

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 214

96TH GENERAL ASSEMBLY

0824S.05T

2011

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Section A. Sections 566.200, 566.203, 566.206, 566.209, 566.212, 566.213, 566.218, 2 and 566.223, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known 3 as sections 566.200, 566.203, 566.206, 566.209, 566.212, 566.213, 566.218, and 566.223, to 4 read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

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

- 2 (1) "Basic rights information", information applicable to a noncitizen, including but not
3 limited to information about human rights, immigration, emergency assistance and resources,
4 and the legal rights and resources for victims of domestic violence;
- 5 (2) "**Blackmail**", **any threat to reveal damaging or embarrassing information about**
6 **a person to that person's spouse, family, associates, or the public at large, including a**
7 **threat to expose any secret tending to subject any person to hatred, contempt, or ridicule;**
- 8 (3) "Client", a person who is a resident of the United States and the state of Missouri and
9 who contracts with an international marriage broker to meet recruits;
- 10 (4) "**Coercion**":
11 (a) **Threats of serious harm to or physical restraint against any person;**

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.

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

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

16 [(3)] **(5)** "Commercial sex act", any sex act on account of which anything of value is
17 given to, **promised**, or received by any person;

18 [(4)] **(6)** "Criminal history record information", criminal history record information,
19 including information provided in a criminal background check, obtained from the Missouri state
20 highway patrol and the Federal Bureau of Investigation;

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

24 [(5)] **(8)** "International marriage broker":

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

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

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

35 (b) Such term shall not include:

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

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

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

44 [(6)] **(9)** "Involuntary servitude or forced labor", a condition of servitude induced by
45 means of:

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

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

50 [(7)] **(10)** "Marital history information", a declaration of the person's current marital
51 status, the number of times the person has previously been married, and whether any previous
52 marriages occurred as a result of service from an international marriage broker;

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

55 [(8)] **(12)** "Peonage", illegal and involuntary servitude in satisfaction of debt;

56 [(9)] **(13)** "Recruit", a noncitizen, nonresident, recruited by an international marriage
57 broker for the purpose of providing dating, matrimonial, or social referral services;

58 **(14) "Sexual conduct", sexual intercourse as defined in section 566.010; deviate**
59 **sexual intercourse as defined in section 566.010; actual or simulated acts of human**
60 **masturbation; physical contact with a person's clothed or unclothed genitals, pubic area,**
61 **buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;**
62 **or any sadomasochistic abuse or acts including animals or any latent objects in an act of**
63 **apparent sexual stimulation or gratification;**

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

68 **(16) "Victim of trafficking", a person who is a victim of offenses under section**
69 **566.203, 566.206, 566.209, 566.212, or 566.213.**

566.203. 1. A person commits the crime of abusing an individual through forced labor
2 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 or another
4 person] **causing or threatening to cause serious physical injury to any person;**

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

6 **(3) By blackmail;**

7 [(2)] **(4)** By means of any scheme, plan, or pattern of behavior intended to cause such
8 person to believe that, if the person does not perform the labor services, the person or another
9 person will suffer [substantial bodily harm or] **serious physical injury**, physical restraint, **or**
10 **financial harm;** or

11 [(3)] **(5)** By means of the abuse or threatened abuse of the law or the legal process.

12 2. A person who pleads guilty to or is found guilty of the crime of abuse through forced
13 labor shall not be required to register as a sexual offender pursuant to the provisions of section
14 589.400, unless such person is otherwise required to register pursuant to the provisions of such
15 section.

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

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

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

12 3. [The crime of] **Except as provided in subsection 4 of this section,** trafficking for the
13 purposes of slavery, involuntary servitude, peonage, or forced labor is a [class B] felony
14 **punishable by imprisonment for a term of years not less than five years and not more than**
15 **twenty years and a fine not to exceed two hundred and fifty thousand dollars.**

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

566.209. 1. A person commits the crime of trafficking for the purposes of sexual
2 exploitation if a person knowingly recruits, **entices, harbors,** transports, provides, or obtains by
3 any means, **including but not limited to, through the use of force, abduction, coercion,**

4 **fraud, deception, blackmail, or causing or threatening to cause financial harm**, another
5 person for the use or employment of such person in sexual conduct [as defined in section
6 556.061], **a sexual performance, or the production of explicit sexual material as defined**
7 **in section 573.010**, without his or her consent, **or benefits, financially or by receiving**
8 **anything of value, from participation in such activities.**

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

566.212. 1. A person commits the crime of sexual trafficking of a child if the individual
2 knowingly:

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

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

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

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

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

3 (1) Recruits, entices, harbors, transports, provides, or obtains by any means, **including**
4 **but not limited to, through the use of force, abduction, coercion, fraud, deception,**

5 **blackmail, or causing or threatening to cause financial harm**, a person under the age of
6 twelve to participate in a commercial sex act, **a sexual performance, or the production of**
7 **explicit sexual material as defined in section 573.010**, or benefits, financially or by receiving
8 anything of value, from participation in such activities; or

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

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

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

566.218. **Notwithstanding sections 557.011, 558.019, and 559.021**, a court sentencing
2 [an offender] **a defendant** convicted of violating the provisions of [sections] **section 566.203,**
3 **566.206, 566.209, 566.212, [and 566.215] or 566.213** shall order the [offender] **defendant** to
4 pay restitution to the victim of the offense **regardless of whether the defendant is sentenced**
5 **to a term of imprisonment or probation. The minimum restitution ordered by the court**
6 **shall be in the amount determined by the court necessary to compensate the victim for the**
7 **value of the victim's labor and/or for the mental and physical rehabilitation of the victim**
8 **and any child of the victim.**

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

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

10 3. **The department of public safety is authorized to establish procedures for**
11 **identifying victims of trafficking under sections 566.200 to 566.223. The department may**
12 **establish training programs as well as standard protocols for appropriate agencies to**
13 **educate officials and employees on state statutes and federal laws regulating human**

14 trafficking and with the identification and assistance of victims of human trafficking. Such
15 agencies may include but not be limited to state employees and contractors, including the
16 children's division of the department of social services, juvenile courts, state law
17 enforcement agencies, health care professionals, and runaway and homeless youth shelter
18 administrators.

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

25 **5. The department of social services may coordinate with relevant state, federal,**
26 **and local agencies to evaluate appropriate services for victims of trafficking. State agencies**
27 **may implement programs and enter into contracts with nonprofit agencies, domestic and**
28 **sexual violence shelters, and other nongovernment organizations to provide services to**
29 **confirmed victims of trafficking, insofar as funds are available for that purpose. Such**
30 **services may include, but are not limited to, case management, emergency temporary**
31 **housing, health care, mental health counseling, alcohol and drug addiction screening and**
32 **treatment, language interpretation and translation services, English language instruction,**
33 **job training, and placement assistance.**

34 **6. A victim of trafficking may bring a civil action against a person or persons who**
35 **plead guilty to or are found guilty of a violation of section 566.203, 566.206, 566.209,**
36 **566.212, or 566.213, to recover the actual damages sustained by the victim, court costs,**
37 **including reasonable attorney's fees, and punitive damages, when determined to be**
38 **appropriate by the court. Any action commenced under this section shall be filed within**
39 **ten years after the later of:**

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

43 **7. The attorney general may bring a civil action, in the circuit court in which the**
44 **victim of trafficking was found, to recover from any person or entity that benefits,**
45 **financially or by receiving anything of value, from violations of section 566.203, 566.206,**
46 **566.209, 566.212, or 566.213, a civil penalty of not more than fifty thousand dollars for each**
47 **violation of section 566.203, 566.206, 566.209, 566.212, or 566.213, and injunctive and other**
48 **equitable relief as the court may, in its discretion, order. The first priority of any money**

49 **or property collected under such an action shall be to pay restitution to the victims of**
50 **trafficking on whose behalf the civil action was brought.**

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