

SECOND REGULAR SESSION

SENATE BILL NO. 982

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAEFER.

Read 1st time February 27, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

6255S.011

AN ACT

To repeal sections 566.010, 566.030, 566.032, 566.060, 566.062, 566.067, 566.068, 566.100, and 566.101, RSMo, and to enact in lieu thereof nine new sections relating to penalties for sex offenses, with penalty provisions.

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

Section A. Sections 566.010, 566.030, 566.032, 566.060, 566.062, 566.067, 566.068, 566.100, and 566.101, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 566.010, 566.030, 566.032, 566.060, 566.062, 566.067, 566.068, 566.100, and 566.101, to read as follows:

566.010. As used in this chapter and chapter 568, the following terms mean:

(1) **"Aggravated sexual offense", any sexual offense, in the course of which, the actor:**

(a) **Inflicts serious physical injury on the victim; or**

(b) **Displays a deadly weapon or dangerous instrument in a threatening manner; or**

(c) **Subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person; or**

(d) **Had previously been found guilty of an offense under this chapter or under section 568.080, child used in sexual performance; section 568.090, promoting sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography; or section 573.040, furnishing pornographic materials to**

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

17 minors; or has previously been found guilty of an offense in another
18 jurisdiction which would constitute an offense under this chapter or
19 said sections; or

20 (e) Commits the offense as part of an act or series of acts
21 performed by two or more persons as part of an established or
22 prescribed pattern of activity; or

23 (f) Engages in the act that constitutes the offense with a person
24 the actor knows to be, without regard to legitimacy, the actor's:

25 a. Ancestor or descendant by blood or adoption;

26 b. Stepchild while the marriage creating that relationship exists;

27 c. Brother or sister of the whole or half blood; or

28 d. Uncle, aunt, nephew, or niece of the whole blood;

29 (2) "Deviate sexual intercourse", any act involving the genitals of one
30 person and the hand, mouth, tongue, or anus of another person or a sexual act
31 involving the penetration, however slight, of the male or female sex organ or the
32 anus by a finger, instrument or object done for the purpose of arousing or
33 gratifying the sexual desire of any person or for the purpose of terrorizing the
34 victim;

35 [(2)] (3) "Sexual conduct", sexual intercourse, deviate sexual intercourse
36 or sexual contact;

37 [(3)] (4) "Sexual contact", any touching of another person with the
38 genitals or any touching of the genitals or anus of another person, or the breast
39 of a female person, or such touching through the clothing, for the purpose of
40 arousing or gratifying sexual desire of any person;

41 [(4)] (5) "Sexual intercourse", any penetration, however slight, of the
42 female sex organ by the male sex organ, whether or not an emission results.

566.030. 1. A person commits the offense of rape in the first degree if he
2 or she has sexual intercourse with another person who is incapacitated, incapable
3 of consent, or lacks the capacity to consent, or by the use of forcible
4 compulsion. Forcible compulsion includes the use of a substance administered
5 without a victim's knowledge or consent which renders the victim physically or
6 mentally impaired so as to be incapable of making an informed consent to sexual
7 intercourse.

8 2. The offense of rape in the first degree or an attempt to commit rape in
9 the first degree is a felony for which the authorized term of imprisonment is life
10 imprisonment or a term of years not less than five years, unless:

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

17 (2) The victim is a child less than twelve years of age, in which case the
18 required term of imprisonment is life imprisonment without eligibility for
19 probation or parole until the offender has served not less than thirty years of
20 such sentence or unless the offender has reached the age of seventy-five years and
21 has served at least fifteen years of such sentence, unless such rape in the first
22 degree is described under subdivision (3) of this subsection; or

23 (3) The victim is a child less than twelve years of age and such rape in the
24 first degree or attempt to commit rape in the first degree was outrageously or
25 wantonly vile, horrible or inhumane, in that it involved torture or depravity of
26 mind, in which case the required term of imprisonment is life imprisonment
27 without eligibility for probation, parole or conditional release.

28 3. Subsection 4 of section 558.019 shall not apply to the sentence of a
29 person who has been found guilty of rape in the first degree or attempt to commit
30 rape in the first degree when the victim is less than twelve years of age, and "life
31 imprisonment" shall mean imprisonment for the duration of a person's natural
32 life for the purposes of this section.

33 4. No person found guilty of rape in the first degree or an attempt to
34 commit rape in the first degree shall be granted a suspended imposition of
35 sentence or suspended execution of sentence.

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

4 2. **The offense of** statutory rape in the first degree or an attempt to
5 commit statutory rape in the first degree is a felony for which the authorized
6 term of imprisonment is life imprisonment or a term of years not less than five
7 years, unless [in the course thereof the actor inflicts serious physical injury on
8 any 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] **the offense is an aggravated sexual offense**, or
11 the victim is less than twelve years of age in which case the authorized term of

12 imprisonment is life imprisonment or a term of years not less than ten years.

566.060. 1. A person commits the offense of sodomy in the first degree if
2 he or she has deviate sexual intercourse with another person who is
3 incapacitated, incapable of consent, or lacks the capacity to consent, or by the use
4 of forcible compulsion. Forcible compulsion includes the use of a substance
5 administered without a victim's knowledge or consent which renders the victim
6 physically or mentally impaired so as to be incapable of making an informed
7 consent to sexual intercourse.

8 2. The offense of sodomy in the first degree or an attempt to commit
9 sodomy in the first degree is a felony for which the authorized term of
10 imprisonment is life imprisonment or a term of years not less than five years,
11 unless:

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

18 (2) The victim is a child less than twelve years old, in which case the
19 required term of imprisonment is life imprisonment without eligibility for
20 probation or parole until the offender has served not less than thirty years of
21 such sentence or unless the offender has reached the age of seventy-five years and
22 has served at least fifteen years of such sentence, unless such sodomy in the first
23 degree is described under subdivision (3) of this subsection; or

24 (3) The victim is a child less than twelve years of age and such sodomy in
25 the first degree or attempt to commit sodomy in the first degree was outrageously
26 or wantonly vile, horrible or inhumane, in that it involved torture or depravity
27 of mind, in which case the required term of imprisonment is life imprisonment
28 without eligibility for probation, parole or conditional release.

29 3. Subsection 4 of section 558.019 shall not apply to the sentence of a
30 person who has been found guilty of sodomy in the first degree or an attempt to
31 commit sodomy in the first degree when the victim is less than twelve years of
32 age, and "life imprisonment" shall mean imprisonment for the duration of a
33 person's natural life for the purposes of this section.

34 4. No person found guilty of sodomy in the first degree or an attempt to
35 commit sodomy in the first degree shall be granted a suspended imposition of

36 sentence or suspended execution of sentence.

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

4 2. **The offense of** statutory sodomy in the first degree or an attempt to
5 commit statutory sodomy in the first degree is a felony for which the authorized
6 term of imprisonment is life imprisonment or a term of years not less than five
7 years, unless [in the course thereof the actor inflicts serious physical injury on
8 any 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,] **the offense is an aggravated sexual offense** or
11 the victim is less than twelve years of age, in which case the authorized term of
12 imprisonment is life imprisonment or a term of years not less than ten years.

566.067. 1. A person commits the [crime] **offense** of child molestation in
2 the first degree if he or she subjects another person who is less than fourteen
3 years of age to sexual contact.

4 2. Child molestation in the first degree is a class B felony unless:

5 (1) The [actor has previously been convicted of an offense under this
6 chapter or in the course thereof the actor inflicts serious physical injury, displays
7 a deadly weapon or deadly instrument in a threatening manner, or the offense is
8 committed as part of a ritual or ceremony] **offense is an aggravated sexual**
9 **offense**, in which case the [crime] **offense** is a class A felony; or

10 (2) The victim is a child less than twelve years of age and[:

11 (a) The actor has previously been convicted of an offense under this
12 chapter; or

13 (b) In the course thereof the actor inflicts serious physical injury, displays
14 a deadly weapon or deadly instrument in a threatening manner, or if the offense
15 is committed as part of a ritual or ceremony] **the offense is an aggravated**
16 **sexual offense**, in which case, the [crime] **offense** is a class A felony and such
17 person shall serve his or her term of imprisonment without eligibility for
18 probation or parole.

566.068. 1. A person commits the [crime] **offense** of child molestation in
2 the second degree if he or she subjects another person who is less than seventeen
3 years of age to sexual contact.

4 2. Child molestation in the second degree is a class [A misdemeanor] **D**
5 **felony** unless [the actor has previously been convicted of an offense under this

6 chapter or in the course thereof the actor inflicts serious physical injury on any
7 person, displays a deadly weapon or dangerous instrument in a threatening
8 manner, or the offense is committed as part of a ritual or ceremony] **the offense**
9 **is an aggravated sexual offense**, in which case the [crime] **offense** is a class
10 [D] C felony.

566.100. 1. A person commits the offense of sexual abuse in the first
2 degree if he or she subjects another person to sexual contact when that person is
3 incapacitated, incapable of consent, or lacks the capacity to consent, or by the use
4 of forcible compulsion.

5 2. The offense of sexual abuse in the first degree is a class C felony unless
6 [in the course thereof the actor inflicts serious physical injury or displays a
7 deadly weapon or dangerous instrument in a threatening manner or subjects the
8 victim to sexual contact with more than one person or] the victim is less than
9 fourteen years of age, **or the offense is an aggravated sexual offense**, in
10 which case it is a class B felony.

566.101. 1. A person commits the offense of sexual abuse in the second
2 degree if he or she purposely subjects another person to sexual contact without
3 that person's consent.

4 2. The offense of sexual abuse in the second degree is a class A
5 misdemeanor, unless [the actor has previously been convicted of an offense under
6 this chapter or unless in the course thereof the actor displays a deadly weapon
7 in a threatening manner or the offense is committed as a part of a ritual or
8 ceremony] **the offense is an aggravated sexual offense**, in which case it is
9 a class [D] E felony.

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