

FIRST REGULAR SESSION

SENATE BILL NO. 442

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

1987S.011

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 568.060 and 578.421, RSMo, and to enact in lieu thereof three new sections relating to gender reassignment, with penalty provisions.

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

Section A. Sections 568.060 and 578.421, RSMo, are
2 repealed and three new sections enacted in lieu thereof, to be
3 known as sections 191.1180, 568.060, and 578.421, to read as
4 follows:

191.1180. 1. Any physician or surgeon licensed under
2 chapter 334, any person licensed to practice professional or
3 practical nursing under chapter 335, or any other health
4 personnel licensed by a state licensing board in this state
5 shall be prohibited from administering any hormonal
6 treatment or performing any surgical treatment for the
7 purpose of gender reassignment for a child. As used in this
8 section, "child" means a person under eighteen years of age.
9 2. Any licensed physician or surgeon, any person
10 licensed to practice professional or practical nursing, or
11 any other licensed health personnel who willfully and
12 knowingly does or assists any prohibited action under
13 subsection 1 of this section shall be subject to having his
14 or her license, application for license, or authority to
15 practice his or her profession as a physician, surgeon,
16 nurse, or other health personnel in the state of Missouri
17 rejected or revoked by the appropriate state licensing board.

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

568.060. 1. As used in this section, the following
2 terms shall mean:

3 (1) "Abuse", the infliction of physical, sexual, or
4 mental injury against a child by any person eighteen years
5 of age or older. For purposes of this section, abuse shall
6 not include injury inflicted on a child by accidental means
7 by a person with care, custody, or control of the child, or
8 discipline of a child by a person with care, custody, or
9 control of the child, including spanking, in a reasonable
10 manner;

11 (2) "Abusive head trauma", a serious physical injury
12 to the head or brain caused by any means, including but not
13 limited to shaking, jerking, pushing, pulling, slamming,
14 hitting, or kicking;

15 (3) "Mental injury", an injury to the intellectual or
16 psychological capacity or the emotional condition of a child
17 as evidenced by an observable and substantial impairment of
18 the ability of the child to function within his or her
19 normal range of performance or behavior;

20 (4) "Neglect", the failure to provide, by those
21 responsible for the care, custody, and control of a child
22 under the age of eighteen years, the care reasonable and
23 necessary to maintain the physical and mental health of the
24 child, when such failure presents a substantial probability
25 that death or physical injury or sexual injury would result;

26 (5) "Physical injury", physical pain, illness, or any
27 impairment of physical condition, including but not limited
28 to bruising, lacerations, hematomas, welts, or permanent or
29 temporary disfigurement and impairment of any bodily
30 function or organ;

31 (6) "Serious emotional injury", an injury that creates
32 a substantial risk of temporary or permanent medical or

33 psychological damage, manifested by impairment of a
34 behavioral, cognitive, or physical condition. Serious
35 emotional injury shall be established by testimony of
36 qualified experts upon the reasonable expectation of
37 probable harm to a reasonable degree of medical or
38 psychological certainty;

39 (7) "Serious physical injury", a physical injury that
40 creates a substantial risk of death or that causes serious
41 disfigurement or protracted loss or impairment of the
42 function of any part of the body.

43 2. A person commits the offense of abuse or neglect of
44 a child if such person knowingly causes a child who is less
45 than eighteen years of age:

46 (1) To suffer physical or mental injury as a result of
47 abuse or neglect; or

48 (2) To be placed in a situation in which the child may
49 suffer physical or mental injury as the result of abuse or
50 neglect.

51 3. A person commits the offense of abuse or neglect of
52 a child if such person recklessly causes a child who is less
53 than eighteen years of age to suffer from abusive head
54 trauma.

55 4. **A person commits the offense of abuse or neglect of**
56 **a child if such person coerces a child who is under eighteen**
57 **years of age to undergo any surgical or hormonal treatment**
58 **for the purpose of gender reassignment.**

59 5. A person does not commit the offense of abuse or
60 neglect of a child by virtue of the sole fact that the
61 person delivers or allows the delivery of a child to a
62 provider of emergency services.

63 [5.] 6. The offense of abuse or neglect of a child is:

64 (1) A class D felony, without eligibility for
65 probation, parole, or conditional release until the
66 defendant has served no less than one year of such sentence,
67 unless the person has previously been found guilty of a
68 violation of this section or of a violation of the law of
69 any other jurisdiction that prohibits the same or similar
70 conduct or the injury inflicted on the child is a serious
71 emotional injury or a serious physical injury, in which case
72 abuse or neglect of a child is a class B felony, without
73 eligibility for probation or parole until the defendant has
74 served not less than five years of such sentence; or

75 (2) A class A felony if the child dies as a result of
76 injuries sustained from conduct chargeable under the
77 provisions of this section.

78 [6.] 7. Notwithstanding subsection [5] 6 of this
79 section to the contrary, the offense of abuse or neglect of
80 a child is a class A felony, without eligibility for
81 probation, parole, or conditional release until the
82 defendant has served not less than fifteen years of such
83 sentence, if:

84 (1) The injury is a serious emotional injury or a
85 serious physical injury;

86 (2) The child is less than fourteen years of age; and

87 (3) The injury is the result of sexual abuse or sexual
88 abuse in the first degree as defined under section 566.100
89 or sexual exploitation of a minor as defined under section
90 573.023.

91 [7.] 8. The circuit or prosecuting attorney may refer
92 a person who is suspected of abuse or neglect of a child to
93 an appropriate public or private agency for treatment or
94 counseling so long as the agency has consented to taking
95 such referrals. Nothing in this subsection shall limit the

96 discretion of the circuit or prosecuting attorney to
97 prosecute a person who has been referred for treatment or
98 counseling pursuant to this subsection.

99 [8.] 9. Nothing in this section shall be construed to
100 alter the requirement that every element of any crime
101 referred to herein must be proven beyond a reasonable doubt.

102 [9.] 10. Discipline, including spanking administered
103 in a reasonable manner, shall not be construed to be abuse
104 under this section.

578.421. 1. Sections 578.421 to 578.437 shall be
2 known and may be cited as the "Missouri Criminal Street
3 Gangs Prevention Act".

4 2. As used in sections 578.421 to 578.437, the
5 following terms mean:

6 (1) "Criminal street gang", any ongoing organization,
7 association, or group of three or more persons, whether
8 formal or informal, having as one of its motivating
9 activities the commission of one or more of the criminal
10 acts enumerated in subdivision (2) of this subsection, whose
11 members individually or collectively engage in or have
12 engaged in a pattern of criminal gang activity;

13 (2) "Pattern of criminal street gang activity", the
14 commission, attempted commission, or solicitation of two or
15 more of the following offenses, provided at least one of
16 those offenses occurred after August 28, 1993, and the last
17 of those offenses occurred within three years after a prior
18 offense, and the offenses are committed on separate
19 occasions, or by two or more persons:

20 (a) Assault with a deadly weapon or by means of force
21 likely to cause serious physical injury, as provided in
22 sections 565.050 and 565.052;

23 (b) Robbery, arson and those offenses under chapter
24 569 which are related to robbery and arson;

25 (c) Murder or manslaughter, as provided in sections
26 565.020 to 565.024;

27 (d) Any violation of the provisions of chapter 579
28 which involves the distribution, delivery or manufacture of
29 a substance prohibited by chapter 579;

30 (e) Unlawful use of a weapon which is a felony
31 pursuant to section 571.030;

32 (f) Tampering with witnesses and victims, as provided
33 in section 575.270;

34 (g) Promoting online sexual solicitation, as provided
35 in section 566.103;

36 (h) Sexual trafficking of a child in the first degree,
37 as provided in section 566.210;

38 (i) Sexual trafficking of a child in the second
39 degree, as provided in section 566.211;

40 (j) Patronizing prostitution, as provided in
41 subsection 4 of section 567.030;

42 (k) Promoting prostitution in the first degree, as
43 provided in section 567.050;

44 (l) Promoting prostitution in the second degree, as
45 provided in section 567.060;

46 (m) Abuse or neglect of a child, as provided in
47 subsection [6] 7 of section 568.060;

48 (n) Sexual exploitation of a minor, as provided in
49 section 573.023;

50 (o) Child used in sexual performance, as provided in
51 section 573.200;

52 (p) Promoting sexual performance by a child, as
53 provided in section 573.205; or

54 (q) Any dangerous felony, as defined in section
55 556.061.

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