

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NOS. 243 & 544

AN ACT

To repeal section 573.110, RSMo, and to enact in lieu thereof two new sections relating to victims of certain crimes, with an existing penalty provision.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Section 573.110, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 441.920 and 573.110, to read as follows:

441.920. 1. For purposes of this section, the following terms mean:

(1) "Domestic violence", as such term is defined in section 455.010;

(2) "Sexual assault", as such term is defined in section 455.010;

(3) "Stalking", as such term is defined in section 455.010.

2. No applicant, tenant, or lessee shall be denied tenancy, be evicted from the premises, or found to be in violation of a lease agreement on the basis of or as a direct result of the fact that the applicant, tenant, or lessee is, has been, or is in imminent danger of becoming a victim of domestic violence, sexual assault, or stalking if the applicant, tenant, or lessee

otherwise qualifies for tenancy or occupancy in the premises.

The provisions of this subsection shall not apply if:

(1) The applicant, tenant, or lessee allowed the person named in any documentation listed in subsection 4 of this section into the premises; or

(2) The landlord or property owner reasonably believes that a person named in any documentation listed in subsection 4 of this section poses a threat to the safety of the other occupants or the property.

3. In any action brought by a landlord against a tenant under this chapter, chapter 534, or chapter 535, a tenant shall have an affirmative defense and not be liable for rent for the period after which the tenant vacates the premises owned by the landlord if, by a preponderance of the evidence, the court finds that the tenant was a victim or was in imminent danger of becoming a victim of domestic violence, sexual assault, or stalking and the tenant notified the landlord and has provided any requested documentation under subsection 4 of this section.

4. An applicant, tenant, or lessee shall qualify for the protections under this section if he or she provides a statement of such domestic violence, sexual assault, or stalking to his or her landlord or the property owner. If the landlord or property owner requests, the applicant, tenant, or lessee shall provide documentation of the domestic violence, sexual assault, or stalking, which may be in any of the following forms:

(1) A document signed by an employee of a victim service provider, or a health care professional or mental health professional from whom the victim has sought assistance relating

to domestic violence, sexual assault, stalking, or the effects of abuse stating that, under penalty of perjury, the individual believes in the occurrence of the incident of domestic violence, sexual assault, or stalking that is the ground for protection, and that the incident meets the applicable definition of domestic violence, sexual assault, or stalking. Such document shall be signed by the victim; or

(2) A record of a federal, state, or local law enforcement agency, including a police report, a court, or an administrative agency pertaining to the alleged incident of domestic violence, sexual assault, or stalking.

5. The submission of false information by an applicant, tenant, or lessee under this section may be a basis for a denial of tenancy, eviction, or a violation of a lease agreement.

6. Any landlord or property owner may impose a reasonable termination fee on a tenant or lessee who desires to terminate a lease before the expiration date of such lease under the provisions of this section.

7. The provisions of this section shall only apply to residential properties.

573.110. 1. As used in this section and section 573.112, the following terms mean:

(1) "Computer", a device that accepts, processes, stores, retrieves, or outputs data and includes, but is not limited to, auxiliary storage and telecommunications devices connected to computers;

(2) "Computer program", a series of coded instructions or statements in a form acceptable to a computer that causes the

computer to process data and supply the results of the data processing;

(3) "Data", a representation in any form of information, knowledge, facts, concepts, or instructions including, but not limited to, program documentation, that is prepared or has been prepared in a formalized manner and is stored or processed in or transmitted by a computer or in a system or network. Data is considered property and may be in any form including, but not limited to, printouts, magnetic or optical storage media, punch cards, data stored internally in the memory of the computer, or data stored externally that is accessible by the computer;

(4) "Image", a photograph, film, videotape, digital recording, or other depiction or portrayal of an object, including a human body;

(5) "Intimate parts", the fully unclothed, partially unclothed, or transparently clothed genitals, pubic area, or anus or, if the person is female, a partially or fully exposed nipple, including exposure through transparent clothing;

(6) "Private mobile radio services", private land mobile radio services and other communications services characterized by the public service commission as private mobile radio services;

(7) "Public mobile services", air-to-ground radio telephone services, cellular radio telecommunications services, offshore radio, rural radio services, public land mobile telephone services, and other common carrier radio communications services;

(8) "Sexual act", sexual penetration, masturbation, or sexual activity;

(9) "Sexual activity", any:

(a) Knowing touching or fondling by the victim or another person or animal, either directly or through clothing, of the sex organs, anus, or breast of the victim or another person or animal for the purpose of sexual gratification or arousal;

(b) Transfer or transmission of semen upon any part of the clothed or unclothed body of the victim for the purpose of sexual gratification or arousal of the victim or another;

(c) Act of urination within a sexual context;

(d) Bondage, fetter, sadism, or masochism; or

(e) Sadomasochism abuse in any sexual context.

2. A person commits the offense of nonconsensual dissemination of private sexual images if he or she:

(1) Intentionally disseminates an image with the intent to harass, threaten, or coerce [an image of] another person:

(a) Who is at least eighteen years of age;

(b) Who is identifiable from the image itself or information displayed in connection with the image; and

(c) Who is engaged in a sexual act or whose intimate parts are exposed, in whole or in part;

(2) Obtains the image under circumstances in which a reasonable person would know or understand that the image was to remain private; and

(3) Knows or should have known that the person in the image did not consent to the dissemination.

3. The following activities are exempt from the provisions of this section:

(1) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose

intimate parts are exposed if the dissemination is made for the purpose of a criminal investigation that is otherwise lawful;

(2) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed if the dissemination is for the purpose of, or in connection with, the reporting of unlawful conduct;

(3) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed if the image involves voluntary exposure in a public or commercial setting; or

(4) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed if the dissemination serves a lawful public purpose.

4. Nothing in this section shall be construed to impose liability upon the following entities solely as a result of content or information provided by another person:

(1) An interactive computer service, as defined in 47 U.S.C. Section 230(f)(2);

(2) A provider of public mobile services or private mobile radio services; or

(3) A telecommunications network or broadband provider.

5. A person convicted under this section is subject to the forfeiture provisions under sections 513.600 to 513.660.

6. The offense of nonconsensual dissemination of private sexual images is a class D felony.

7. In addition to the criminal penalties listed in

subsection 6 of this section, the person in violation of the provisions of this section shall also be subject to a private cause of action from the depicted person. Any successful private cause of action brought under this subsection shall result in an award equal to ten thousand dollars or actual damages, whichever is greater, and in addition shall include attorney's fees.

Humiliation or embarrassment shall be an adequate [show] showing that the plaintiff has incurred damages; however, no physical manifestation of either humiliation or embarrassment is necessary for damages to be shown.