

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 243 & 544

100TH GENERAL ASSEMBLY

Reported from the Committee on Small Business and Industry, April 18, 2019, with recommendation that the Senate Committee Substitute do pass.

1009S.03C

ADRIANE D. CROUSE, Secretary.

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.

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Section A. Section 573.110, RSMo, is repealed and two new sections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

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

3 (1) "Domestic violence", as such term is defined in section
4 455.010;

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

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

7 2. No applicant, tenant, or lessee shall be denied tenancy, be
8 evicted from the premises, or found to be in violation of a lease
9 agreement on the basis of or as a direct result of the fact that the
10 applicant, tenant, or lessee is, has been, or is in imminent danger of
11 becoming a victim of domestic violence, sexual assault, or stalking if
12 the applicant, tenant, or lessee otherwise qualifies for tenancy or
13 occupancy in the premises. The provisions of this subsection shall not
14 apply if:

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

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

17 premises; or

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

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

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

38 (1) A document signed by an employee of a victim service
39 provider, or a health care professional or mental health professional
40 from whom the victim has sought assistance relating to domestic
41 violence, sexual assault, stalking, or the effects of abuse stating that,
42 under penalty of perjury, the individual believes in the occurrence of
43 the incident of domestic violence, sexual assault, or stalking that is the
44 ground for protection, and that the incident meets the applicable
45 definition of domestic violence, sexual assault, or stalking. Such
46 document shall be signed by the victim; or

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

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

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

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

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

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

6 (2) "Computer program", a series of coded instructions or statements in
7 a form acceptable to a computer that causes the computer to process data and
8 supply the results of the data processing;

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

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

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

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

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

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

31 (9) "Sexual activity", any:

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

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

39 (c) Act of urination within a sexual context;

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

41 (e) Sadomasochism abuse in any sexual context.

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

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

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

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

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

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

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

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

56 (1) The intentional dissemination of an image of another identifiable
57 person who is engaged in a sexual act or whose intimate parts are exposed if the
58 dissemination is made for the purpose of a criminal investigation that is
59 otherwise lawful;

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

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

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

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

73 (1) An interactive computer service, as defined in 47 U.S.C. Section
74 230(f)(2);

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

77 (3) A telecommunications network or broadband provider.

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

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

82 7. In addition to the criminal penalties listed in subsection 6 of this
83 section, the person in violation of the provisions of this section shall also be
84 subject to a private cause of action from the depicted person. Any successful
85 private cause of action brought under this subsection shall result in an award
86 equal to ten thousand dollars or actual damages, whichever is greater, and in
87 addition shall include attorney's fees. Humiliation or embarrassment shall be an
88 adequate [show] **showing** that the plaintiff has incurred damages; however, no
89 physical manifestation of either humiliation or embarrassment is necessary for
90 damages to be shown.