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# NEW 2013 MISSOURI LAW

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- To review copies of all bills, go to [www.moga.mo.gov](http://www.moga.mo.gov).
  - Select "Joint Information" from the left-side menu bar, then "Joint Bill Information." Enter the bill number in the search field.

To view the final version of a bill passed by the General Assembly, select the bill text identified as "Truly Agreed" on the bill page.

If you would like to see how a bill progressed through this session, please refer to our monthly *MCADSV Legislative Updates* which can be found at on our website at [www.mocadsv.org](http://www.mocadsv.org), under the "What We Do" tab and "Public Policy" header.

# RAPE AND SEXUAL OFFENSES

## STATUTES

Section  
558.061  
RSMo  
Section  
566.020  
RSMo  
Section  
566.030-101  
RSMo

## PASSED AS

HB 215

### RAPE LAWS STRENGTHENED AND RESTRUCTURED

The most significant changes to Missouri rape laws in decades have revised both the structure and the elements that define rape and sodomy crimes. The changes in law add elements to felony rape crimes that include a victim's incapability or incapacity to consent to sexual activity. These offenses previously were based on an offender's use of force or drugging of a victim and did not include a victim's inability to consent. A range of sexual offense crimes were renamed, and outdated sections of law were deleted.

#### Sexual offense crimes renamed

- **Forcible Rape is renamed Rape, First Degree** in Section 566.030.1 RSMo;
- **Sexual Assault is renamed Rape, Second Degree** in Section 566.031 RSMo;
- **Forcible Sodomy is renamed Sodomy, First Degree** in Section 566.060.1 RSMo;
- **Deviate Sexual Assault is renamed Sodomy, Second Degree** in Section 566.061 RSMo;
- **Sexual Misconduct, Second Degree is renamed Sexual Misconduct, First Degree** in Section 566.093 RSMo;
- **Sexual Misconduct, Third Degree is renamed Sexual Misconduct, Second Degree** in Section 566.095 RSMo;
- **Sexual Abuse is renamed Sexual Abuse, First Degree** in Section 566.100 RSMo;
- **Sexual Misconduct, First Degree is renamed Sexual Abuse, Second Degree** in Section 566.101 RSMo.

#### Definition changes

- **Definition of consent:** In Missouri law, consent or lack of consent may be expressed or implied. New elements were added to the definition of lack of consent in Section 556.061(5)(b) RSMo. If assent is given, it does not constitute consent if the person giving it is: "by reason of youth, mental disease or defect, intoxication, **a drug-induced state, or any other reason** is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense" (*new language in bold*).

Also in Section 556.061(5) RSMo, consent may not be given by any person "who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor," or if "it is induced by force, duress or deception."

- **Definition of incapacitated:** Section 556.061(13) RSMo states: "Incapacitated means that physical or mental condition, temporary or permanent, in which a person is unconscious, unable to appraise the nature of such person's conduct, or unable to communicate unwillingness to an act."

The following sentence from that statutory definition of "incapacitated" was deleted: "A person is not incapacitated with respect to an act committed upon such person if he or she became unconscious, unable to appraise the nature of such person's conduct or unable to communicate unwillingness to an act, after consenting to the act."

## RAPE AND SEXUAL OFFENSES (cont.)

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### Lack of consent added as element of felony sexual offenses

- **Three felony sexual offenses were changed to include a victim's lack of consent.** The elements that constitute the first-degree felony crimes of rape, sodomy and sexual abuse each were amended to include instances when the victim "is incapacitated, incapable of consent, or lacks the capacity to consent."
  - **Rape, First Degree:** Section 566.030.1 RSMo defines the crime of Rape, First Degree as: "A person commits the offense of rape in the first degree if he or she has sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse."
  - **Sodomy, First Degree:** Section 566.060.1 RSMo defines the crime of Sodomy, First Degree as: "A person commits the offense of sodomy in the first degree if he or she has deviate sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse."
  - **Sexual Abuse, First Degree:** Section 566.100.1 RSMo defines the crime of Sexual Abuse, First Degree as: "A person commits the offense of sexual abuse in the first degree if he or she subjects another person to sexual contact when that person is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion."

### Section of law deleted

- **"Mistake as to incapacity" deleted from law.** Section 566.020.1 RSMo is deleted from Missouri law. The deleted section stated: "Whenever in this chapter the criminality of conduct depends upon a victim's being incapacitated, no crime is committed if the actor reasonably believed that the victim was not incapacitated and reasonably believed that the victim consented to the act. The defendant shall have the burden of injecting the issue of belief as to capacity and consent."

# DOMESTIC VIOLENCE

**STATUTE**

Chapter  
455 RSMo  
Section  
527.290.2  
RSMo

**PASSED AS**

HB 215

**CORRECTIONS MADE TO ERRORS IN MISSOURI DOMESTIC VIOLENCE LAWS**

Several sections of domestic violence laws were changed to correct errors that passed in an extensive 2011 bill that revised all Missouri domestic violence statutes. The amended sections:

- Provide for the consistent use of the more expansive definition of “domestic violence” rather than references to “abuse” in the domestic violence chapter of law, Chapter 455 RSMo;
- Include the consistent use of “stalking” in Chapter 455 RSMo to ensure the laws apply to instances of stalking that do not involve a family or household member as well as acts of stalking in the context of domestic violence;
- Clarify that service of both ex parte and full Orders of Protection shall have priority over other non-emergency actions. This provision places requirements for service of both ex parte and full protection orders in the same section of law, Section 455.040.2 RSMo;
- Add language to Section 455.040 RSMo to clarify that a judge is not mandated to issue a full Order of Protection if the respondent can show in a hearing that the actions alleged as domestic violence were lawful. This amendment was in response to a Missouri Western District Appellate Court decision in a protection order case where actions alleged as violence were determined to be lawful self-defense;
- Require a custodial parent, guardian or guardian ad litem served with notice of an ex parte protection order against a juvenile respondent to bring the juvenile to court (Section 455.035.2 RSMo). This language conforms to similar sections in juvenile law;
- Allow court review of a motion to dismiss a protection order without a court hearing if a judge seeks to determine if a petitioner is being coerced into seeking the order’s dismissal (Section 455.060.5 RSMo);
- Add the electronic court record system, CaseNet, to current law that does not require public notice of a name change when the person changing his or her name is a victim of domestic violence (Section 527.290.2 RSMo).

# CRIME VICTIMS’ RESTITUTION

**STATUTES**

Section  
559.100.3-7  
RSMo  
Section  
559.105.4  
RSMo

**PASSED AS**

HB 215

**PROSECUTORS TO COLLECT RESTITUTION PAYMENTS FOR CRIME VICTIMS**

Missouri prosecutors were given the statutory authority to collect court-ordered restitution for crime victims upon an offender’s conviction or guilty plea. New law in Section 559.100.3-7 RSMo allows prosecutors to collect administrative fees of \$25 for restitution of less than \$100, fees of \$50 for restitution of less than \$250, and a fee of 10 percent of the total for restitution in the amount of \$250 or more. The maximum administrative fee that prosecutors can charge is \$75. These fees also can be collected from incarcerated persons (Section 559.105.4 RSMo).

## SEXUAL ASSAULT FORENSIC EVIDENCE EXAMINATIONS

### STATUTE

Section  
595.220.7-8  
RSMo

### PASSED AS

HB 215;  
HB 505; SB  
256

### NEW REGULATIONS FOR SAFE EXAMS OF CHILDREN YOUNGER THAN 14

New sections of law add qualifications and best practice guidelines for health care professionals who conduct sexual assault forensic evidence examinations of children younger than 14. New definitions were added to distinguish between “emergency” and “non-emergency” sexual assault forensic evidence examinations of children. An emergency forensic examination is one that is conducted within five days of an alleged sexual offense committed against a child younger than 14 (Section 595.220.8(5) RSMo). Non-emergency forensic evidence examinations of children are defined in Section 595.220.8(6) RSMo as those that are conducted five days or more after an alleged sexual offense.

The Department of Public Safety (DPS) is required to establish new rules and regulations to specify qualifications and best practices for health care professionals who conduct sexual assault forensic evidence examinations of children younger than 14. Health care providers will be required to comply with these new rules and regulations for child exams in order for the cost of the examinations to be reimbursed through the Sexual Assault Forensic Evidence Examination (SAFE) program administered by DPS (Section 595.220.7 RSMo).

## PUBLIC ASSISTANCE

### STATUTES

Section  
208.204  
RSMo  
Section  
578.337  
RSMo  
Section  
589.379  
RSMo  
Section  
578.390  
RSMo  
Section  
578.392  
RSMo

### PASSED AS

HB 251

### USE OF TANF BENEFIT CARDS IN CASINOS AND LIQUOR STORES PROHIBITED; FRAUD PENALTIES INCREASE

Recipients of Temporary Assistance to Needy Families (TANF) public assistance benefits are prohibited from using their electronic benefit cards in liquor stores, casinos and adult-oriented businesses (Section 208.204.1 RSMo). Penalties are increased in Sections 578.337 and 589.379 RSMo for those who receive, trade or transfer TANF and/or food stamp public assistance benefits illegally. These sections were modified to refer to public assistance benefits and electronic benefit cards (EBTs).

A first offense of the crime of unlawfully receiving public assistance benefits or EBT cards of less than \$500 is a Class A misdemeanor; fraud involving more than \$500 is a Class D felony. Subsequent offenses of public assistance or EBT card fraud are Class C felonies. Convictions require full restitution to the Department of Social Services (DSS), may result in a mandatory 120-day incarceration if full restitution is not made within 30 days, and terms of probation for these offenses cannot end prior to the full payment of court-ordered restitution.

Public assistance benefits are defined in Section 578.375(5) RSMo as:

“...anything of value, including money, food, EBT cards, food stamps, commodities, clothing, utilities, utilities payments, shelter, drugs and medicine, materials, goods, and any service including institutional care, medical care, dental care, child care, psychiatric and psychological service, rehabilitation instruction, training, transitional assistance, or counseling, received by or paid on behalf of any person under chapters 198, 205, 207, 208, 209, and 660, or benefits, programs, and services provided or administered by the Department [of Social Services].”

DSS will operate a hotline for eight hours each day to receive reports of public assistance fraud (Section 578.390 RSMo). DSS is directed to “study analytical modeling-based methods of detecting fraud” and issue a report to legislators and the Governor on the benefits, limitations and costs of implementing such a model in Missouri (Section 578.392 RSMo).

## CHILD ABUSE

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### STATUTE

Section  
210.115  
RSMo

### MANDATED CHILD ABUSE REPORTERS REQUIRED TO MAKE DIRECT REPORTS OF CHILD ABUSE

An individual identified in Missouri law as a mandated reporter of child abuse or neglect must make those reports directly and cannot have the report made to the Children's Division by a supervisor (Section 210.115 RSMo).

### PASSED AS

HB 505

Unchanged in Section 210.115 RSMo is the list of those who are legally defined as mandatory reporters of child abuse and neglect:

“...a physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel engaged in the care/treatment of persons, and any other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or other school official, minister, peace officer or law enforcement official, or other person with responsibility for the care of children.”

### STATUTE

Section  
211.036  
RSMo

### AGE FOR YOUTH TO REENTER FOSTER CARE INCREASED TO 21

A change to Section 211.036 RSMo increases the age limit for youth to reenter foster care from age 18 to 21 upon a petition to the court by the youth, juvenile officer or Children's Division.

### PASSED AS

SB 208

### STATUTE

Section  
210.950  
RSMo

### “SAFE PLACE FOR NEWBORNS” LAW EXPANDS TIME TO RELINQUISH CUSTODY OF AN INFANT

A parent can anonymously relinquish an infant for up to 45 days after the infant's birth without facing criminal abandonment charges. This is an increase in the previously allowed time limit of five days (Section 210.950.3 RSMo). Infants may be left with personnel from a hospital, maternity home or pregnancy resource center, or with a firefighter, emergency medical technician or law enforcement officer.

### PASSED AS

SB 256

### STATUTE

Section  
160.2100  
RSMo

### TASK FORCE ON THE PREVENTION OF SEXUAL ABUSE OF CHILDREN EXTENDED

Section 160.2100 RSMo was amended to delete the 2013 expiration date for the Task Force on the Prevention of Sexual Abuse of Children. The task force will continue its work indefinitely.

### PASSED AS

SB 256

## CRIMINAL OFFENDERS

**PASSED AS**  
House Joint  
Resolution  
16

### **VOTERS TO DECIDE ON CONSTITUTIONAL AMENDMENT TO ALLOW SEX OFFENDER “PROPENSITY EVIDENCE”**

Missouri legislators passed House Joint Resolution 16, which will allow a state-wide vote on a constitutional amendment to allow relevant “propensity evidence” of prior criminal acts to be admissible in prosecutions for sex offenses involving a victim younger than 18.

**STATUTES**

Section  
478.007  
RSMo  
Section  
544.455  
RSMo  
Section  
557.011  
RSMo

### **COUNTIES CAN FUND ELECTRONIC MONITORING DURING HOUSE ARREST**

County commissioners may approve funding for the costs, and judges then may order electronic monitoring during house arrest for indigent defendants awaiting trial (Section 544.455 RSMo). Judges also may order electronic monitoring during house arrest for those convicted of crimes when either the offender or the county pays for the costs (Section 557.011.6 RSMo). Previously, offenders were required to pay for the costs of their electronic monitoring.

Changes to Section 478.007 RSMo allow DWI courts to contract for private probation services to monitor offenders if state probation services cannot.

**PASSED AS**

SB 327;  
HB 215;  
HB 374

## CHILD CUSTODY AND VISITATION

**STATUTE**

Section  
452.413  
RSMo

### **CUSTODY AND VISITATION LAW CHANGES FOR DEPLOYED MILITARY PARENTS ADDRESS DOMESTIC VIOLENCE**

Deploying military parents may temporarily modify child custody and visitation orders, be granted delays in pending custody orders until 90 days after a military parent’s deployment, and are allowed to delegate visitation rights to other family members during their deployment (Section 452.413 RSMo).

**PASSED AS**

SB 117;  
HB 148

If an Order of Protection is in effect against a deployed parent, the other parent is not required to disclose her/his address except to the court (Section 452.413.4(4) RSMo). There is a rebuttable presumption in Section 452.413.6(4) RSMo against delegation of a deployed parent’s visitation rights to another family member with a history of committing domestic violence.



## CHILD SUPPORT

### STATUTE

Section  
454.475  
RSMo

### PASSED AS

SB 69;  
HB 374

### ADMINISTRATIVE HEARING OFFICERS MAY SET ASIDE OR CORRECT CHILD SUPPORT ORDERS

Department of Social Services' administrative hearing officers may set aside or correct administrative child support decisions, orders and proposed administrative modifications of a judicial order (Section 454.475.7(1)-(3) RSMo). Such corrections or set-aside decisions, orders and/or modifications can be done after written notice and an opportunity for all parties to respond. Objections or responses to these motions must be made in writing within 15 days from the filing of a motion to correct or set aside a child support order. The law specifies the conditions and time frame during which corrections can be made.

## REPRODUCTIVE HEALTH

### STATUTE

Section  
338.255  
RSMo

### PASSED AS

SB 126

### PHARMACIES ALLOWED BY LAW TO NOT STOCK BIRTH CONTROL DRUGS OR DEVICES

New language in Section 338.255 RSMo states, in its entirety, "Notwithstanding any other provision of law, no pharmacy licensed in this state shall be required to carry or maintain in inventory any specific prescription or nonprescription drug or device."

### STATUTE

Section  
188.021  
RSMo

### PASSED AS

HB 400

### NEW REGULATIONS GOVERN USE OF RU-486

Section 188.021.1 RSMo specifies: "When RU-486 (mifepristone) or any drug or chemical is used for the purpose of inducing an abortion, the initial dose of the drug or chemical shall be administered in the same room and in the physical presence of the physician who prescribed, dispensed, or otherwise provided the drug or chemical to the patient."

## FIREARMS

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### STATUTES

Section

57.100

RSMo

Section

171.410

RSMo

Section

571.101

RSMo

Section

571.104

RSMo

Section

571.410

RSMo

### PASSED AS

SB 75

### SHERIFFS GIVEN AUTHORITY OVER CONCEALED WEAPONS PERMITS; OTHER FIREARMS LAWS CHANGED

Several sections of law dealing with firearms are changed. These include:

- **Sheriffs given authority over concealed weapons permits**

(Section 57.100 RSMo)

Effective January 1, 2014, every sheriff is required to maintain, house, and issue concealed carry permits. Permits issued after August 28, 2013, will be valid for five years. The permits were previously valid for only three years.

- **Concealed weapons permit changes**

(Section 571.101 RSMo)

People with concealed weapons permits issued by a sheriff are no longer required to present those certificates to the Department of Revenue to have a concealed weapon endorsement shown on their drivers' licenses. Instead, a permit issued by a sheriff authorizes an eligible person to carry a concealed firearm.

(Section 571.101.2(3) RSMo)

After August 28, 2013, applicants for concealed weapons permits are disqualified if they have entered an Alford plea or pleaded no contest or guilty to crimes punishable by a prison term of two years—an increase from the previous punishment term of one year or less.

- **Concealed weapons permit to be surrendered when protection order or arrest warrant issued**

(Section 571.104 RSMo)

When persons who hold concealed weapons permits are subject to a full Order of Protection, arrest warrant, commitment or a court order in a criminal proceeding, they must surrender the permit or drivers' licenses with a concealed carry endorsement to the court or to the officer serving an order, warrant or commitment.

- **Firearms ownership records**

(Section 571.011 RSMo)

Any records of applications or ownership of a firearm are not open records and can only be opened by court order. A violation of this provision is a class A misdemeanor.

- **Schools may offer “Eddie Eagle” gun safety courses to first grade students**

(Section 171.410 RSMo)

Each school district and charter school may annually teach the National Rifle Association's “Eddie Eagle Gunsafe Program” to first grade students, or use a similar program. Section 171.410.2 RSMo states: “School personnel and program instructors shall not make value judgments about firearms.”

## FIREARMS (cont.)

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### STATUTES

Section  
571.030  
RSMo

### STATE EMPLOYEES MAY KEEP FIREARMS IN VEHICLES ON STATE PROPERTY; NEW REGULATIONS FOR WEAPONS BUY-BACK PROGRAMS

Section 571.030.6 RSMo allows state employees to keep firearms in their locked vehicles on state property if the firearms are not visible.

Section  
571.067  
RSMo

Local governments are not allowed to hold gun buy-back programs unless a local ordinance allows it and gun dealers can buy the guns turned in to the program (Section 571.067 RSMo).

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### PASSED AS

HB 533

## VETERANS

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### STATUTE

Section  
478.008  
RSMo

### VETERANS' TREATMENT COURTS ESTABLISHED

Circuit courts may establish veterans' treatment courts, similar to drug courts, for cases involving veterans with mental illnesses and/or substance abuse issues (Section 478.008 RSMo). Veterans' treatment courts are required to provide judicial oversight of offenders and refer those veterans for services and treatment to programs certified by the Department of Mental Health, unless such certified programs are not available in the jurisdiction. Veterans' courts must enter into written agreements with each prosecutor in the judicial circuit to identify which felony offenses make a veteran ineligible for referral to the treatment court (Section 478.008. 3(2) RSMo).

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### PASSED AS

SB 118;  
HB 374

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### STATUTE

Section  
167.020  
RSMo

### RESIDENCY REQUIREMENTS FOR SCHOOLS WAIVED FOR CHILDREN OF DEPLOYED MILITARY PERSONNEL

Section 167.020.2(1) RSMo waives residency requirements for school enrollment and allows children of a deployed military parent or guardian to attend school in a school district in which they live temporarily during the time of active duty deployment.

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### PASSED AS

HB 159

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## SCHOOL VIOLENCE

**STATUTE**

Section  
162.215  
RSMo

**PASSED AS**

HB 152

### **SCHOOLS ALLOWED TO COMMISSION OFFICERS TO ENFORCE CRIMINAL LAWS**

School boards can commission school officers to enforce laws relating to crimes committed on school premises, at school activities and on school buses only through a memorandum of understanding with each law enforcement agency and county sheriff’s office that has law enforcement jurisdiction over the school district’s premises and locations of school activities (Section 162.215 RSMo).

**STATUTE**

Section  
170.315  
RSMo

**PASSED AS**

SB 75

### **PROGRAM ESTABLISHED FOR SCHOOL PERSONNEL TO BE TRAINED ON SCHOOL-SHOOTING RESPONSES**

The “Active Shooter and Intruder Response Training for Schools Program” (ASIRT) is established in Section 170.315 RSMo. By July 1, 2014, each school district and charter school is allowed to train teachers and school employees on how to respond to students with information about a threatening situation in the school or on school property. The training also is to include how school personnel should address a potentially dangerous, armed intruder or active shooter. All school personnel are required to annually participate in a simulated active shooter and intruder response drill conducted by law enforcement professionals (Section 170.315.3 RSMo).

## LAW SCHOOL CLINICS

**STATUTE**

Section  
514.040  
RSMo

**PASSED AS**

HB 374

### **LAW SCHOOL CLINIC REPRESENTATION EXEMPT FROM COURT COSTS**

Law school clinics are added to the list of legal services organizations that may waive court expenses without filing a motion in civil cases involving representation of indigent persons (Section 514.040.3 RSMo).

## LICENSURE OF THERAPISTS

**STATUTE**

Section  
337.715  
RSMo

**PASSED AS**

SB 234

### **LICENSURE OF MARITAL AND FAMILY THERAPISTS REQUIRES ACCREDITED DEGREE**

Applicants for Missouri licensure as a marital and family therapist are required, under a new provision in Section 337.715 RSMo, to show a master’s or doctoral degree from an educational program/institution that is accredited by the Commission on Accreditation for Marriage and Family Therapy.