

FIRST REGULAR SESSION

SENATE BILL NO. 5

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LOUDON.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0310S.021

AN ACT

To repeal sections 573.025, 573.035, and 573.037, RSMo, and to enact in lieu thereof four new sections relating to child pornography, with penalty provisions.

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

Section A. Sections 573.025, 573.035, and 573.037, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 537.047,
3 573.025, 573.035, and 573.037, to read as follows:

537.047. 1. Any person who, while a child or minor as defined by
2 **section 573.010, RSMo, was a victim of a violation of sections 573.023,**
3 **573.025, 573.035, or 573.037, RSMo, and who suffers physical or**
4 **psychological injury or illness as a result of such violation, shall be**
5 **entitled to bring a civil action to recover the actual damages sustained**
6 **as a result of the violation, and shall also be entitled to recover the**
7 **costs of the civil action and reasonable fees for attorneys and expert**
8 **witnesses. A psychological injury or illness as described under this**
9 **section need not be accompanied by physical injury or illness. Any**
10 **person deemed to have sustained injury or illness as described by this**
11 **section shall be deemed to have sustained damages of no less than one**
12 **hundred fifty thousand dollars in value.**

13 **2. Any action described under this section shall be commenced**
14 **within ten years of the plaintiff attaining the age of twenty-one, or**
15 **within three years of the date the plaintiff discovers that the injury or**
16 **illness was caused by the violation of an offense enumerated in**

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

17 **subsection one of this section.**

573.025. 1. A person commits the crime of promoting child pornography
2 in the first degree if, knowing of its content and character, such person possesses
3 with the intent to promote or promotes [obscene material that has a child as one
4 of its participants or portrays what appears to be a child as a participant or
5 observer of sexual conduct] **child pornography of a child less than fourteen**
6 **years of age or what appears to be a child less than fourteen years of**
7 **age.**

8 2. Promoting child pornography in the first degree is a class B felony
9 unless the person knowingly promotes such material to a minor, in which case it
10 is a class A felony. **No person who is convicted of, pleads guilty to, or is**
11 **found guilty of such crime shall be eligible for probation, parole, or**
12 **conditional release for a period of three calendar years.**

13 3. Nothing in this section shall be construed to require a provider of
14 electronic communication services or remote computing services to monitor any
15 user, subscriber or customer of the provider, or the content of any communication
16 of any user, subscriber or customer of the provider.

573.035. 1. A person commits the crime of promoting child pornography
2 in the second degree if knowing of its content and character such person
3 possesses with the intent to promote or promotes child pornography [or obscene
4 material that has a minor as one of its participants, or portrays what appears to
5 be a minor as a participant or observer of sexual conduct] **of a minor not less**
6 **than fourteen years of age or what appears to be a minor not less than**
7 **fourteen years of age.**

8 2. Promoting child pornography in the second degree is a class C felony
9 unless the person knowingly promotes such material to a minor, in which case it
10 is a class B felony. **No person who is found guilty of, pleads guilty to, or**
11 **is convicted of promoting child pornography in the second degree shall**
12 **be eligible for probation.**

573.037. 1. A person commits the crime of possession of child
2 pornography if, knowing of its content and character, such person possesses any
3 [obscene material that has a child as one of its participants or portrays what
4 appears to be a child as an observer or participant of sexual conduct] **child**
5 **pornography.**

6 2. Possession of child pornography is a [class D] felony [unless the person
7 has pleaded guilty to or has been found guilty of an offense under this section, in

8 which case it is a class C felony] **for which the authorized term of**
9 **imprisonment shall not be less than one year and not more than ten**
10 **years.**

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Bill

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