
NEW 2012 MISSOURI LAW



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To look up and print copies of Missouri laws:

- Go to www.moga.mo.gov. Click on “Missouri Revised Statutes.”
- Type the statute number in the search field.

The 2012 statutes may not be available online for several months.

Bills that contain the new laws can be found by clicking on “Joint Bill Tracking.”

NEW MISSOURI LAW: 2012

ELDERLY, DISABLED AND VULNERABLE PERSONS

STATUTE
Section
565.182
RSMo
Section
570.145
RSMo

LAWS STRENGTHENED TO ADDRESS ABUSE AND FINANCIAL EXPLOITATION OF ELDERLY AND DISABLED PEOPLE

Elder and disabled abuse law, in section 565.182 RSMo, was amended to clarify that abuse of the elderly or disabled in the second degree occurs when someone “recklessly or purposely” causes serious physical injury to an elderly or disabled person. Prior law had a standard of “recklessly *and* purposely” causing serious injury.

The crime of financial exploitation of the elderly or people with disabilities in section 570.145 RSMo contains a new element of exercising “undue influence” over the victim. Undue influence is defined in this section as

use of influence by someone who exercises authority over an elderly person or disabled person in order to take unfair advantage of that person’s vulnerable state of mind, neediness, pain, or agony. Undue influence includes, but is not limited to, the improper or fraudulent use of a power of attorney, guardianship, conservatorship, or other fiduciary authority.

Deception, intimidation or force are the other elements of the crime of financial exploitation of an elderly or disabled person in section 570.145 RSMo.

PASSED AS
SB 689

STATUTE
Section
491.075
RSMo

PROVISIONS FOR ACCEPTANCE OF COURT TESTIMONY BY VULNERABLE PERSONS SIMILAR TO THAT FOR CHILDREN

Missouri law was expanded to add a “vulnerable person” to the statute that establishes the conditions for court acceptance of the testimony of children that is not presented in open court. This provision in section 491.075 RSMo allows for the admission of testimony by a vulnerable person that would otherwise be inadmissible.

As is currently done for children, this 2012 law allows a judge to hold a hearing without the jury present to determine if the vulnerable person’s testimony is reliable and if his/her testimony in the presence of the defendant would cause “significant emotional or psychological trauma.”

For this section of law, a vulnerable person is defined as “a person who, as a result of an inadequately developed or impaired intelligence or a psychiatric disorder that materially affects ability to function, lacks the mental capacity to consent, or whose developmental level does not exceed that of an ordinary child of 14 years of age.”

PASSED AS
SB 628

NEW MISSOURI LAW: 2012

CHILD ABUSE AND NEGLECT

STATUTE
Section
210.145
RSMo

PASSED AS
HB 1323

NEW PROTOCOLS FOR CHILD ABUSE AND NEGLECT HOTLINE AND ABUSE INVESTIGATIONS

New protocols for the Department of Social Services' Children's Division investigations of reported child abuse or neglect and the Child Abuse Hotline were added to section 210.145 RSMo. These changes in law strengthened procedures in instances where both child abuse and domestic violence occur:

- 1) Children's Division investigators are prohibited from leaving cards or materials at the home of a suspected child abuse perpetrator if no one is at home or if there is a history of domestic violence in the family or household; and
- 2) Children's Division staff will investigate when three or more Hotline calls within 72 hours are made regarding the same child to determine if the calls are made for the purpose of harassment.

STATUTE
Section
568.060
RSMo

PASSED AS
SB 628

CHANGES TO DEFINITION OF CRIME OF CHILD ABUSE; ADDITION OF "ABUSIVE HEAD TRAUMA"

The crime of abuse of a child was expanded in section 568.060 RSMo to include abuse or neglect of a child. This crime, punishable as a Class C felony, includes action by a person against a child under age 18 that causes the child to suffer physical or mental injury, to be placed in a situation which may result in physical or mental injury, or to suffer abusive head trauma.

The term "abusive head trauma" is the preferred medical term for injuries resulting from what is commonly called "shaken baby syndrome."

The penalty for the crime of child abuse or neglect increases to a Class B felony if committed by a previously convicted offender. The crime of child abuse is punishable as a Class A felony if it injures a child younger than age 14, it results from sexual abuse and it involves serious emotional or physical injury.

STATUTE
Sections
565.072 -
565.074
RSMo

PASSED AS
SB 628

DOMESTIC ASSAULT CRIMES CLARIFIED TO INCLUDE ASSAULT OF CHILDREN IN THE FAMILY OR HOUSEHOLD

The domestic assault laws in sections 565.072-.074 RSMo were amended to specifically list "any child who is a member of the family or household" in these statutes defining domestic assault crimes in the first, second and third degrees. It was intended that this specific listing would clarify the ability to file a domestic assault charge against an offender who committed an assault against a child in his/her family or household.

These sections of law defining the crimes of domestic assault had been changed in 2011. They were amended to refer to the definition of "family or household member," which includes children, in Chapter 455 RSMo rather than listing the full definition in the domestic assault sections of law.

NEW MISSOURI LAW: 2012

CHILD ABUSE AND NEGLECT (CONT.)

STATUTE
Section
21.771
RSMo

JOINT COMMITTEE ON CHILD ABUSE AND NEGLECT ESTABLISHED

The Joint Committee on Child Abuse and Neglect was created in section 21.771 RSMo. The mission for the 14-member committee of Representatives and Senators, as established in law, is to:

- Study and analyze the state child abuse and neglect reporting and investigation system;
- Devise a plan for improving the decision-making process for removal of a child from a home;
- Determine the additional personnel and resources necessary to adequately protect children and improve their welfare; and
- Address the need for additional foster care homes and to improve the quality of care provided to abused and neglected children in the custody of the state.

The committee is scheduled to end on January 15, 2018.

PASSED AS

SB 636;
 SB 628

NEW MISSOURI LAW: 2012

SEXUAL OFFENSES

STATUTE
Section
452.374
RSMo

DENIAL OF RAPISTS' PATERNITY RIGHTS WHILE CRIMINAL PROCEEDINGS PENDING

A civil court judge can now stay any request for paternity establishment from a person charged with the crime of rape when a child was conceived and born as a result of that crime. The stay on paternity proceedings forestalls the first legal step toward seeking custody and/or visitation. The stay is to remain in effect until the conclusion of criminal proceedings against the accused.

PASSED AS
SB 628

Section 452.374 RSMo further establishes that denial of visitation rights by a mother in accord with this law cannot subsequently be used against her in future custody or visitation decisions.

Prior to the passage of this law, an offender charged with rape in Missouri could seek to establish paternity and then custody of a child born as a result of the rape. This tactic has been used as an accused's defense strategy that he had a consensual sexual relationship with the rape survivor. This rape defense strategy has been used in Missouri and other states, prompting the passage of Missouri's new law in section 452.374 RSMo.

STATUTE
Section
566.083
RSMo

ELECTRONIC COMMUNICATIONS ADDED TO CRIME OF SEXUAL MISCONDUCT INVOLVING A CHILD

The crime of sexual misconduct involving a child in section 566.083 RSMo was modified to include when a person knowingly coerces or induces a female child younger than 15 years of age to expose the breasts of a female child through the Internet or other electronic means for the purpose of arousing or gratifying the sexual desire of any person, including the child.

PASSED AS
SB 628

STATUTE
Section
488.5375
RSMo

OFFENDERS TO PAY COSTS OF EXAMINING ELECTRONICS IN SEXUAL OFFENSE CASES

This additional provision in section 488.5375 RSMo allows courts to order a defendant, upon a plea or finding of guilt for a felony sexual offense, to reimburse the state or local law enforcement agency for the reasonable costs incurred in the examination of certain seized electronic devices.

PASSED AS
SB 628

The costs will be established by each law enforcement agency, but the court may reduce the costs if it determines them to be excessive.

SEXUAL OFFENSES (CONT.)

**STATUTE
“Section
2”**

**(not yet
assigned
a section
number
by the
Missouri
Revisor of
Statutes)**

COMMITTEE OF LEGISLATORS TO EVALUATE AND RECOMMEND CHANGES TO SEX OFFENDER REGISTRY

This new section of law directs the Joint Committee on the Missouri Criminal Code, comprised of Missouri Representatives and Senators, to evaluate which offenses should be removed from the sex offender registry.

The law directs the committee to “evaluate removal of offenses from the sexual offender registry which do not jeopardize public safety or do not contribute to the public’s assessment of risk associated with offenders.”

PASSED AS

SB 628

PROBATION AND PAROLE

**STATUTES
Sections
217.703,
217.718
RSMo**

**Sections
559.036
and
559.115
RSMo**

**Section
217.147
RSMo**

“JUSTICE REINVESTMENT ACT” TO SHIFT RESOURCES FROM PRISONS TO COMMUNITY SUPERVISION

Significant changes in the laws governing Missouri’s practices of incarceration, probation and parole occurred in 2012.

A nearly year-long study of those practices involved a cross-section of lawmakers, the courts, corrections officials and victims’ advocates. The goal was to identify how Missouri would follow other states’ efforts to reduce the costs of incarceration and use those resources to fund increased community-level supervision of non-violent offenders. The Pew Charitable Trusts supported the project, which it has undertaken in states nationwide.

The following are the primary changes that resulted in the passage of the Justice Reinvestment Act (House Bill 1525) that Governor Jay Nixon signed into law. It became effective on August 28, 2012. Not all of the provisions established by the new statutes can be immediately implemented due to Missouri’s state budget constraints.

PASSED AS

HB 1525

NEW MISSOURI LAW: 2012

PROBATION AND PAROLE (CONT.)

EARNED COMPLIANCE CREDITS FOR OFFENDERS ON PROBATION OR PAROLE: SECTION 217.703 RSMo

- This section of new law rewards offenders who comply with the terms of their probation, parole or conditional release. It gives them one calendar month of credit for every calendar month they comply. Credits move them closer to final discharge, free up needed resources, and reward positive behavior by offenders.
- Offenders convicted of second degree domestic violence, sexual assault and aggravated stalking crimes are not eligible for compliance credits. Also ineligible are offenders on lifetime supervision, those convicted of violent or sexual crimes, and absconders. The court can deem any offender ineligible.
- At least twice a year, the Division of Probation and Parole must calculate the number of months the offender has remaining on supervision, factoring in earned credits, and notify the offender of the length of time remaining.

ADMINISTRATIVE JAIL SANCTIONS: SECTION 217.718 RSMo

- This section of new law allows, as an alternative to revocation proceedings, a probation officer to place an offender in the county jail for a technical, non-law, violation. Offenders will face “swift and certain sanctions” for violations, without having their underlying terms of probation, parole, or conditional release altered.
- The first period of detention cannot exceed 48 hours, but subsequent periods may exceed 48 hours. However, the total of county-level detention cannot exceed 360 hours in any year.
- It is expected that this provision will reduce court dockets for probation or parole revocations.

MANDATORY PLACEMENT IN A 120-DAY PROGRAM: SECTIONS 559.036 AND 559.115 RSMo

- These sections allow certain offenders who commit a more serious violation, but who may need special help—for a substance abuse problem or are assessed to need a more severe penalty—to serve a 120-day “shock incarceration” in a state penitentiary. This sanction would be limited to only one 120-day treatment per offense, per probation term.
- Offenders that are ineligible for the compliance credits are also disqualified from this program.
- Once an offender has successfully completed the program, the court must release him/her to continue to serve the term of probation without modifying the term based on the same violation.
- Time served in the program is credited as time served against the offender’s sentence.

NEW MISSOURI LAW: 2012

PROBATION AND PAROLE (CONT.)

SENTENCING AND CORRECTIONS OVERSIGHT COMMISSION: SECTION 217.147 RSMo

A 13-member Sentencing and Corrections Oversight Commission was established in section 217.147 RSMo. It is to monitor the data and outcomes of the new offender supervision system that will include an advocate for victims of crime. The Commission will recommend how to reinvest cost savings from the new system. Its proposals will support evidence-based practices to reduce offender recidivism and to enhance restitution for crime victims. The provisions of the law related to the Commission expire on August 28, 2018.

- Commissioners will come from the legislature, the judiciary, a prosecutor, a public defender, a victim’s advocate, a sheriff, a county representative, Department of Corrections, Division of Probation and Parole, and the Supreme Court.
- The commission must meet at least twice a year, and must issue an annual report detailing the effects of these provisions.

**STATUTE
Section
217.670
RSMo**

VIDEOCONFERENCING ALLOWED FOR PROBATION AND PAROLE HEARINGS, INCLUDING VICTIMS’ TESTIMONY

An amendment to section 217.670 RSMo allows videoconferencing of probation and parole hearings. This provision allows the Board of Probation and Parole, or a hearing panel of the Board, to conduct hearings with offenders via videoconference. Victims may testify at the site where the Board is conducting the videoconference or at the institution where the offender is located. The offender or the victim may object to the use of videoconferencing and, upon such objection, the hearing will be conducted in person.

**PASSED AS
SB 636**

COURT AND CRIMINAL PROCEEDINGS

**STATUTE
Section
479.040.1(2)
RSMo**

“SPECIAL NEEDS” MUNICIPAL CASES ALLOWED TO BE TRANSFERRED TO ASSOCIATE CIRCUIT COURTS

This new subsection of section 479.040 RSMo allows municipal ordinance violation cases to be referred to associate courts when the accused has “special needs” such as mental illness or other special circumstances.

**PASSED AS
SB 628**

The presiding judge of the circuit must approve the referral, or it can be established by county contract. The cases can then proceed in specialized dockets within an existing mental health, housing, family, domestic violence or DWI court.

NEW MISSOURI LAW: 2012

BILLS OF INTEREST

STATUTES
Section
392.415
RSMo

LAW ENFORCEMENT CAN BE INFORMED OF CELL PHONE USER’S LOCATION IN EMERGENCIES

Law enforcement officers may, under the provisions of section 392.415 RSMo, obtain a cell phone user’s location information in certain emergency situations. The new law requires telecommunication carriers to provide the information to law enforcement in situations that involve danger of death or serious physical injury to the cell phone user.

PASSED AS
HB 1108

STATUTE
Section
285.304
RSMo

NEW INFORMATION REQUIRED ON W-4s BY EMPLOYERS

An addition to section 285.304 RSMo requires employers to include on an employee’s W-4 withholding form the date that services for remuneration, or payment, were first performed by an employee.

This provision adds to the existing requirements for what is to be included on a W-4 form, as provided in section 285.304 RSMo:

- The name, address and Social Security number of the employee; and
- The employer’s name, address and IRS identification number for the organization/business.

PASSED AS
HB 1131