

# SENATE BILL NO. 277

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR COLEMAN.

1131S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 208.247, 491.075, and 492.304, RSMo, and to enact in lieu thereof five new sections relating to protection of vulnerable persons.

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

Section A. Sections 208.247, 491.075, and 492.304, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 208.247, 221.520, 221.523, 491.075, and 492.304, to read as follows:

208.247. [1. Pursuant to the option granted the state by 21 U.S.C. Section 862a(d), an individual who has pled guilty or nolo contendere to or is found guilty under federal or state law of a felony involving possession or use of a controlled substance shall be exempt from the prohibition contained in 21 U.S.C. Section 862a(a) against eligibility for food stamp program benefits for such convictions, if such person, as determined by the department:

(1) Meets one of the following criteria:

(a) Is currently successfully participating in a substance abuse treatment program approved by the division of alcohol and drug abuse within the department of mental health; or

(b) Is currently accepted for treatment in and participating in a substance abuse treatment program approved by the division of alcohol and drug abuse, but is subject to a waiting list to receive available treatment,

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

18 and the individual remains enrolled in the treatment program  
19 and enters the treatment program at the first available  
20 opportunity; or

21 (c) Has satisfactorily completed a substance abuse  
22 treatment program approved by the division of alcohol and  
23 drug abuse; or

24 (d) Is determined by a division of alcohol and drug  
25 abuse certified treatment provider not to need substance  
26 abuse treatment; and

27 (2) Is successfully complying with, or has already  
28 complied with, all obligations imposed by the court, the  
29 division of alcohol and drug abuse, and the division of  
30 probation and parole; and

31 (3) Does not plead guilty or nolo contendere to or is  
32 not found guilty of an additional controlled substance  
33 misdemeanor or felony offense after release from custody or,  
34 if not committed to custody, such person does not plead  
35 guilty or nolo contendere to or is not found guilty of an  
36 additional controlled substance misdemeanor or felony  
37 offense, within one year after the date of conviction. Such  
38 a plea or conviction within the first year after conviction  
39 shall immediately disqualify the person for the exemption;  
40 and

41 (4) Has demonstrated sobriety through voluntary  
42 urinalysis testing paid for by the participant.

43 2. Eligibility based upon the factors in subsection 1  
44 of this section shall be based upon documentary or other  
45 evidence satisfactory to the department of social services,  
46 and the applicant shall meet all other factors for program  
47 eligibility.

48 3. The department of social services, in consultation  
49 with the division of alcohol and drug abuse, shall

50 promulgate rules to carry out the provisions of this section  
51 including specifying criteria for determining active  
52 participation in and completion of a substance abuse  
53 treatment program.

54 4. The exemption under this section shall not apply to  
55 an individual who has pled guilty or nolo contendere to or  
56 is found guilty of two subsequent felony offenses involving  
57 possession or use of a controlled substance after the date  
58 of the first controlled substance felony conviction]

59 Pursuant to the option granted to the state under 21 U.S.C.  
60 Section 862a(d)(1), an individual convicted under federal or  
61 state law of a felony offense involving possession,  
62 distribution, or use of a controlled substance shall be  
63 exempt from the prohibition contained in 21 U.S.C. Section  
64 862a(a) against eligibility for the supplemental nutrition  
65 assistance program for such convictions.

221.520. 1. As used in this section, the following  
2 terms shall mean:

3 (1) "Extraordinary circumstance", a substantial flight  
4 risk or some other extraordinary medical or security  
5 circumstance that dictates restraints be used to ensure the  
6 safety and security of a pregnant offender in her third  
7 trimester or a postpartum offender within forty-eight hours  
8 postdelivery, the staff of the county or city jail or  
9 medical facility, other offenders, or the public;

10 (2) "Labor", the period of time before a birth during  
11 which contractions are present;

12 (3) "Postpartum", the period of recovery immediately  
13 following childbirth, which is six weeks for a vaginal birth  
14 or eight weeks for a cesarean birth, or longer if so  
15 determined by a physician or nurse;

16           (4) "Restraints", any physical restraint or other  
17 device used to control the movement of a person's body or  
18 limbs.

19           2. Except in extraordinary circumstances, a county or  
20 city jail shall not use restraints on a pregnant offender in  
21 her third trimester, whether during transportation to and  
22 from visits to health care providers and court proceedings  
23 or medical appointments and examinations, or during labor,  
24 delivery, or forty-eight hours postdelivery.

25           3. Pregnant offenders shall be transported in vehicles  
26 equipped with seatbelts.

27           4. In the event a sheriff or jailer determines that  
28 extraordinary circumstances exist and restraints are  
29 necessary, the sheriff or jailer shall fully document in  
30 writing within forty-eight hours of the incident the reasons  
31 he or she determined such extraordinary circumstances  
32 existed, the type of restraints used, and the reasons those  
33 restraints were considered the least restrictive available  
34 and the most reasonable under the circumstances. Such  
35 documents shall be kept on file by the county or city jail  
36 for at least five years from the date the restraints were  
37 used.

38           5. If a doctor, nurse, or other health care provider  
39 treating the pregnant offender in her third trimester or the  
40 postpartum offender within forty-eight hours postdelivery  
41 requests that restraints not be used, the sheriff or jailer  
42 accompanying such offender shall immediately remove all  
43 restraints.

44           6. Any time restraints are used on a pregnant offender  
45 in her third trimester or on a postpartum offender within  
46 forty-eight hours postdelivery, the restraints shall be the  
47 least restrictive available and the most reasonable under

48 the circumstances. In no case shall leg, ankle, or waist  
49 restraints or any mechanical restraints be used on any such  
50 offender, and, if wrist restraints are used, such restraints  
51 shall be placed in the front of such offender's body to  
52 protect the offender and the unborn child in the case of a  
53 forward fall.

54 7. The county or city jail shall:

55 (1) Ensure that employees of the jail are provided  
56 with training, which may include online training, on the  
57 provisions of this section; and

58 (2) Inform female offenders, in writing and orally, of  
59 any policies and practices developed in accordance with this  
60 section upon admission to the jail, and post the policies  
61 and practices in locations in the jail where such notices  
62 are commonly posted and will be seen by female offenders.

221.523. 1. By January 1, 2026, all county and city  
2 jails shall develop specific procedures for the intake and  
3 care of offenders who are pregnant, which shall include  
4 procedures regarding:

5 (1) Maternal health evaluations;

6 (2) Dietary supplements, including prenatal vitamins;

7 (3) Timely and regular nutritious meals, which shall  
8 include, at minimum, thirty-two ounces of milk or a calcium  
9 supplement if lactose intolerant, two cups of fresh fruit,  
10 and two cups of fresh vegetables daily;

11 (4) Substance abuse treatment;

12 (5) Treatment for the human immunodeficiency virus and  
13 ways to avoid human immunodeficiency virus transmission;

14 (6) Hepatitis C;

15 (7) Sleeping arrangements for such offenders,  
16 including requiring such offenders to sleep on the bottom  
17 bunk bed;

18           (8) Access to mental health professionals;  
19           (9) Sanitary materials;  
20           (10) Postpartum recovery, including that no such  
21 offender shall be placed in isolation during such recovery;  
22 and

23           (11) A requirement that a female medical professional  
24 be present during any examination of such offender.

25           2. As used in this section, "postpartum recovery"  
26 means, as determined by a physician, the period immediately  
27 following delivery, including the entire period an offender  
28 who was pregnant is in the hospital or infirmary after  
29 delivery.

          491.075. 1. A statement made by a child under the age  
2 of [fourteen] **eighteen**, or a vulnerable person, relating to  
3 an offense under chapter 565, 566, 568 or 573, performed by  
4 another, not otherwise admissible by statute or court rule,  
5 is admissible in evidence in criminal proceedings in the  
6 courts of this state as substantive evidence to prove the  
7 truth of the matter asserted if:

8           (1) The court finds, in a hearing conducted outside  
9 the presence of the jury that the time, content and  
10 circumstances of the statement provide sufficient indicia of  
11 reliability; and

12           (2) (a) The child or vulnerable person testifies at  
13 the proceedings; or

14           (b) The child or vulnerable person is unavailable as a  
15 witness; or

16           (c) The child or vulnerable person is otherwise  
17 physically available as a witness but the court finds that  
18 the significant emotional or psychological trauma which  
19 would result from testifying in the personal presence of the

20 defendant makes the child or vulnerable person unavailable  
21 as a witness at the time of the criminal proceeding.

22 2. Notwithstanding subsection 1 of this section or any  
23 provision of law or rule of evidence requiring corroboration  
24 of statements, admissions or confessions of the defendant,  
25 and notwithstanding any prohibition of hearsay evidence, a  
26 statement by a child when under the age of [fourteen]  
27 **eighteen**, or a vulnerable person, who is alleged to be  
28 victim of an offense under chapter 565, 566, 568 or 573 is  
29 sufficient corroboration of a statement, admission or  
30 confession regardless of whether or not the child or  
31 vulnerable person is available to testify regarding the  
32 offense.

33 3. A statement may not be admitted under this section  
34 unless the prosecuting attorney makes known to the accused  
35 or the accused's counsel his or her intention to offer the  
36 statement and the particulars of the statement sufficiently  
37 in advance of the proceedings to provide the accused or the  
38 accused's counsel with a fair opportunity to prepare to meet  
39 the statement.

40 4. Nothing in this section shall be construed to limit  
41 the admissibility of statements, admissions or confessions  
42 otherwise admissible by law.

43 5. For the purposes of this section, "vulnerable  
44 person" shall mean a person who, as a result of an  
45 inadequately developed or impaired intelligence or a  
46 psychiatric disorder that materially affects ability to  
47 function, lacks the mental capacity to consent, or whose  
48 developmental level does not exceed that of an ordinary  
49 child of [fourteen] **seventeen** years of age.

492.304. 1. In addition to the admissibility of a  
2 statement under the provisions of section 492.303, the

3 visual and aural recording of a verbal or nonverbal  
4 statement of a child when under the age of [fourteen]  
5 **eighteen [who is alleged to be a victim of] or a vulnerable**  
6 **person, relating to** an offense under the provisions of  
7 chapter 565, 566 [or], 568 **or 573 if performed by another,**  
8 is admissible into evidence if:

9 (1) No attorney for either party was present when the  
10 statement was made; except that, for any statement taken at  
11 a state-funded child assessment center as provided for in  
12 subsection 2 of section 210.001, an attorney representing  
13 the state of Missouri in a criminal investigation may, as a  
14 member of a multidisciplinary investigation team, observe  
15 the taking of such statement, but such attorney shall not be  
16 present in the room where the interview is being conducted;

17 (2) The recording is both visual and aural and is  
18 recorded on film or videotape or by other electronic means;

19 (3) The recording equipment was capable of making an  
20 accurate recording, the operator of the equipment was  
21 competent, and the recording is accurate and has not been  
22 altered;

23 (4) The statement was not made in response to  
24 questioning calculated to lead the child **or vulnerable**  
25 **person** to make a particular statement or to act in a  
26 particular way;

27 (5) Every voice on the recording is identified;

28 (6) The person conducting the interview of the child  
29 **or vulnerable person** in the recording is present at the  
30 proceeding and available to testify or be cross-examined by  
31 either party; and

32 (7) The defendant or the attorney for the defendant is  
33 afforded an opportunity to view the recording before it is  
34 offered into evidence.



35           2. If the child **or vulnerable person** does not testify  
36 at the proceeding, the visual and aural recording of a  
37 verbal or nonverbal statement of the child **or vulnerable**  
38 **person** shall not be admissible under this section unless the  
39 recording qualifies for admission under section 491.075.

40           3. If the visual and aural recording of a verbal or  
41 nonverbal statement of a child **or vulnerable person** is  
42 admissible under this section and the child **or vulnerable**  
43 **person** testifies at the proceeding, it shall be admissible  
44 in addition to the testimony of the child **or vulnerable**  
45 **person** at the proceeding whether or not it repeats or  
46 duplicates the child's **or vulnerable person's** testimony.

47           4. As used in this section, a nonverbal statement  
48 shall be defined as any demonstration of the child **or**  
49 **vulnerable person** by his or her actions, facial expressions,  
50 demonstrations with a doll or other visual aid whether or  
51 not this demonstration is accompanied by words.

52           5. For the purposes of this section, "vulnerable  
53 **person**" shall mean a person who, as a result of an  
54 **inadequately developed or impaired intelligence or a**  
55 **psychiatric disorder that materially affects the ability to**  
56 **function, lacks the mental capacity to consent, or whose**  
57 **developmental level does not exceed that of an ordinary**  
58 **child of seventeen years of age.**

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