

SECOND REGULAR SESSION

SENATE BILL NO. 928

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEWIS.

5463S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 544.170, 565.002, 565.050, 565.052, 565.054, 565.056, 565.072, 565.073, 565.074, 565.076, 565.225, and 565.227, RSMo, and to enact in lieu thereof thirteen new sections relating to criminal offenses, with penalty provisions.

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

Section A. Sections 544.170, 565.002, 565.050, 565.052,
2 565.054, 565.056, 565.072, 565.073, 565.074, 565.076, 565.225,
3 and 565.227, RSMo, are repealed and thirteen new sections
4 enacted in lieu thereof, to be known as sections 544.170,
5 565.002, 565.050, 565.052, 565.054, 565.056, 565.072, 565.073,
6 565.074, 565.076, 565.225, 565.227, and 575.275, to read as
7 follows:

544.170. 1. **(1) Except as provided in subdivision**
2 **(2) of this subsection**, all persons arrested and confined in
3 any jail or other place of confinement by any peace officer,
4 without warrant or other process, for any alleged breach of
5 the peace or other criminal offense, or on suspicion
6 thereof, shall be discharged from said custody within twenty-
7 four hours from the time of such arrest, unless they shall
8 be charged with a criminal offense by the oath of some
9 credible person, and be held by warrant to answer to such
10 offense.
11 **(2) All persons arrested and confined in any jail or**
12 **other place of confinement by any peace officer, without**

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

warrant or other process, for offenses related to domestic violence, as such term is defined in section 455.010, shall be discharged from said custody within forty-eight hours from the time of such arrest, unless they shall be charged with a criminal offense by the oath of some credible person, and be held by warrant to answer to such offense.

2. In any confinement to which the provisions of this section apply, the confinee shall be permitted at any reasonable time to consult with counsel or other persons acting on the confinee's behalf.

3. Any person who violates the provisions of this section, by refusing to release any person who is entitled to release pursuant to this section, or by refusing to permit a confinee to consult with counsel or other persons, or who transfers any such confinees to the custody or control of another, or to another place, or who falsely charges such person, with intent to avoid the provisions of this section, is guilty of a class A misdemeanor.

565.002. As used in this chapter, unless a different meaning is otherwise plainly required the following terms mean:

(1) "Adequate cause", cause that would reasonably produce a degree of passion in a person of ordinary temperament sufficient to substantially impair an ordinary person's capacity for self-control;

(2) **"Bodily harm", physical pain or injury, illness, or any impairment of physical condition;**

(3) "Child", a person under seventeen years of age;

~~[(3)]~~ (4) "Conduct", includes any act or omission;

~~[(4)]~~ (5) "Course of conduct", a pattern of conduct composed of two or more acts, which may include communication by any means, over a period of time, however

15 short, evidencing a continuity of purpose. Constitutionally
16 protected activity is not included within the meaning of
17 course of conduct. Such constitutionally protected activity
18 includes picketing or other organized protests;

19 [(5)] (6) "Deliberation", cool reflection for any
20 length of time no matter how brief;

21 [(6)] (7) "Domestic victim", a household or family
22 member as the term "family" or "household member" is defined
23 in section 455.010, including any child who is a member of
24 the household or family;

25 [(7)] (8) "Emotional distress", something markedly
26 greater than the level of uneasiness, nervousness,
27 unhappiness, or the like which are commonly experienced in
28 day-to-day living;

29 [(8)] (9) "Full or partial nudity", the showing of all
30 or any part of the human genitals, pubic area, buttock, or
31 any part of the nipple of the breast of any female person,
32 with less than a fully opaque covering;

33 [(9)] (10) **"Great bodily harm", bodily injury which**
34 **creates a high probability of death, or which causes serious**
35 **permanent or protracted loss or impairment of function of**
36 **any bodily member or organ, or other serious bodily harm;**

37 (11) "Legal custody", the right to the care, custody
38 and control of a child;

39 [(10)] (12) "Parent", either a biological parent or a
40 parent by adoption;

41 [(11)] (13) "Person having a right of custody", a
42 parent or legal guardian of the child;

43 [(12)] (14) "Photographs" or "films", the making of
44 any photograph, motion picture film, videotape, or any other
45 recording or transmission of the image of a person;

46 [(13)] (15) "Place where a person would have a
47 reasonable expectation of privacy", any place where a
48 reasonable person would believe that a person could disrobe
49 in privacy, without being concerned that the person's
50 undressing was being viewed, photographed or filmed by
51 another;

52 [(14)] (16) "Special victim", any of the following:

53 (a) A law enforcement officer assaulted in the
54 performance of his or her official duties or as a direct
55 result of such official duties;

56 (b) Emergency personnel, any paid or volunteer
57 firefighter, emergency room, hospital, or trauma center
58 personnel, or emergency medical technician, assaulted in the
59 performance of his or her official duties or as a direct
60 result of such official duties;

61 (c) A probation and parole officer assaulted in the
62 performance of his or her official duties or as a direct
63 result of such official duties;

64 (d) An elderly person;

65 (e) A person with a disability;

66 (f) A vulnerable person;

67 (g) Any jailer or corrections officer of the state or
68 one of its political subdivisions assaulted in the
69 performance of his or her official duties or as a direct
70 result of such official duties;

71 (h) A highway worker in a construction or work zone as
72 the terms "highway worker", "construction zone", and "work
73 zone" are defined under section 304.580;

74 (i) Any utility worker, meaning any employee of a
75 utility that provides gas, heat, electricity, water, steam,
76 telecommunications services, or sewer services, whether
77 privately, municipally, or cooperatively owned, while in the

78 performance of his or her job duties, including any person
79 employed under a contract;

80 (j) Any cable worker, meaning any employee of a cable
81 operator, as such term is defined in section 67.2677,
82 including any person employed under contract, while in the
83 performance of his or her job duties; and

84 (k) Any employee of a mass transit system, including
85 any employee of public bus or light rail companies, while in
86 the performance of his or her job duties;

87 [(15)] (17) **"Substantial bodily harm", bodily injury**
88 **which involves a temporary but substantial disfigurement, or**
89 **which causes temporary but substantial loss or impairment of**
90 **the function of any bodily member or organ, or which causes**
91 **a fracture of any bodily member;**

92 (18) "Sudden passion", passion directly caused by and
93 arising out of provocation by the victim or another acting
94 with the victim which passion arises at the time of the
95 offense and is not solely the result of former provocation;

96 [(16)] (19) **"Technological abuse conduct", an act or**
97 **pattern of behavior that is intended to harm, threaten,**
98 **intimidate, control, stalk, harass, monitor, except as**
99 **otherwise permitted by law, another person, that occurs**
100 **using any form of technology, including internet enabled**
101 **devices, online platforms, computers, mobile devices,**
102 **cameras and imaging programs, apps, location tracking**
103 **devices, or any other emerging technologies;**

104 (20) "Trier", the judge or jurors to whom issues of
105 fact, guilt or innocence, or the assessment and declaration
106 of punishment are submitted for decision;

107 [(17)] (21) **"Views", the looking upon of another**
108 **person, with the unaided eye or with any device designed or**

109 intended to improve visual acuity, for the purpose of
110 arousing or gratifying the sexual desire of any person.

565.050. 1. A person commits the offense of assault
2 in the first degree if he or she attempts to kill or
3 knowingly causes or attempts to cause [serious physical
4 injury] **great bodily harm** to another person.

5 2. The offense of assault in the first degree is a
6 class B felony unless in the course thereof the person
7 inflicts [serious physical injury] **great bodily harm** on the
8 victim, or if the victim of such assault is a special
9 victim, as the term "special victim" is defined under
10 section 565.002, in which case it is a class A felony.

565.052. 1. A person commits the offense of assault
2 in the second degree if he or she:

3 (1) Attempts to kill or knowingly causes or attempts
4 to cause [serious physical injury] **great bodily harm** to
5 another person under the influence of sudden passion arising
6 out of adequate cause; or

7 (2) Attempts to cause or knowingly causes [physical
8 injury] **bodily harm** to another person by means of a deadly
9 weapon or dangerous instrument; or

10 (3) Recklessly causes [serious physical injury] **great**
11 **bodily harm** to another person; or

12 (4) Recklessly causes [physical injury] **bodily harm** to
13 another person by means of discharge of a firearm.

14 2. The defendant shall have the burden of injecting
15 the issue of influence of sudden passion arising from
16 adequate cause under subdivision (1) of subsection 1 of this
17 section.

18 3. The offense of assault in the second degree is a
19 class D felony, unless the victim of such assault is a

special victim, as the term "special victim" is defined under section 565.002, in which case it is a class B felony.

565.054. 1. A person commits the offense of assault in the third degree if he or she knowingly causes [physical injury] **bodily harm** to another person.

2. The offense of assault in the third degree is a class E felony, unless the victim of such assault is a special victim, as the term "special victim" is defined under section 565.002, in which case it is a class D felony.

565.056. 1. A person commits the offense of assault in the fourth degree if:

(1) The person attempts to cause or recklessly causes [physical injury, physical pain, or illness] **bodily harm** to another person;

(2) With criminal negligence the person causes [physical injury] **bodily harm** to another person by means of a firearm;

(3) The person purposely places another person in apprehension of immediate [physical injury] **bodily harm**;

(4) The person recklessly engages in conduct which creates a substantial risk of death or [serious physical injury] **great bodily harm** to another person;

(5) The person knowingly causes or attempts to cause physical contact with a person with a disability, which a reasonable person, who does not have a disability, would consider offensive or provocative; or

(6) The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative.

2. Except as provided in subsection 3 of this section, assault in the fourth degree is a class A misdemeanor.

23 3. Violation of the provisions of subdivision (3) or
24 (6) of subsection 1 of this section is a class C misdemeanor
25 unless the victim is a special victim, as the term "special
26 victim" is defined under section 565.002, in which case a
27 violation of such provisions is a class A misdemeanor.

 565.072. 1. A person commits the offense of domestic
2 assault in the first degree if he or she attempts to kill or
3 knowingly causes or attempts to cause [serious physical
4 injury] **great bodily harm** to a domestic victim, as the term
5 "domestic victim" is defined under section 565.002.

6 2. The offense of domestic assault in the first degree
7 is a class B felony unless in the course thereof the person
8 inflicts serious physical injury on the victim, in which
9 case it is a class A felony.

 565.073. 1. A person commits the offense of domestic
2 assault in the second degree if the act involves a domestic
3 victim, as the term "domestic victim" is defined under
4 section 565.002, and he or she:

5 (1) Knowingly causes [physical injury] **bodily harm** to
6 such domestic victim by any means, including but not limited
7 to, use of a deadly weapon or dangerous instrument, or by
8 choking or strangulation; or

9 (2) Recklessly causes [serious physical injury] **great**
10 **bodily harm** to such domestic victim; or

11 (3) Recklessly causes [physical injury] **bodily harm** to
12 such domestic victim by means of any deadly weapon.

13 2. The offense of domestic assault in the second
14 degree is a class D felony.

 565.074. 1. A person commits the offense of domestic
2 assault in the third degree if he or she attempts to cause
3 [physical injury] **substantial bodily harm** or knowingly
4 causes [physical pain or illness] **bodily harm** to a domestic

5 victim, as the term "domestic victim" is defined under
6 section 565.002.

7 2. The offense of domestic assault in the third degree
8 is a class E felony.

565.076. 1. A person commits the offense of domestic
2 assault in the fourth degree if the act involves a domestic
3 victim, as the term "domestic victim" is defined under
4 section 565.002, and:

5 (1) The person attempts to cause or recklessly causes
6 [physical injury, physical pain, or illness] **bodily harm** to
7 such domestic victim;

8 (2) With criminal negligence the person causes
9 [physical injury] **bodily harm** to such domestic victim by
10 means of a deadly weapon or dangerous instrument;

11 (3) The person purposely places such domestic victim
12 in apprehension of immediate [physical injury] **bodily harm**
13 by any means;

14 (4) The person recklessly engages in conduct which
15 creates a substantial risk of death or [serious physical
16 injury] **great bodily harm** to such domestic victim;

17 (5) The person knowingly causes physical contact with
18 such domestic victim knowing he or she will regard the
19 contact as offensive; or

20 (6) The person knowingly attempts to cause or causes
21 the isolation of such domestic victim by unreasonably and
22 substantially restricting or limiting his or her access to
23 other persons, telecommunication devices or transportation
24 for the purpose of isolation.

25 2. The offense of domestic assault in the fourth
26 degree is a class A misdemeanor, unless the person has
27 previously been found guilty of the offense of domestic
28 assault, of any assault offense under this chapter, or of

any offense against a domestic victim committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which if committed in this state two or more times would be a violation of this section, in which case it is a class E felony. The offenses described in this subsection may be against the same domestic victim or against different domestic victims.

565.225. 1. [As used in this section and section 565.227, the term "disturbs" shall mean to engage in a course of conduct directed at a specific person that serves no legitimate purpose and that would cause a reasonable person under the circumstances to be frightened, intimidated, or emotionally distressed.

2.] A person commits the offense of stalking in the first degree if he or she [purposely] **knowingly**, through [his or her] a course of conduct[, disturbs or follows with the intent of disturbing] **that is directed at** another person [and] **or through technological abuse conduct, engages in conduct that would cause a reasonable person under similar circumstances to:**

(1) [Makes a threat communicated with the intent to cause the person who is the target of the threat to reasonably] Fear [for his or her safety, the safety of his or her family or household member, or the safety of domestic animals or livestock as defined in section 276.606 kept at such person's residence or on such person's property. The threat shall be against the life of, or a threat to cause physical] **death or bodily** injury to[, or the kidnapping of] the person[,];

(2) **Fear that an offense will be committed against a member of** the person's family or household members, or [the person's domestic animals or livestock as defined in section

26 276.606 kept at such person's residence or on such person's
27 property] **an individual with whom the person has a dating**
28 **relationship; [or**

29 (2) At least one of the acts constituting the course
30 of conduct is in violation of an order of protection and the
31 person has received actual notice of such order; or]

32 (3) [At least one of the actions constituting the
33 course of conduct is in violation of a condition of
34 probation, parole, pretrial release, or release on bond
35 pending appeal] **Fear that an offense will be committed**
36 **against the person's property; or**

37 (4) [At any time during the course of conduct, the
38 other person is seventeen years of age or younger and the
39 person disturbing the other person is twenty-one years of
40 age or older; or

41 (5) He or she has previously been found guilty of
42 domestic assault, violation of an order of protection, or
43 any other crime where the other person was the victim; or

44 (6) At any time during the course of conduct, the
45 other person is a participant of the address confidentiality
46 program under sections 589.660 to 589.681, and the person
47 disturbing the other person knowingly accesses or attempts
48 to access the address of the other person] **Feel harassed,**
49 **terrified, or intimidated.**

50 [3.] 2. Any law enforcement officer may arrest,
51 without a warrant, any person he or she has probable cause
52 to believe has violated the provisions of this section.

53 [4.] 3. This section shall not apply to activities of
54 federal, state, county, or municipal law enforcement
55 officers conducting investigations of any violation of
56 federal, state, county, or municipal law.

57 [5.] 4. The offense of stalking in the first degree is
58 a class E felony, unless the defendant has previously been
59 found guilty of a violation of this section or section
60 565.227, or any offense committed in another jurisdiction
61 which, if committed in this state, would be chargeable or
62 indictable as a violation of any offense listed in this
63 section or section 565.227, or unless the victim is
64 intentionally targeted as a law enforcement officer, as
65 defined in section 556.061, or the victim is targeted
66 because he or she is a relative within the second degree of
67 consanguinity or affinity to a law enforcement officer, in
68 which case stalking in the first degree is a class D felony.

565.227. 1. A person commits the offense of stalking
2 in the second degree if he or she [purposely, through his or
3 her course of] **knowingly engages in a course of** conduct[,
4 disturbs, or follows with the intent to disturb another
5 person] **directed at a specific person or technological abuse**
6 **conduct which would cause a reasonable person under the**
7 **circumstances to feel harassed, terrified, or intimidated.**

8 2. This section shall not apply to activities of
9 federal, state, county, or municipal law enforcement
10 officers conducting investigations of any violation of
11 federal, state, county, or municipal law.

12 3. Any law enforcement officer may arrest, without a
13 warrant, any person he or she has probable cause to believe
14 has violated the provisions of this section.

15 4. The offense of stalking in the second degree is a
16 class A misdemeanor, unless the defendant has previously
17 been found guilty of a violation of this section or section
18 565.225, or of any offense committed in another jurisdiction
19 which, if committed in this state, would be chargeable or
20 indictable as a violation of any offense listed in this

21 section or section 565.225, or unless the victim is
22 intentionally targeted as a law enforcement officer, as
23 defined in section 556.061, or the victim is targeted
24 because he or she is a relative within the second degree of
25 consanguinity or affinity to a law enforcement officer, in
26 which case stalking in the second degree is a class E felony.

575.275. 1. A person commits the offense of violating
2 a no contact order when the person violates a court order
3 where as a condition of pretrial release, a diversion
4 program, or at any other time during the pendency of a
5 criminal case that requires the person refrain from having
6 any direct or indirect contact or communication of any kind
7 with another person and the person knowingly contacts or
8 communicates with the other person.

9 2. The offense of violating a no contact order shall
10 be a class A misdemeanor.

11 3. As used in this section, the term "contact or
12 communication" includes contact or communication in person,
13 by writing, telephone, fax, e-mail, or any other type of
14 electronic communication, and includes contact or
15 communication through a third party or parties, except that
16 the defendant may communicate through his or her attorney to
17 the prosecuting or circuit attorney, or if the defendant
18 does not have counsel, directly to the prosecuting or
19 circuit attorney, any lawful request or legally necessary
20 information which the prosecuting or circuit attorney may
21 then relay to the victim, if appropriate.

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