

SECOND REGULAR SESSION

SENATE BILL NO. 626

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Pre-filed December 1, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4938S.01I

AN ACT

To repeal section 589.015 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session and section 589.015 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, and to enact in lieu thereof two new sections relating to higher education requirements regarding affirmative consent to sexual activity.

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

Section A. Section 589.015 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session and section 589.015 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, are repealed and two new sections enacted in lieu thereof, to be known as section 589.015 and 589.050, to read as follows:

589.015. As used in sections 589.010 to 589.040, **the following terms shall mean:**

(1) [The term "center" shall mean] **"Affirmative consent", an active, unambiguous and voluntary agreement by a person to engage in sexual activity with another person that is sustained throughout the sexual activity and may be revoked at any time by any person;**

(2) **"Awareness programming", institutional action designed to inform the campus community of the affirmative consent standard used under section 589.050, including poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussions;**

(3) **"Center", the state center for the prevention and control of sexual assault established pursuant to section 589.030;**

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

14 [(2) The term]

15 (4) "Sexual assault" [shall include], **includes:**

16 (a) The acts of rape in the first or second degree, forcible rape, rape,
17 statutory rape in the first degree, statutory rape in the second degree, sexual
18 assault, sodomy in the first or second degree, forcible sodomy, sodomy, statutory
19 sodomy in the first degree, statutory sodomy in the second degree, child
20 molestation in the first, second, third, or fourth degree, deviate sexual assault,
21 sexual misconduct, sexual misconduct in the first, second, or third degree, sexual
22 abuse, and sexual abuse in the first or second degree, or attempts to commit any
23 of the aforesaid, as these acts are defined in chapter 566;

24 (b) The act of incest, as this act is defined in section 568.020;

25 (c) The act of abuse of a child under section 568.060, which involves
26 sexual contact;

27 (d) The act of use of a child in a sexual performance; and

28 (e) The act of enticement of a child, as defined in section 566.151, or any
29 attempt to commit such act.

589.015. As used in sections 589.010 to 589.040:

2 (1) **The term "affirmative consent" shall mean an active,**
3 **unambiguous and voluntary agreement by a person to engage in sexual**
4 **activity with another person that is sustained throughout the sexual**
5 **activity and may be revoked at any time by any person;**

6 (2) **The term "awareness programming" shall mean institutional**
7 **action designed to inform the campus community of the affirmative**
8 **consent standard used under section 589.050, including poster and flyer**
9 **campaigns, electronic communications, films, guest speakers, symposia,**
10 **conferences, seminars, or panel discussions;**

11 (3) The term "center" shall mean the state center for the prevention and
12 control of sexual assault established pursuant to section 589.030;

13 [(2)] (4) The term "sexual assault" shall include:

14 (a) The acts of rape in the first or second degree, forcible rape, rape,
15 statutory rape in the first degree, statutory rape in the second degree, sexual
16 assault, sodomy in the first or second degree, forcible sodomy, sodomy, statutory
17 sodomy in the first degree, statutory sodomy in the second degree, child
18 molestation in the first degree, child molestation in the second degree, deviate
19 sexual assault, sexual misconduct and sexual abuse, or attempts to commit any
20 of the aforesaid, as these acts are defined in chapter 566;

- 21 (b) The act of incest, as this act is defined in section 568.020;
- 22 (c) The act of abuse of a child, as defined in subdivision (1) of subsection
23 1 of section 568.060, which involves sexual contact, and as defined in subdivision
24 (2) of subsection 1 of section 568.060;
- 25 (d) The act of use of a child in a sexual performance as defined in section
26 568.080; and
- 27 (e) The act of enticement of a child, as defined in section 566.151, or any
28 attempt to commit such act.

**589.050. 1. Each institution of higher education required under
2 federal law to prepare an annual campus security report shall adopt
3 and disclose in its annual report one or more provisions informing
4 students and employees that:**

5 **(1) Affirmative consent is the standard used in determining
6 whether consent to engage in sexual activity was given by all persons
7 who engaged in the sexual activity;**

8 **(2) It is the responsibility of each person to ensure that he or she
9 has the affirmative consent of all persons to engage in the sexual
10 activity;**

11 **(3) The existence of a dating relationship or past sexual
12 relationship between persons shall not constitute consent to engage in
13 the sexual activity;**

14 **(4) It shall not be a valid excuse to an alleged lack of affirmative
15 consent that the accused believed that the victim consented to the
16 sexual activity because the accused was intoxicated or reckless or
17 failed to take reasonable steps to ascertain whether the victim
18 affirmatively consented, or if the accused knew or should have known
19 that the victim was unable to consent because the victim was
20 unconscious, asleep, unable to communicate due to a mental or physical
21 condition, or incapacitated due to the influence of drugs, alcohol, or
22 medication and, as a result, was unable to understand the fact, nature
23 or extent of the sexual activity.**

24 **2. Each institution of higher education shall provide annual
25 awareness programming for all students and employees that includes
26 an explanation of the definition of affirmative consent in sexual
27 relationships.**