

SENATE BILL NO. 905

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR COLEMAN.

4012S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 208.247, 491.075, and 492.304, RSMo, and to enact in lieu thereof five new sections relating to protection of vulnerable persons.

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

Section A. Sections 208.247, 491.075, and 492.304, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 208.247, 221.520, 221.523, 491.075, and 492.304, to read as follows:

208.247. [1. Pursuant to the option granted the state by 21 U.S.C. Section 862a(d), an individual who has pled guilty or nolo contendere to or is found guilty under federal or state law of a felony involving possession or use of a controlled substance shall be exempt from the prohibition contained in 21 U.S.C. Section 862a(a) against eligibility for food stamp program benefits for such convictions, if such person, as determined by the department:

(1) Meets one of the following criteria:

(a) Is currently successfully participating in a substance abuse treatment program approved by the division of alcohol and drug abuse within the department of mental health; or

(b) Is currently accepted for treatment in and participating in a substance abuse treatment program approved by the division of alcohol and drug abuse, but is subject to a waiting list to receive available treatment,

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

18 and the individual remains enrolled in the treatment program
19 and enters the treatment program at the first available
20 opportunity; or

21 (c) Has satisfactorily completed a substance abuse
22 treatment program approved by the division of alcohol and
23 drug abuse; or

24 (d) Is determined by a division of alcohol and drug
25 abuse certified treatment provider not to need substance
26 abuse treatment; and

27 (2) Is successfully complying with, or has already
28 complied with, all obligations imposed by the court, the
29 division of alcohol and drug abuse, and the division of
30 probation and parole; and

31 (3) Does not plead guilty or nolo contendere to or is
32 not found guilty of an additional controlled substance
33 misdemeanor or felony offense after release from custody or,
34 if not committed to custody, such person does not plead
35 guilty or nolo contendere to or is not found guilty of an
36 additional controlled substance misdemeanor or felony
37 offense, within one year after the date of conviction. Such
38 a plea or conviction within the first year after conviction
39 shall immediately disqualify the person for the exemption;
40 and

41 (4) Has demonstrated sobriety through voluntary
42 urinalysis testing paid for by the participant.

43 2. Eligibility based upon the factors in subsection 1
44 of this section shall be based upon documentary or other
45 evidence satisfactory to the department of social services,
46 and the applicant shall meet all other factors for program
47 eligibility.

48 3. The department of social services, in consultation
49 with the division of alcohol and drug abuse, shall

50 promulgate rules to carry out the provisions of this section
51 including specifying criteria for determining active
52 participation in and completion of a substance abuse
53 treatment program.

54 4. The exemption under this section shall not apply to
55 an individual who has pled guilty or nolo contendere to or
56 is found guilty of two subsequent felony offenses involving
57 possession or use of a controlled substance after the date
58 of the first controlled substance felony conviction]

59 Pursuant to the option granted to the state under 21 U.S.C.
60 Section 862a(d)(1), an individual convicted under federal or
61 state law of a felony offense involving possession,
62 distribution, or use of a controlled substance shall be
63 exempt from the prohibition contained in 21 U.S.C. Section
64 862a(a) against eligibility for the supplemental nutrition
65 assistance program for such convictions.

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

3 (1) "Extraordinary circumstance", a substantial flight
4 risk or some other extraordinary medical or security
5 circumstance that dictates restraints be used to ensure the
6 safety and security of a pregnant offender in her third
7 trimester or a postpartum offender within forty-eight hours
8 postdelivery, the staff of the county or city jail or
9 medical facility, other offenders, or the public;

10 (2) "Labor", the period of time before a birth during
11 which contractions are present;

12 (3) "Postpartum", the period of recovery immediately
13 following childbirth, which is six weeks for a vaginal birth
14 or eight weeks for a cesarean birth, or longer if so
15 determined by a physician or nurse;

16 (4) "Restraints", any physical restraint or other
17 device used to control the movement of a person's body or
18 limbs.

19 2. Except in extraordinary circumstances, a county or
20 city jail shall not use restraints on a pregnant offender in
21 her third trimester, whether during transportation to and
22 from visits to health care providers and court proceedings
23 or medical appointments and examinations, or during labor,
24 delivery, or forty-eight hours postdelivery.

25 3. Pregnant offenders shall be transported in vehicles
26 equipped with seatbelts.

27 4. In the event a sheriff or jailer determines that
28 extraordinary circumstances exist and restraints are
29 necessary, the sheriff or jailer shall fully document in
30 writing within forty-eight hours of the incident the reasons
31 he or she determined such extraordinary circumstances
32 existed, the type of restraints used, and the reasons those
33 restraints were considered the least restrictive available
34 and the most reasonable under the circumstances. Such
35 documents shall be kept on file by the county or city jail
36 for at least five years from the date the restraints were
37 used.

38 5. If a doctor, nurse, or other health care provider
39 treating the pregnant offender in her third trimester or the
40 postpartum offender within forty-eight hours postdelivery
41 requests that restraints not be used, the sheriff or jailer
42 accompanying such offender shall immediately remove all
43 restraints.

44 6. Any time restraints are used on a pregnant offender
45 in her third trimester or on a postpartum offender within
46 forty-eight hours postdelivery, the restraints shall be the
47 least restrictive available and the most reasonable under

48 the circumstances. In no case shall leg, ankle, or waist
49 restraints or any mechanical restraints be used on any such
50 offender, and, if wrist restraints are used, such restraints
51 shall be placed in the front of such offender's body to
52 protect the offender and the unborn child in the case of a
53 forward fall.

54 7. The county or city jail shall:

55 (1) Ensure that employees of the jail are provided
56 with training, which may include online training, on the
57 provisions of this section; and

58 (2) Inform female offenders, in writing and orally, of
59 any policies and practices developed in accordance with this
60 section upon admission to the jail, and post the policies
61 and practices in locations in the jail where such notices
62 are commonly posted and will be seen by female offenders.

221.523. 1. By January 1, 2025, all county and city
2 jails shall develop specific procedures for the intake and
3 care of offenders who are pregnant, which shall include
4 procedures regarding:

5 (1) Maternal health evaluations;

6 (2) Dietary supplements, including prenatal vitamins;

7 (3) Timely and regular nutritious meals, which shall
8 include, at minimum, thirty-two ounces of milk or a calcium
9 supplement if lactose intolerant, two cups of fresh fruit,
10 and two cups of fresh vegetables daily;

11 (4) Substance abuse treatment;

12 (5) Treatment for the human immunodeficiency virus and
13 ways to avoid human immunodeficiency virus transmission;

14 (6) Hepatitis C;

15 (7) Sleeping arrangements for such offenders,
16 including requiring such offenders to sleep on the bottom
17 bunk bed;

18 (8) Access to mental health professionals;
19 (9) Sanitary materials;
20 (10) Postpartum recovery, including that no such
21 offender shall be placed in isolation during such recovery;
22 and

23 (11) A requirement that a female medical professional
24 be present during any examination of such offender.

25 2. As used in this section "postpartum recovery"
26 means, as determined by a physician, the period immediately
27 following delivery, including the entire period an offender
28 who was pregnant is in the hospital or infirmary after
29 delivery.

 491.075. 1. A statement made by a child under the age
2 of [fourteen] **eighteen**, or a vulnerable person, relating to
3 an offense under chapter 565, 566, 568 or 573, performed by
4 another, not otherwise admissible by statute or court rule,
5 is admissible in evidence in criminal proceedings in the
6 courts of this state as substantive evidence to prove the
7 truth of the matter asserted if:

8 (1) The court finds, in a hearing conducted outside
9 the presence of the jury that the time, content and
10 circumstances of the statement provide sufficient indicia of
11 reliability; and

12 (2) (a) The child or vulnerable person testifies at
13 the proceedings; or

14 (b) The child or vulnerable person is unavailable as a
15 witness; or

16 (c) The child or vulnerable person is otherwise
17 physically available as a witness but the court finds that
18 the significant emotional or psychological trauma which
19 would result from testifying in the personal presence of the

20 defendant makes the child or vulnerable person unavailable
21 as a witness at the time of the criminal proceeding.

22 2. Notwithstanding subsection 1 of this section or any
23 provision of law or rule of evidence requiring corroboration
24 of statements, admissions or confessions of the defendant,
25 and notwithstanding any prohibition of hearsay evidence, a
26 statement by a child when under the age of [fourteen]
27 **eighteen**, or a vulnerable person, who is alleged to be
28 victim of an offense under chapter 565, 566, 568 or 573 is
29 sufficient corroboration of a statement, admission or
30 confession regardless of whether or not the child or
31 vulnerable person is available to testify regarding the
32 offense.

33 3. A statement may not be admitted under this section
34 unless the prosecuting attorney makes known to the accused
35 or the accused's counsel his or her intention to offer the
36 statement and the particulars of the statement sufficiently
37 in advance of the proceedings to provide the accused or the
38 accused's counsel with a fair opportunity to prepare to meet
39 the statement.

40 4. Nothing in this section shall be construed to limit
41 the admissibility of statements, admissions or confessions
42 otherwise admissible by law.

43 5. For the purposes of this section, "vulnerable
44 person" shall mean a person who, as a result of an
45 inadequately developed or impaired intelligence or a
46 psychiatric disorder that materially affects ability to
47 function, lacks the mental capacity to consent, or whose
48 developmental level does not exceed that of an ordinary
49 child of [fourteen] **seventeen** years of age.

492.304. 1. In addition to the admissibility of a
2 statement under the provisions of section 492.303, the

3 visual and aural recording of a verbal or nonverbal
4 statement of a child when under the age of [fourteen]
5 **eighteen [who is alleged to be a victim of] or a vulnerable**
6 **person, relating to** an offense under the provisions of
7 chapter 565, 566 [or], 568 **or 573 if performed by another,**
8 is admissible into evidence if:

9 (1) No attorney for either party was present when the
10 statement was made; except that, for any statement taken at
11 a state-funded child assessment center as provided for in
12 subsection 2 of section 210.001, an attorney representing
13 the state of Missouri in a criminal investigation may, as a
14 member of a multidisciplinary investigation team, observe
15 the taking of such statement, but such attorney shall not be
16 present in the room where the interview is being conducted;

17 (2) The recording is both visual and aural and is
18 recorded on film or videotape or by other electronic means;

19 (3) The recording equipment was capable of making an
20 accurate recording, the operator of the equipment was
21 competent, and the recording is accurate and has not been
22 altered;

23 (4) The statement was not made in response to
24 questioning calculated to lead the child **or vulnerable**
25 **person** to make a particular statement or to act in a
26 particular way;

27 (5) Every voice on the recording is identified;

28 (6) The person conducting the interview of the child
29 **or vulnerable person** in the recording is present at the
30 proceeding and available to testify or be cross-examined by
31 either party; and

32 (7) The defendant or the attorney for the defendant is
33 afforded an opportunity to view the recording before it is
34 offered into evidence.

35 2. If the child **or vulnerable person** does not testify
36 at the proceeding, the visual and aural recording of a
37 verbal or nonverbal statement of the child **or vulnerable**
38 **person** shall not be admissible under this section unless the
39 recording qualifies for admission under section 491.075.

40 3. If the visual and aural recording of a verbal or
41 nonverbal statement of a child **or vulnerable person** is
42 admissible under this section and the child **or vulnerable**
43 **person** testifies at the proceeding, it shall be admissible
44 in addition to the testimony of the child **or vulnerable**
45 **person** at the proceeding whether or not it repeats or
46 duplicates the child's **or vulnerable person's** testimony.

47 4. As used in this section, a nonverbal statement
48 shall be defined as any demonstration of the child **or**
49 **vulnerable person** by his or her actions, facial expressions,
50 demonstrations with a doll or other visual aid whether or
51 not this demonstration is accompanied by words.

52 5. For the purposes of this section, "vulnerable
53 **person**" shall mean a person who, as a result of an
54 **inadequately developed or impaired intelligence or a**
55 **psychiatric disorder that materially affects the ability to**
56 **function, lacks the mental capacity to consent, or whose**
57 **developmental level does not exceed that of an ordinary**
58 **child of seventeen years of age.**

✓