

FIRST EXTRAORDINARY SESSION OF THE
SECOND REGULAR SESSION

HOUSE BILL NO. 42

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOGAN.

5898H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 566.145, RSMo, and to enact in lieu thereof one new section relating to the offense of sexual conduct in the course of public duty, with a penalty provision and an emergency clause.

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

Section A. Section 566.145, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 566.145, to read as follows:

566.145. 1. A person commits the offense of sexual conduct **in the course of public duty if the person engages in sexual conduct:**

(1) With a **detainee, a prisoner, or an offender** ~~[if he or she]~~ **and the person:**

~~[(1)]~~ (a) Is an employee of, or assigned to work in, any jail, prison or correctional facility and engages in sexual conduct with a prisoner or an offender who is confined in a jail, prison, or correctional facility; ~~or~~

~~—(2)]~~ (b) Is a probation and parole officer and engages in sexual conduct with an offender who is under the direct supervision of the officer; **or**

(c) **Is a police officer and engages in sexual conduct with a detainee or prisoner who is in the custody of such officer; or**

(2) **With someone who is not a detainee, a prisoner, or an offender and the person is:**

(a) **A probation and parole officer, a police officer, or an employee of, or assigned to work in, any jail, prison, or correctional facility; and**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (b) On duty.

16 2. For the purposes of this section the following terms shall mean:

17 (1) "Detainee", a person deprived of liberty and kept under involuntary restraint,
18 confinement, or custody;

19 (2) "Offender", includes any person in the custody of a prison or correctional facility and
20 any person who is under the supervision of the state board of probation and parole;

21 ~~(2)~~ (3) "Prisoner", includes any person who is in the custody of a jail, whether pretrial
22 or after disposition of a charge.

23 3. The offense of sexual conduct ~~[with a prisoner or offender]~~ in the course of public
24 duty is a class E felony.

25 4. Consent of a detainee, a prisoner ~~[or]~~ , an offender, or any other person is not a
26 defense.

Section B. Because immediate action is necessary to protect vulnerable persons from
2 sexual assault or harm who are in state custody or on probation or parole, section A of this act
3 is deemed necessary for the immediate preservation of the public health, welfare, peace, and
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and
5 section A of this act shall be in full force and effect upon its passage and approval.

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