

FIRST REGULAR SESSION

# SENATE BILL NO. 180

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARTLE.

Read 1st time January 13, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

0084S.011

## AN ACT

To repeal sections 195.214, 195.217, 195.218, 566.147, and 566.149, RSMo, and to enact in lieu thereof five new sections relating to criminal mens rea, with penalty provisions.

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

Section A. Sections 195.214, 195.217, 195.218, 566.147, and 566.149, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 195.214, 195.217, 195.218, 566.147, and 566.149, to read as follows:

195.214. 1. A person commits the offense of distribution of a controlled substance near schools if, **regardless of knowledge of his or her proximity to a school, college, or university**, such person violates section 195.211 by unlawfully distributing or delivering any controlled substance to a person in or on, or within two thousand feet of, the real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college or university or on any school bus.

2. Distribution of a controlled substance near schools is a class A felony which term shall be served without probation or parole if the court finds the defendant is a persistent drug offender.

195.217. 1. A person commits the offense of distribution of a controlled substance near a park if, **regardless of knowledge of his or her proximity to a park**, such person violates section 195.211 by unlawfully distributing or delivering heroin, cocaine, LSD, amphetamine, or methamphetamine to a person in or on, or within one thousand feet of, the real property comprising a public park, state park, county park, or municipal park or a public or private park designed for public recreational purposes, as park is defined in section 253.010,

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

8 RSMo.

9 2. Distribution of a controlled substance near a park is a class A felony.

195.218. 1. A person commits the offense of distribution of a controlled  
2 substance near public housing or other governmental assisted housing if [he],  
3 **regardless of knowledge of his or her proximity to public or other**  
4 **governmental assisted housing, such person** violates section 195.211 by  
5 unlawfully distributing or delivering any controlled substance to a person in or  
6 on, or within one thousand feet of the real property comprising public housing or  
7 other governmental assisted housing.

8 2. Distribution of a controlled substance near public housing or other  
9 governmental assisted housing is a class A felony which term shall be served  
10 without probation or parole if the court finds the defendant is a persistent drug  
11 offender.

566.147. 1. Any person who, since July 1, 1979, has been or hereafter has  
2 pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of  
3 violating any of the provisions of this chapter or the provisions of subsection 2 of  
4 section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare  
5 of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child  
6 in a sexual performance; section 568.090, RSMo, promoting a sexual performance  
7 by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025,  
8 RSMo, promoting child pornography in the first degree; section 573.035, RSMo,  
9 promoting child pornography in the second degree; section 573.037, RSMo,  
10 possession of child pornography, or section 573.040, RSMo, furnishing  
11 pornographic material to minors; or for an offense in any other state or foreign  
12 country, or under federal, tribal, or military jurisdiction which, if committed in  
13 this state, would be a violation listed in this section shall not reside within one  
14 thousand feet of any public school as defined in section 160.011, RSMo, or any  
15 private school giving instruction in a grade or grades not higher than the twelfth  
16 grade, or child-care facility as defined in section 210.201, RSMo, which is in  
17 existence at the time the individual begins to reside at the location.

18 2. If such person has already established a residence and a public school,  
19 a private school, or child-care facility is subsequently built or placed within one  
20 thousand feet of such person's residence, then such person shall, within one week  
21 of the opening of such public school, private school, or child-care facility, notify  
22 the county sheriff where such public school, private school, or child-care facility  
23 is located that he or she is now residing within one thousand feet of such public

24 school, private school, or child-care facility and shall provide verifiable proof to  
25 the sheriff that he or she resided there prior to the opening of such public school,  
26 private school, or child-care facility.

27 3. For purposes of this section, "resides" means sleeps in a residence,  
28 which may include more than one location and may be mobile or transitory.

29 4. **Regardless of the person's knowledge of his or her residence's**  
30 **proximity to a public school, private school, or child-care facility,**  
31 violation of the provisions of subsection 1 of this section is a class D felony except  
32 that the second or any subsequent violation is a class B felony. Violation of the  
33 provisions of subsection 2 of this section is a class A misdemeanor except that the  
34 second or subsequent violation is a class D felony.

566.149. 1. Any person who has pleaded guilty or nolo contendere to, or  
2 been convicted of, or been found guilty of violating any of the provisions of this  
3 chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section  
4 568.045, RSMo, endangering the welfare of a child in the first degree; subsection  
5 2 of section 568.080, RSMo, use of a child in a sexual performance; section  
6 568.090, RSMo, promoting a sexual performance by a child; section 573.023,  
7 RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child  
8 pornography; or section 573.040, RSMo, furnishing pornographic material to  
9 minors; or for an offense in any other state or foreign country, or under tribal,  
10 federal, or military jurisdiction which, if committed in this state, would be a  
11 violation listed in this section shall not be present in or loiter within five hundred  
12 feet of any school building, on real property comprising any school, or in any  
13 conveyance owned, leased, or contracted by a school to transport students to or  
14 from school or a school-related activity when persons under the age of eighteen  
15 are present in the building, on the grounds, or in the conveyance, unless the  
16 offender is a parent, legal guardian, or custodian of a student present in the  
17 building and has met the conditions set forth in subsection 2 of this section.

18 2. No parent, legal guardian, or custodian who has pleaded guilty or nolo  
19 contendere to, or been convicted of, or been found guilty of violating any of the  
20 offenses listed in subsection 1 of this section shall be present in any school  
21 building, on real property comprising any school, or in any conveyance owned,  
22 leased, or contracted by a school to transport students to or from school or a  
23 school-related activity when persons under the age of eighteen are present in the  
24 building, on the grounds or in the conveyance unless the parent, legal guardian,  
25 or custodian has permission to be present from the superintendent or school

26 board or in the case of a private school from the principal. In the case of a public  
27 school, if permission is granted, the superintendent or school board president  
28 must inform the principal of the school where the sex offender will be  
29 present. Permission may be granted by the superintendent, school board, or in  
30 the case of a private school from the principal for more than one event at a time,  
31 such as a series of events, however, the parent, legal guardian, or custodian must  
32 obtain permission for any other event he or she wishes to attend for which he or  
33 she has not yet had permission granted.

34       3. **Regardless of the person's knowledge of his or her proximity**  
35 **to school property or a school-related activity,** violation of the provisions  
36 of this section shall be a class A misdemeanor.

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Bill

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