threats of serious harm to or physical restraint against any** 16 **person;**

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

17 **(b) Any scheme, plan, or pattern intended to cause a person to**
18 **believe that failure to perform an act would result in serious harm to**
19 **or physical restraint against any person; or**

20 **(c) The abuse or threatened abuse of the legal process;**

21 [(3)] **(5)** "Commercial sex act", any sex act on account of which anything
22 of value is given to, **promised**, or received by any person;

23 [(4)] **(6)** "Criminal history record information", criminal history record
24 information, including information provided in a criminal background check,
25 obtained from the Missouri state highway patrol and the Federal Bureau of
26 Investigation;

27 **(7) "Financial harm", detriment, injury, or loss of a financial**
28 **nature, including credit extortion, criminal violation of the usury laws**
29 **under chapter 408, or employment contracts that violate the statute of**
30 **frauds provisions under chapter 432;**

31 [(5)] **(8)** "International marriage broker":

32 (a) A corporation, partnership, business, individual, or other legal entity,
33 whether or not organized under any law of the United States or any other state,
34 that charges fees to residents of Missouri for providing dating, matrimonial, or
35 social referrals or matching services between United States citizens or residents
36 and nonresident aliens by providing information or a forum that would permit
37 individuals to contact each other. Such contact shall include, but is not limited
38 to:

39 a. Providing the name, telephone number, postal address, electronic mail
40 address, or voice message mailbox of an individual, or otherwise facilitating
41 communication between individuals; or

42 b. Providing an opportunity for an in-person meeting;

43 (b) Such term shall not include:

44 a. A traditional matchmaking organization of a religious nature that
45 operates on a nonprofit basis and otherwise operates in compliance with the laws
46 of the countries in which it operates, including the laws of the United States;

47 b. An entity that provides dating services between United States citizens
48 or residents and other individuals who may be aliens, but does not do so as its
49 principal business, and charges comparable rates to all individuals it serves
50 regardless of the gender or country of citizenship or residence of the individual;
51 or

52 c. An organization that does not charge a fee to any party for the services
53 provided;

54 [(6)] **(9)** "Involuntary servitude or forced labor", a condition of servitude

55 induced by means of:

56 (a) Any scheme, plan, or pattern of behavior intended to cause a person
57 to believe that, if the person does not enter into or continue the servitude, such
58 person or another person will suffer [substantial bodily harm] **serious physical**
59 **injury** or physical restraint; or

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

61 [(7)] **(10)** "Marital history information", a declaration of the person's
62 current marital status, the number of times the person has previously been
63 married, and whether any previous marriages occurred as a result of service from
64 an international marriage broker;

65 **(11)** "Nudity", **the showing of the human male or female genitals,**
66 **pubic area, vulva, anus, or any part of the nipple or areola of the**
67 **female breast;**

68 [(8)] **(12)** "Peonage", illegal and involuntary servitude in satisfaction of
69 debt;

70 [(9)] **(13)** "Recruit", a noncitizen, nonresident, recruited by an
71 international marriage broker for the purpose of providing dating, matrimonial,
72 or social referral services;

73 **(14)** "Sexual conduct", **sexual intercourse as defined in section**
74 **566.010; deviate sexual intercourse as defined in section 566.010; actual**
75 **or simulated acts of human masturbation; physical contact with a**
76 **person's clothed or unclothed genitals, pubic area, buttocks, or the**
77 **breast of a female in an act of apparent sexual stimulation or**
78 **gratification; or any sadomasochistic abuse or acts including animals**
79 **or any latent objects in an act of apparent sexual stimulation or**
80 **gratification;**

81 **(15)** "Sexual performance", **any play, motion picture, still picture,**
82 **film, videotape, video recording, dance, or exhibition which includes**
83 **sexual conduct or nudity, performed before an audience of one or more,**
84 **whether in person or online or through other forms of**
85 **telecommunication;**

86 **(16)** "Victim of trafficking", **a person who is a victim of offenses**
87 **under section 566.203, 566.206, 566.209, 566.212, or 566.213.**

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

3 (1) By [threats of serious harm or physical restraint against such person
4 or another person] **causing or threatening to cause serious physical injury**
5 **to any person;**

6 **(2) By physically restraining or threatening to physically**
7 **restrain another person;**

8 **(3) By blackmail;**

9 **[(2)] (4) By means of any scheme, plan, or pattern of behavior intended**
10 **to cause such person to believe that, if the person does not perform the labor**
11 **services, the person or another person will suffer [substantial bodily harm or]**
12 **serious physical injury, physical restraint, or financial harm; or**

13 **[(3)] (5) By means of the abuse or threatened abuse of the law or the**
14 **legal process.**

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

19 3. The crime of abuse through forced labor is a [class B] felony
20 **punishable by imprisonment for a term of years not less than five years**
21 **and not more than twenty years and a fine not to exceed two hundred**
22 **and fifty thousand dollars. If death results from a violation of this**
23 **section, or if the violation includes kidnapping or an attempt to kidnap,**
24 **sexual abuse when punishable as a class B felony, or an attempt to**
25 **commit sexual abuse when punishable as a class B felony, or an attempt**
26 **to kill, it shall be punishable for a term of years not less than five years**
27 **or life and a fine not to exceed two hundred and fifty thousand dollars.**

566.206. 1. A person commits the crime of trafficking for the purposes of
2 slavery, involuntary servitude, peonage, or forced labor if a person knowingly
3 recruits, **entices**, harbors, transports, provides, or obtains by any means,
4 **including but not limited to, through the use of force, abduction,**
5 **coercion, fraud, deception, blackmail, or causing or threatening to**
6 **cause financial harm**, another person for labor or services, for the purposes of
7 slavery, involuntary servitude, peonage, or forced labor, **or benefits, financially**
8 **or by receiving anything of value, from participation in such activities.**

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

14 3. **[The crime of] Except as provided in subsection 4 of this section,**
15 **trafficking for the purposes of slavery, involuntary servitude, peonage, or forced**
16 **labor is a [class B] felony punishable by imprisonment for a term of years**

17 **not less than five years and not more than twenty years and a fine not**
18 **to exceed two hundred and fifty thousand dollars.**

19 **4. If death results from a violation of this section, or if the**
20 **violation includes kidnapping or an attempt to kidnap, sexual abuse**
21 **when punishable as a class B felony or an attempt to commit sexual**
22 **abuse when the sexual abuse attempted is punishable as a class B**
23 **felony, or an attempt to kill, it shall be punishable by imprisonment for**
24 **a term of years not less than five years or life and a fine not to exceed**
25 **two hundred and fifty thousand dollars.**

566.209. 1. A person commits the crime of trafficking for the purposes of
2 sexual exploitation if a person knowingly recruits, **entices, harbors,** transports,
3 provides, or obtains by any means, **including but not limited to, through the**
4 **use of force, abduction, coercion, fraud, deception, blackmail, or**
5 **causing or threatening to cause financial harm,** another person for the use
6 or employment of such person in sexual conduct [as defined in section 556.061],
7 **a sexual performance, or the production of explicit sexual material as**
8 **defined in section 573.010,** without his or her consent, **or benefits,**
9 **financially or by receiving anything of value, from participation in such**
10 **activities.**

11 **2. The crime of trafficking for the purposes of sexual exploitation is a**
12 **[class B] felony punishable by imprisonment for a term of years not less**
13 **than five years and not more than twenty years and a fine not to exceed**
14 **two hundred and fifty thousand dollars. If a violation of this section**
15 **was effected by force, abduction, or coercion, the crime of trafficking**
16 **for the purposes of sexual exploitation is a felony punishable by**
17 **imprisonment for a term of years not less than ten years or life and a**
18 **fine not to exceed two hundred and fifty thousand dollars.**

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, **including but not limited to, through the use of force, abduction,**
5 **coercion, fraud, deception, blackmail, or causing or threatening to**
6 **cause financial harm,** a person under the age of eighteen to participate in a
7 commercial sex act, **a sexual performance, or the production of explicit**
8 **sexual material as defined in section 573.010,** or benefits, financially or by
9 receiving anything of value, from participation in such activities; or

10 (2) Causes a person under the age of eighteen to engage in a commercial
11 sex act, **a sexual performance, or the production of explicit sexual**

12 **material as defined in section 573.010.**

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

15 3. [The crime of] Sexual trafficking of a child is a [class A] felony
16 **punishable by imprisonment for a term of years not less than ten years**
17 **or life and a fine not to exceed two hundred fifty thousand dollars** if the
18 child is under the age of eighteen. **If a violation of this section was effected**
19 **by force, abduction, or coercion, the crime of sexual trafficking of a**
20 **child shall be a felony for which the authorized term of imprisonment**
21 **is life imprisonment without eligibility for probation or parole until the**
22 **defendant has served not less than twenty-five years of such sentence.**

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

3 (1) Recruits, entices, harbors, transports, provides, or obtains by any
4 means, **including but not limited to, through the use of force, abduction,**
5 **coercion, fraud, deception, blackmail, or causing or threatening to**
6 **cause financial harm,** a person under the age of twelve to participate in a
7 commercial sex act, **a sexual performance, or the production of explicit**
8 **sexual material as defined in section 573.010,** or benefits, financially or by
9 receiving anything of value, from participation in such activities; or

10 (2) Causes a person under the age of twelve to engage in a commercial sex
11 act, **a sexual performance, or the production of explicit sexual material**
12 **as defined in section 573.010.**

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

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

566.218. **Notwithstanding sections 557.011, 558.019, and 559.021,**
2 a court sentencing [an offender] **a defendant** convicted of violating the
3 provisions of [sections] **section 566.203, 566.206, 566.209, 566.212, [and 566.215]**
4 **or 566.213** shall order the [offender] **defendant** to pay restitution to the victim
5 of the offense **regardless of whether the defendant is sentenced to a term**

6 of imprisonment or probation. The minimum restitution ordered by the
7 court shall be in the amount determined by the court necessary to
8 compensate the victim for the value of the victim's labor and/or for the
9 mental and physical rehabilitation of the victim and any child of the
10 victim.

566.223. 1. Any individual who is alleging that a violation of sections
2 566.200 to 566.221 has occurred against his or her person shall be afforded the
3 rights and protections provided in the federal Trafficking Victims Protection Act
4 of 2000, Public Law 106-386, as amended.

5 2. It is an affirmative defense for the offense of prostitution
6 under section 567.020 that the defendant engaged in the conduct
7 charged to constitute an offense because he or she was coerced to do
8 so by the use of, or threatened use of, unlawful physical force upon
9 himself or herself or a third person, which force or threatened force a
10 person of reasonable firmness in his or her situation would have been
11 unable to resist.

12 3. The department of public safety is authorized to establish
13 procedures for identifying victims of trafficking under sections 566.200
14 to 566.223. The department may establish training programs as well as
15 standard protocols for appropriate agencies to educate officials and
16 employees on state statutes and federal laws regulating human
17 trafficking and with the identification and assistance of victims of
18 human trafficking. Such agencies may include but not be limited to
19 state employees and contractors, including the children's division of
20 the department of social services, juvenile courts, state law
21 enforcement agencies, health care professionals, and runaway and
22 homeless youth shelter administrators.

23 4. As soon as possible after a first encounter with a person who
24 reasonably appears to a law enforcement agency to be a victim of
25 trafficking as defined in section 566.200, that agency or office shall
26 notify the department of social services and, where applicable, juvenile
27 justice authorities, that the person may be a victim of trafficking, in
28 order that such agencies may determine whether the person may be
29 eligible for state or federal services, programs, or assistance.

30 5. The department of social services may coordinate with
31 relevant state, federal, and local agencies to evaluate appropriate
32 services for victims of trafficking. State agencies may implement
33 programs and enter into contracts with nonprofit agencies, domestic

34 and sexual violence shelters, and other nongovernment organizations
35 to provide services to confirmed victims of trafficking, insofar as funds
36 are available for that purpose. Such services may include, but are not
37 limited to, case management, emergency temporary housing, health
38 care, mental health counseling, alcohol and drug addiction screening
39 and treatment, language interpretation and translation services,
40 English language instruction, job training, and placement assistance.

41 6. A victim of trafficking may bring a civil action against a
42 person or persons who plead guilty to or are found guilty of a violation
43 of section 566.203, 566.206, 566.209, 566.212, or 566.213, to recover the
44 actual damages sustained by the victim, court costs, including
45 reasonable attorney's fees, and punitive damages, when determined to
46 be appropriate by the court. Any action commenced under this section
47 shall be filed within ten years after the later of:

- 48 (1) The final order in the related criminal case;
- 49 (2) The victim's emancipation from the defendant; or
- 50 (3) The victim's eighteenth birthday.

51 7. The attorney general may bring a civil action, in the circuit
52 court in which the victim of trafficking was found, to recover from any
53 person or entity that benefits, financially or by receiving anything of
54 value, from violations of section 566.203, 566.206, 566.209, 566.212, or
55 566.213, a civil penalty of not more than fifty thousand dollars for each
56 violation of section 566.203, 566.206, 566.209, 566.212, or 566.213, and
57 injunctive and other equitable relief as the court may, in its discretion,
58 order. The first priority of any money or property collected under such
59 an action shall be to pay restitution to the victims of trafficking on
60 whose behalf the civil action was brought.

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