

SECOND REGULAR SESSION

# SENATE BILL NO. 969

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR FITZWATER.

4959S.011

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 566.149 and 595.209, RSMo, and to enact in lieu thereof two new sections relating to public safety, with penalty provisions.

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

Section A. Sections 566.149 and 595.209, RSMo, are  
2 repealed and two new sections enacted in lieu thereof, to be  
3 known as sections 566.149 and 595.209, to read as follows:

566.149. 1. Any person who has been found guilty of:

2 (1) Violating any of the provisions of this chapter or  
3 the provisions of section 568.020, incest; section 568.045,  
4 endangering the welfare of a child in the first degree;  
5 subsection 2 of section 568.080 as it existed prior to  
6 January 1, 2017, or section 573.200, use of a child in a  
7 sexual performance; section 568.090 as it existed prior to  
8 January 1, 2017, or section 573.205, promoting a sexual  
9 performance by a child; section 573.023, sexual exploitation  
10 of a minor; section 573.037, possession of child  
11 pornography; section 573.025, promoting child pornography;  
12 or section 573.040, furnishing pornographic material to  
13 minors; or

14 (2) Any offense in any other jurisdiction which, if  
15 committed in this state, would be a violation listed in this  
16 section;

17 shall not be present in or loiter within five hundred feet  
18 of any school building, on real property comprising any  
19 school, or in any conveyance owned, leased, or contracted by  
20 a school to transport students to or from school or a school-  
21 related activity when persons under the age of eighteen are  
22 present in the building, on the grounds, or in the  
23 conveyance, unless the offender is a parent, legal guardian,  
24 or custodian of a student present in the building and has  
25 met the conditions set forth in subsection 2 of this section.

26       2. No parent, legal guardian, or custodian who has  
27 been found guilty of violating any of the offenses listed in  
28 subsection 1 of this section, **except as provided in**  
29 **subsection 3 of this section**, shall be present in any school  
30 building, on real property comprising any school, or in any  
31 conveyance owned, leased, or contracted by a school to  
32 transport students to or from school or a school-related  
33 activity when persons under the age of eighteen are present  
34 in the building, on the grounds or in the conveyance unless  
35 the parent, legal guardian, or custodian has permission to  
36 be present from the superintendent or school board or in the  
37 case of a private school from the principal. In the case of  
38 a public school, if permission is granted, the  
39 superintendent or school board president must inform the  
40 principal of the school where the sex offender will be  
41 present. Permission may be granted by the superintendent,  
42 school board, or in the case of a private school from the  
43 principal for more than one event at a time, such as a  
44 series of events, however, the parent, legal guardian, or  
45 custodian must obtain permission for any other event he or  
46 she wishes to attend for which he or she has not yet had  
47 permission granted.

48           3. No parent, legal guardian, or custodian who has  
49 been required to register as a tier III offender because of  
50 having been adjudicated for a tier III offense as provided  
51 in section 589.414 shall be present in any school building  
52 on real property comprising any school, or in any conveyance  
53 owned, leased, or contracted by a school to transport  
54 students to or from school or a school-related activity when  
55 persons under the age of eighteen are present in the  
56 building, on the grounds, or in the conveyance.

57           4. Regardless of the person's knowledge of his or her  
58 proximity to school property or a school-related activity,  
59 violation of the provisions of this section is a class A  
60 misdemeanor.

595.209. 1. The following rights shall automatically  
2 be afforded to victims of dangerous felonies, as defined in  
3 section 556.061, victims of murder in the first degree, as  
4 defined in section 565.020, victims of voluntary  
5 manslaughter, as defined in section 565.023, victims of any  
6 offense under chapter 566, victims of an attempt to commit  
7 one of the preceding crimes, as defined in section 562.012,  
8 and victims of domestic assault, as defined in sections  
9 565.072 to 565.076; and, upon written request, the following  
10 rights shall be afforded to victims of all other crimes and  
11 witnesses of crimes:

12           (1) For victims, the right to be present at all  
13 criminal justice proceedings at which the defendant has such  
14 right, including juvenile proceedings where the offense  
15 would have been a felony if committed by an adult, even if  
16 the victim is called to testify or may be called to testify  
17 as a witness in the case;

18           (2) For victims, the right to information about the  
19 crime, as provided for in subdivision (5) of this subsection;

20           (3) For victims and witnesses, to be informed, in a  
21 timely manner, by the prosecutor's office of the filing of  
22 charges, preliminary hearing dates, trial dates,  
23 continuances and the final disposition of the case. Final  
24 disposition information shall be provided within five days;

25           (4) For victims, the right to confer with and to be  
26 informed by the prosecutor regarding bail hearings, guilty  
27 pleas, pleas under chapter 552 or its successors, hearings,  
28 sentencing and probation revocation hearings and the right  
29 to be heard at such hearings, including juvenile  
30 proceedings, unless in the determination of the court the  
31 interests of justice require otherwise;

32           (5) For victims, the right to be informed by local law  
33 enforcement agencies, the appropriate juvenile authorities  
34 or the custodial authority of the following:

35           (a) The status of any case concerning a crime against  
36 the victim, including juvenile offenses;

37           (b) The right to be informed by local law enforcement  
38 agencies or the appropriate juvenile authorities of the  
39 availability of victim compensation assistance, assistance  
40 in obtaining documentation of the victim's losses,  
41 including, but not limited to and subject to existing law  
42 concerning protected information or closed records, access  
43 to copies of complete, unaltered, unedited investigation  
44 reports of motor vehicle, pedestrian, and other similar  
45 accidents upon request to the appropriate law enforcement  
46 agency by the victim or the victim's representative, and  
47 emergency crisis intervention services available in the  
48 community;

49           (c) Any release of such person on bond or for any  
50 other reason;

51           (d) Within twenty-four hours, any escape by such  
52 person from a municipal detention facility, county jail, a  
53 correctional facility operated by the department of  
54 corrections, mental health facility, or the division of  
55 youth services or any agency thereof, and any subsequent  
56 recapture of such person; and

57           (e) The name of an informant who has been endorsed  
58 under section 491.065 as a witness by a prosecuting or  
59 circuit attorney and any benefit that has been requested by  
60 or has been offered to the informant and any benefit that  
61 may be provided at a future date in connection with such  
62 endorsement;

63           (6) For victims, the right to be informed by  
64 appropriate juvenile authorities of probation revocation  
65 hearings initiated by the juvenile authority and the right  
66 to be heard at such hearings or to offer a written  
67 statement, video or audio tape, counsel or a representative  
68 designated by the victim in lieu of a personal appearance,  
69 the right to be informed by the board of probation and  
70 parole of probation revocation hearings initiated by the  
71 board and of parole hearings, the right to be present at  
72 each and every phase of parole hearings, the right to be  
73 heard at probation revocation and parole hearings or to  
74 offer a written statement, video or audio tape, counsel or a  
75 representative designated by the victim in lieu of a  
76 personal appearance, and the right to have, upon written  
77 request of the victim, a partition set up in the probation  
78 or parole hearing room in such a way that the victim is  
79 shielded from the view of the probationer or parolee, and  
80 the right to be informed by the custodial mental health  
81 facility or agency thereof of any hearings for the release  
82 of a person committed pursuant to the provisions of chapter

552, the right to be present at such hearings, the right to be heard at such hearings or to offer a written statement, video or audio tape, counsel or a representative designated by the victim in lieu of personal appearance;

(7) For victims and witnesses, upon their written request, the right to be informed by the appropriate custodial authority, including any municipal detention facility, juvenile detention facility, county jail, correctional facility operated by the department of corrections, mental health facility, division of youth services or agency thereof if the offense would have been a felony if committed by an adult, postconviction or commitment pursuant to the provisions of chapter 552 of the following:

(a) The projected date of such person's release from confinement;

(b) Any release of such person on bond;

(c) Any release of such person on furlough, work release, trial release, electronic monitoring program, or to a community correctional facility or program or release for any other reason, in advance of such release;

(d) Any scheduled parole or release hearings, including hearings under section 217.362, regarding such person and any changes in the scheduling of such hearings. No such hearing shall be conducted without thirty days' advance notice;

(e) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency thereof, and any subsequent recapture of such person;

(f) Any decision by a parole board, by a juvenile releasing authority or by a circuit court presiding over releases pursuant to the provisions of chapter 552, or by a circuit court presiding over releases under section 217.362, to release such person or any decision by the governor to commute the sentence of such person or pardon such person; and

(g) Notification within thirty days of the death of such person;

(8) For witnesses who have been summoned by the prosecuting attorney and for victims, to be notified by the prosecuting attorney in a timely manner when a court proceeding will not go on as scheduled;

(9) For victims and witnesses, the right to reasonable protection from the defendant or any person acting on behalf of the defendant from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

(10) For victims and witnesses, on charged cases or submitted cases where no charge decision has yet been made, to be informed by the prosecuting attorney of the status of the case and of the availability of victim compensation assistance and of financial assistance and emergency and crisis intervention services available within the community and information relative to applying for such assistance or services, and of any final decision by the prosecuting attorney not to file charges;

(11) For victims, to be informed by the prosecuting attorney of the right to restitution which shall be enforceable in the same manner as any other cause of action as otherwise provided by law;

146           (12) For victims and witnesses, to be informed by the  
147 court and the prosecuting attorney of procedures to be  
148 followed in order to apply for and receive any witness fee  
149 to which they are entitled;

150           (13) When a victim's property is no longer needed for  
151 evidentiary reasons or needs to be retained pending an  
152 appeal, the prosecuting attorney or any law enforcement  
153 agency having possession of the property shall, upon request  
154 of the victim, return such property to the victim within  
155 five working days unless the property is contraband or  
156 subject to forfeiture proceedings, or provide written  
157 explanation of the reason why such property shall not be  
158 returned;

159           (14) An employer may not discharge or discipline any  
160 witness, victim or member of a victim's immediate family for  
161 honoring a subpoena to testify in a criminal proceeding,  
162 attending a criminal proceeding, or for participating in the  
163 preparation of a criminal proceeding, or require any  
164 witness, victim, or member of a victim's immediate family to  
165 use vacation time, personal time, or sick leave for honoring  
166 a subpoena to testify in a criminal proceeding, attending a  
167 criminal proceeding, or participating in the preparation of  
168 a criminal proceeding. A public school district, public  
169 school, or charter school shall not discipline a child for  
170 failure to comply with the district's or school's attendance  
171 policy, and the parent or legal guardian shall not be deemed  
172 to be in violation of the provisions of section 167.061, and  
173 the district or school shall not otherwise discipline a  
174 child, based on such child's honoring a subpoena to testify  
175 in a criminal proceeding, attending a criminal proceeding,  
176 or for participating in the preparation of a criminal  
177 proceeding;



(15) For victims, to be provided with creditor intercession services by the prosecuting attorney if the victim is unable, as a result of the crime, temporarily to meet financial obligations;

(16) For victims and witnesses, the right to speedy disposition of their cases, and for victims, the right to speedy appellate review of their cases, provided that nothing in this subdivision shall prevent the defendant from having sufficient time to prepare such defendant's defense. The attorney general shall provide victims, upon their written request, case status information throughout the appellate process of their cases. The provisions of this subdivision shall apply only to proceedings involving the particular case to which the person is a victim or witness;

(17) For victims and witnesses, to be provided by the court, a secure waiting area during court proceedings and to receive notification of the date, time and location of any hearing conducted by the court for reconsideration of any sentence imposed, modification of such sentence or recall and release of any defendant from incarceration; and

(18) For victims, the right to receive upon request from the department of corrections a photograph taken of the defendant prior to release from incarceration;

**(19) For victims under the age of nineteen, the right to appear by video during a deposition or discovery and the right to appear by video during any hearing in lieu of personal appearance.**

2. The provisions of subsection 1 of this section shall not be construed to imply any victim who is incarcerated by the department of corrections or any local law enforcement agency has a right to be released to attend any hearing or that the department of corrections or the

210 local law enforcement agency has any duty to transport such  
211 incarcerated victim to any hearing.

212 3. Those persons entitled to notice of events pursuant  
213 to the provisions of subsection 1 of this section shall  
214 provide the appropriate person or agency with their current  
215 addresses, electronic mail addresses, and telephone numbers  
216 or the addresses, electronic mail addresses, or telephone  
217 numbers at which they wish notification to be given.

218 4. Notification by the appropriate person or agency  
219 utilizing the statewide automated crime victim notification  
220 system as established in section 650.310 shall constitute  
221 compliance with the victim notification requirement of this  
222 section. If notification utilizing the statewide automated  
223 crime victim notification system cannot be used, then  
224 written notification shall be sent by certified mail or  
225 electronic mail to the most current address or electronic  
226 mail address provided by the victim.

227 5. Victims' rights as established in Section 32 of  
228 Article I of the Missouri Constitution or the laws of this  
229 state pertaining to the rights of victims of crime shall be  
230 granted and enforced regardless of the desires of a  
231 defendant and no privileges of confidentiality shall exist  
232 in favor of the defendant to exclude victims or prevent  
233 their full participation in each and every phase of parole  
234 hearings or probation revocation hearings. The rights of  
235 the victims granted in this section are absolute and the  
236 policy of this state is that the victim's rights are  
237 paramount to the defendant's rights. The victim has an  
238 absolute right to be present at any hearing in which the  
239 defendant is present before a probation and parole hearing  
240 officer.

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