

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE NO. 2 FOR  
**SENATE BILL NO. 167**  
**103RD GENERAL ASSEMBLY**

1005H.05C

JOSEPH ENGLER, Chief Clerk

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**AN ACT**

To repeal sections 578.018 and 578.365, RSMo, and to enact in lieu thereof three new sections relating to the protection of certain persons and animals, with penalty provisions.

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

Section A. Sections 578.018 and 578.365, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 211.436, 578.018, and 578.365, to read as follows:

**211.436. 1. Instruments of restraint, including handcuffs, chains, irons, or straitjackets, shall not be used on a child during a proceeding in a juvenile court and shall be removed prior to the child's appearance before the court unless, after a hearing, the court finds both that:**

**(1) The use of restraints is necessary due to one of the following factors:**

**(a) Instruments of restraint are necessary to prevent physical harm to the child or another person;**

**(b) The child has a history of disruptive courtroom behavior that has placed others in potentially harmful situations or presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior; or**

**(c) There is evidence that the child presents a substantial risk of flight from the courtroom; and**

**(2) There are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person including, but not limited to, the presence of court personnel, law enforcement officers, or bailiffs.**

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16       **2. If the juvenile officer believes that there is an immediate safety or flight risk,**  
17 **as provided under subsection 1 of this section, the juvenile officer shall advise the**  
18 **attorney for the child and make a request in writing prior to the commencement of the**  
19 **proceeding for the child to remain restrained during the court proceeding while in the**  
20 **presence of the parties to the proceeding.**

21       **3. If a request for restraints is made by the juvenile officer, the court shall order**  
22 **a hearing and provide the child's attorney an opportunity to be heard before the court**  
23 **orders the use of restraints. If restraints are ordered, the court shall make findings of**  
24 **fact in support of the order.**

25       **4. If restraints are used, the restraints shall allow the child limited movement of**  
26 **the hands to read and handle documents and writings necessary to the proceeding.**  
27 **Under no circumstances shall a child be restrained using restraints fixed to a wall, floor,**  
28 **furniture, or other stationary object.**

578.018. 1. Any ~~[duly authorized public health official or]~~ law enforcement official  
2 may seek a warrant from the appropriate **circuit** court to enable ~~[him or her]~~ **the law**  
3 **enforcement official** to enter private property in order to inspect, care for, or ~~[impound]~~  
4 **confiscate** neglected or abused animals **as set forth in such warrant.** All requests for such  
5 warrants shall be **signed, witnessed, and** accompanied by an affidavit stating the probable  
6 cause to believe a violation of sections 578.005 to ~~[578.023]~~ **578.025** has occurred. A person  
7 acting under the authority of a warrant shall:

8       (1) ~~[Be given]~~ **Appear at** a disposition hearing before the court through which the  
9 warrant was issued, within thirty days of the filing of the request **for the warrant** for the  
10 purpose of granting immediate disposition of the animals ~~[impounded]~~. **No animal shall be**  
11 **sterilized prior to the completion of such disposition hearing unless necessary to save life**  
12 **or relieve suffering;**

13       (2) Place ~~[impounded]~~ animals in the care or custody of a veterinarian, the  
14 appropriate animal control authority, ~~[or]~~ an animal shelter, **or a third party approved by**  
15 **the court.** If no appropriate veterinarian, animal control authority, ~~[or]~~ animal shelter, **or**  
16 **third party** is available, the animal shall not be ~~[impounded]~~ **confiscated** unless it is diseased  
17 or disabled beyond recovery for any useful purpose;

18       (3) Humanely kill any animal ~~[impounded]~~ **confiscated** if it is determined by a  
19 licensed veterinarian that the animal is diseased or disabled beyond recovery for any useful  
20 purpose;

21       (4) Not be liable for any **reasonable and** necessary damage to property while acting  
22 under such warrant.

23       **2. (1) The owner of any animal that has been confiscated under this section shall**  
24 **not be responsible for the animal's care and keeping prior to a disposition hearing if, at**

25 **the disposition hearing, there is no finding of neglect or abuse by the court and the court**  
26 **orders the animal returned to the owner.**

27 **(2) If, at the disposition hearing, the court finds that neglect or abuse likely**  
28 **occurred and does not order the animal returned to the owner, after completion of the**  
29 **disposition hearing** the owner or custodian or any person claiming an interest in any animal  
30 that has been ~~[impounded]~~ **confiscated** because of neglect or abuse may prevent disposition  
31 of the animal **after the disposition hearing and until final judgment, settlement, or**  
32 **dismissal of any criminal charges** by posting **reasonable** bond or security **within seventy-**  
33 **two hours of the disposition hearing** in an amount sufficient to provide for the animal's care  
34 and keeping ~~[for at least thirty days, inclusive of the date on which the animal was taken into~~  
35 ~~custody]~~ **and consistent with the fair market cost of boarding such an animal in an**  
36 **appropriate retail boarding facility.** Notwithstanding the fact that **reasonable** bond may be  
37 posted pursuant to this ~~[subsection]~~ **subdivision**, the authority having custody of the animal  
38 may humanely dispose of the animal at the end of the time for which **reasonable** expenses are  
39 covered by the bond or security, unless there is a court order prohibiting such disposition.  
40 Such order shall provide for a **reasonable** bond or other security in the amount necessary to  
41 protect the authority having custody of the animal from any cost of the care, keeping, or  
42 disposal of the animal.

43 **(3) The authority taking custody of an animal shall give notice of the provisions of**  
44 **this section by posting a copy of this section at the place where the animal was taken into**  
45 **custody or by delivering it to a person residing on the property.**

46 **3. The owner or custodian of any animal humanely killed pursuant to this section**  
47 **shall not be entitled to recover any damages related to nor the actual value of the animal if the**  
48 **animal was found by a licensed veterinarian to be diseased or disabled beyond recovery for**  
49 **any useful purpose**, or if the owner or custodian failed to post bond or security for the care,  
50 keeping, and disposition of the animal after being notified of ~~[impoundment]~~ **confiscation**  
51 **and after completion of the disposition hearing.**

52 **4. All animals confiscated under this section shall receive proper care as**  
53 **determined by state law and regulations for each specific animal and facility or**  
54 **organization where the animal is placed after such confiscation. Any such facility or**  
55 **organization shall be liable to the animal owner for damages for any negligent acts or**  
56 **abuse of such animal that occurs while the animal is in the care, custody, and control of**  
57 **the facility or organization.**

58 **5. In the event that the animal owner is not liable for the costs incurred for the**  
59 **placement and care of an animal or animals while charges were pending, such costs**  
60 **relating to placement and care, as well as liability for the life or death of the animal and**  
61 **for medical procedures performed while charges were pending, shall be the**

62 responsibility of and shall be borne and paid by the confiscating agency. Such costs  
63 shall be consistent with the fair market value of boarding an animal at a retail  
64 establishment and with the usual and customary costs of veterinary medical services  
65 provided by a clinic licensed under chapter 340.

66 6. If the owner posted a sufficient bond and is acquitted or there is a final  
67 discharge without conviction, unless there is a settlement agreement, consent judgment,  
68 or a suspended imposition of sentence, the owner may demand the return of the animal  
69 held in custody. Any entity with care, custody, and control of such animal shall  
70 immediately return such animal to the owner upon demand and proof of such acquittal  
71 or final discharge without conviction. Upon acquittal or final discharge without  
72 conviction, unless there is a settlement agreement, consent judgment, or a suspended  
73 imposition of sentence, the owner shall not be liable for any costs incurred relating to  
74 the placement or care of the animal during the pendency of the charges.

75 7. Any person or entity that intentionally euthanizes, other than as permissible  
76 under this section, or intentionally sterilizes an animal prior to a disposition hearing or  
77 during any period for which reasonable bond was secured for the animal's care is guilty  
78 of a class B misdemeanor and shall be liable to the owner of the animal for damages  
79 including, but not limited to, the actual value of the animal. Each violation against each  
80 individual animal is a separate offense. Any second or subsequent violation is a class A  
81 misdemeanor and any entity licensed under state law shall be subject to licensure  
82 sanction by its governing body.

578.365. 1. This section shall be known and may be cited as "Danny's Law".

2 2. A person commits the offense of hazing if he or she knowingly, **actively, and not**  
3 **under duress** participates in, **solicits another person to participate in**, or causes or plans a  
4 willful act, occurring on or off the campus of a public or private college or university, directed  
5 against a student or a prospective member, **current member, or former member** of an  
6 organization operating under the sanction of a public or private college or university, that  
7 recklessly endangers the mental or physical health or safety of a student or prospective  
8 member, **current member, or former member** for the purpose of initiation or admission into  
9 or continued membership in any such organization to the extent that such person is knowingly  
10 placed at probable risk of the loss of life or probable bodily or psychological harm. Acts of  
11 hazing include:

12 (1) Any activity which recklessly endangers the physical health or safety of the  
13 student or prospective member, **current member, or former member**, including but not  
14 limited to physical brutality, whipping, beating, branding, exposure to the elements, forced  
15 consumption of any food, liquor, drug or other substance, or forced smoking or chewing of  
16 tobacco products;

17 (2) Any activity which recklessly endangers the mental health of the student or  
18 prospective member, **current member, or former member**, including but not limited to  
19 sleep deprivation, physical confinement, or other extreme stress-inducing activity; or

20 (3) Any activity that requires the student or prospective member, **current member,**  
21 **or former member** to perform a duty or task which involves a violation of the criminal laws  
22 of this state or any political subdivision in this state.

23 ~~[2-]~~ 3. Public or private colleges or universities in this state shall adopt a written  
24 policy prohibiting hazing by any organization operating under the sanction of the institution.

25 ~~[3-]~~ 4. Nothing in this section shall be interpreted as creating a new private cause of  
26 action against any educational institution.

27 ~~[4-]~~ 5. Consent is not a defense to hazing. Section 565.010 does not apply to hazing  
28 cases or to homicide cases arising out of hazing activity.

29 ~~[5-]~~ 6. The offense of hazing is a class A misdemeanor, unless the act creates a  
30 substantial risk to the life of the student ~~[or]~~, prospective member, **current member, or**  
31 **former member**, in which case it is a class D felony.

32 7. A person shall not be guilty of the offense of hazing if the person establishes all  
33 of the following:

34 (1) That he was present at an event where, as a result of hazing, a person  
35 appeared to be in need of immediate medical assistance;

36 (2) That he was the first person to call 911 or campus security to report the need  
37 for immediate medical assistance;

38 (3) That he provided his own name, the address where immediate medical  
39 assistance was needed, and a description of the medical issue to the 911 operator or  
40 campus security at the time of the call; and

41 (4) That he remained at the scene with the person in need of immediate medical  
42 assistance until medical assistance, law enforcement, or campus security arrived and  
43 that he cooperated with such personnel on the scene.

44 8. Notwithstanding subsection 7 of this section to the contrary, a person shall be  
45 immune from prosecution under this section if the person establishes that the person  
46 rendered aid to the hazing victim before medical assistance, law enforcement, or campus  
47 security arrived on the scene of the hazing event. For purposes of this subsection, the  
48 term "aid" includes, but is not limited to, rendering cardiopulmonary resuscitation to  
49 the victim, clearing an airway for the victim to breathe, using a defibrillator to assist the  
50 victim, or rendering any other assistance to the victim that the person intended in good  
51 faith to stabilize or improve the victim's condition while waiting for medical assistance,  
52 law enforcement, or campus security to arrive.

53           **9. For purposes of this section, the term "former member" means a person who**  
54 **is no longer affiliated with the chapter of the organization operating under the sanction**  
55 **of the public or private college or university, but who may be affiliated with the national**  
56 **chapter of the organization.**

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