

NEW 2021 MISSOURI LAW



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The links below provide online access to information on bills, legislators, committees and actions of the Missouri General Assembly during the 2021 legislative session.

House bills: www.house.mo.gov

At the top of the home page select the "legislation" tab

Senate bills: www.senate.mo.gov

At the top of the home page select the "bill search" tab

Current Missouri statutes: revisor.mo.gov/main/Home.aspx

To see how a bill progressed through the 2021 session, please refer to the monthly editions of MOCADSV Legislative Update, located on our website at www.mocadsv.org.

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The Missouri Coalition Against Domestic and Sexual Violence (MOCADSV)

*unites Missourians with a shared value that rape and abuse must end,
and advances this through education, alliance, research and public policy.*

ORDERS OF PROTECTION

Three significant changes were made in 2021 to Missouri law on Orders of Protection.

1. Pets can be included in *Ex Parte* and Full Orders of Protection for both adults and children.
2. The definition of stalking for Orders of Protection is expanded to include use of technology, and the use of third parties.
3. Judges can issue orders for an initial time from 180 days to 1 year, or for 2 to 10 years; they can issue renewal orders for a time of 2 years up to the lifetime of the respondent.

There also are additional requirements for law enforcement agencies to enter protection order data into state and federal databases.

PETS

JUDGES CAN AWARD POSSESSION OF PETS AND INCLUDE MEASURES FOR THEIR PROTECTION IN ORDERS OF PROTECTION

Judges can award possession and care of pets in *Ex Parte* and Full Orders of Protection for both adults and children, and can order respondents to pay medical bills and other costs related to the abuse of the petitioner's pet(s) ([Sections 455.045](#) and [455.050 RSMo](#)).

The pet protections for Child Orders of Protection are in [Sections 455.520](#) and [455.523 RSMo](#).

SECTIONS OF LAW ADDRESSING PETS IN ORDERS OF PROTECTION

- **Definition:** “Abusing a pet” — purposely or knowingly causing, attempting to cause, or threatening to cause physical injury to a pet with the intent to control, punish, intimidate, or distress the petitioner ([Section 455.010\(1\)\(a\) RSMo](#))

STATUTES

[Section 455.010 RSMo](#)
[Section 455.032 RSMo](#)
[Section 455.040 RSMo](#)
[Section 455.045 RSMo](#)
[Section 455.050 RSMo](#)

PASSED AS

[Senate Bill 71](#)

SUMMARY

Orders of Protection can include pets, better address stalking, and can be issued for longer durations

- **Definition:** “Pet” — a living creature maintained by a household member for companionship and not for commercial purposes ([Section 455.010\(11\) RSMo](#))
- **Possession of pets and orders for respondents to pay for pets’ abuse-related medical care:** Judges can include pet possession and care for pets in Orders of Protection — “Award possession and care of any pet, along with any moneys necessary to cover medical costs that may have resulted from abuse of the pet” ([Section 455.050.3\(13\) RSMo](#) and [Section 455.523\(10\) RSMo](#) for Child Orders of Protection)

STALKING

PROTECTION ORDERS CAN BE GRANTED FOR ACTS OF STALKING THROUGH ELECTRONIC DEVICES, VIA THIRD PARTIES

The definition of stalking in Order of Protection law was updated to include stalkers’ uses of technology and the enlistment of additional persons to stalk their victims ([Section 455.010\(15\)\(b\) RSMo](#)).

The revised “course of conduct” element of the definition of stalking for protection orders is: “acts in which the stalker directly, indirectly, or through a third party follows, monitors, observes, surveils, threatens, or communicates to or about a person by any action, method, or device.”



DURATION OF PROTECTION ORDERS

Changes to Missouri law in 2021 allow judges to issue Adult Full Orders of Protection, after a hearing, for longer periods of time for both initial protection orders and for renewal orders.

Judges can issue Full Orders of Protection for 2 to 10 years, and can issue renewals of orders that can remain in effect for 2 years up to the lifetime of the respondent to the order.

INITIAL ORDERS OF PROTECTION CAN BE ISSUED FOR 180 DAYS TO ONE YEAR, OR 2 TO 10 YEARS IF “SERIOUS DANGER”

- An initial Order of Protection can be issued for a time of 180 days to 1 year. This time range was unchanged by 2021 legislation ([Section 455.040.1\(1\) RSMo](#)).
- An initial Order of Protection can be issued for a time of 2 to 10 years, if a judge makes a finding after a hearing that the respondent poses a “serious danger” to the petitioner/household member ([Section 455.040.1\(1\) RSMo](#)).

JUDGES CAN ORDER AUTOMATIC RENEWALS OF ORDERS OF PROTECTION FOR LONGER THAN ONE-YEAR TIME PERIODS

When issuing an initial Order of Protection, judges can include a provision that the protection order be automatically renewed. Changes to this section of law in 2021 allow judges to order automatic renewals of Orders of Protection for longer than the previous one-year limit ([Section 455.040.1\(1\) RSMo](#)).

Varying judicial interpretations may arise as to whether this 2021 change allows judges to issue automatic protection order renewals for a range of 2 years to any duration up to the lifetime of a respondent:

- “(3) The court may, upon finding that it is in the best interest of the parties, include a provision that any full order of protection shall be automatically renewed for any term of renewal of a full order of protection as set forth in this section unless the respondent requests a hearing by thirty days prior to the expiration of the order.” ([Section 455.040.1\(3\) RSMo](#)).



RENEWAL ORDERS, IF NOT AUTOMATICALLY RENEWED, CAN BE FOR TWO YEARS UP TO RESPONDENT’S LIFETIME; JUDGE MUST ASSESS DANGER IN A HEARING AND MAKE WRITTEN FINDINGS

A renewal Order of Protection can be issued for 2 years up to the lifetime of the respondent.

- A lifetime order is only allowed as a renewal order, not for a first request for an Order of Protection.

For renewal orders that are not ordered as an automatic renewal, a judge must hold a hearing and make written findings that the respondent poses a “serious danger” to the petitioner/household member.

- The law states: “If the court has made specific written findings that the respondent poses a serious danger to the physical or mental health of the petitioner or of a minor household member of the petitioner, the renewed protective order may be renewed periodically and shall be valid for at least two years and up to the life of the respondent ([Section 455.040.1\(2\) RSMo](#)).



FACTS FOR JUDGES TO REVIEW IN A HEARING TO DETERMINE IF A RESPONDENT IS A “SERIOUS DANGER”

A judge must hold a hearing on evidence that supports a finding that the respondent poses a serious danger to the petitioner/household member:

- “In determining under this section whether a respondent poses a serious danger to the physical or mental health of a petitioner or of a minor household member of the petitioner, the court shall consider all relevant evidence including, but not limited to:
 - (a) The weight of the evidence;
 - (b) The respondent’s history of inflicting or causing physical harm, bodily injury, or assault;
 - (c) The respondent’s history of stalking or causing fear of physical harm, bodily injury, or assault on the petitioner or a minor household member of the petitioner;
 - (d) The respondent’s criminal record;
 - (e) Whether any prior full orders of adult or child protection have been issued against the respondent;
 - (f) Whether the respondent has been found guilty of any dangerous felony under Missouri law; and
 - (g) Whether the respondent violated any term or terms of probation or parole or violated any term of a prior full or temporary order of protection and which violated terms were intended to protect the petitioner or a minor household member of the petitioner” ([Section 455.040.1\(4\) RSMo](#)).

JUDGES GIVEN SPECIFIC AUTHORITY IN LAW TO ISSUE LIFETIME RENEWAL ORDERS OF PROTECTION AFTER A HEARING

“If the court has made specific written findings that the respondent poses a serious danger to the physical or mental health of the petitioner or of a minor household member of the petitioner, the renewed protective order may be renewed periodically and shall be valid for at least two years and up to the life of the respondent” ([Section 455.040.1\(2\) RSMo](#)).

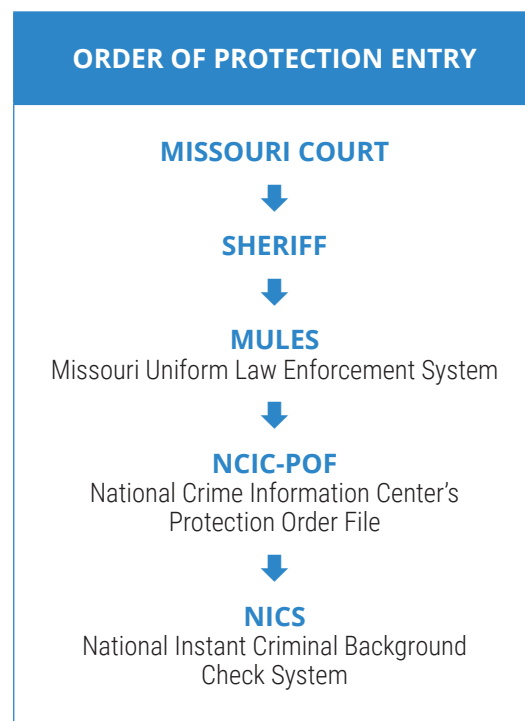
REGISTRY OF PROTECTION ORDERS

MISSOURI COURTS, SHERIFFS TO ENSURE PROTECTION ORDER INFORMATION ADDED TO STATE, FEDERAL DATABASES

All Missouri Orders of Protection are required to be entered into both the state law enforcement database—the Missouri Uniform Law Enforcement System (MULES)—and the federal National Crime Information Center (NCIC) ([Section 455.040.3 RSMo](#)).

Sheriffs are to enter the orders into MULES within 24 hours of receiving the orders from a Missouri court. The information entered into MULES will be sent to NCIC for entry into its Protection Order File (POF). The orders entered into the POF are then viewable within the National Instant Criminal Background Check System (NICS) database by law enforcement or governmental agency personnel.

Members of the public cannot gain access to these databases to confirm a protection order is in the registry without the help of a government agency that has access to it.



TAX CREDIT FOR RAPE CRISIS CENTERS AND DOMESTIC VIOLENCE SHELTERS

On August 28, 2021, a rape crisis center tax credit program went into effect with a 50% tax credit to donors of \$100 or more. The rape crisis center tax credit then, as of July 1, 2022, will increase to a 70% credit for donors of \$100 or more. Eligible rape crisis centers, as defined in [Section 455.003 RSMo](#), must operate 24/7 services of a hotline and hospital advocacy.

A parallel 70% tax credit for donations to domestic violence shelters will take effect on July 1, 2022, increasing from the prior 50% credit for this tax credit program that was established in 1997. Eligibility for this tax credit program was expanded to include a non-profit organization that operates to raise funds for a domestic violence shelter operated by a unit of government ([Section 135.550 RSMo](#)).

STATUTES
[Section 135.550 RSMo](#)

PASSED AS
[House Bill 430](#)

SUMMARY
Rape crisis center tax credit program created, domestic violence shelter tax credit program expanded

As of July 1, 2022, there is no cap on the amount of these tax credits—for both rape crisis centers and domestic violence shelters—that can be awarded to donors. Prior to July 1, 2022, tax credits for domestic violence shelters are limited to an annual total of \$2 million, with the allowance for the Department of Social Services to reallocate funds among shelters if needed.

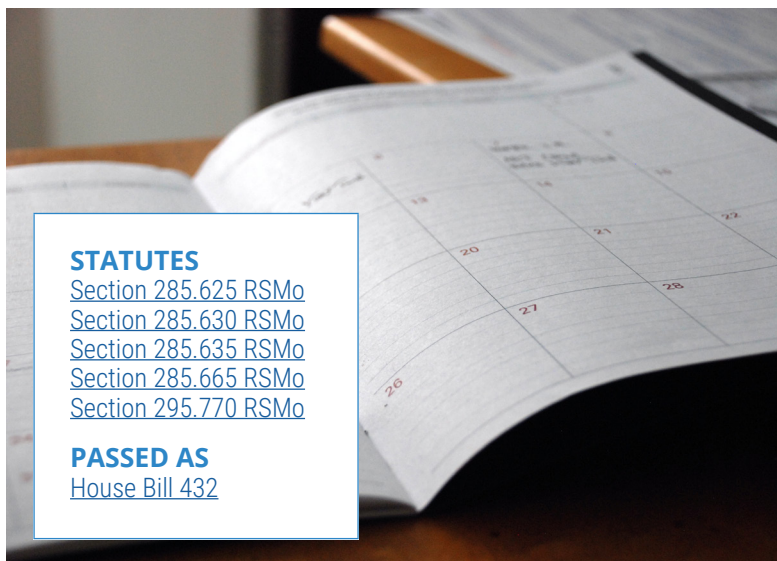
AUGUST 28, 2021 TO JUNE 30, 2022	JULY 1, 2022 AND THEREAFTER
Rape crisis center (as defined in Section 455.003 RSMo): Must provide 24/7 hotline and medical advocacy services	Rape crisis center (as defined in Section 455.003 RSMo): Must provide 24/7 hotline and medical advocacy services
Domestic violence shelter (as defined in 455.220 RSMo) or non-profit established to fundraise for domestic violence shelter operated by government	Domestic violence shelter (as defined in 455.220 RSMo) or non-profit established to fundraise for domestic violence shelter operated by government
\$2 million annual cap with allowable reallocation process	No annual cap on total amount of tax credits granted statewide; no reallocation process
50% tax credit for donations of \$100 or more	70% tax credit for donations of \$100 or more



UNPAID LEAVE FROM WORK

For persons who work for an employer with at least 20 employees, unpaid leave from work is allowed if they are victims of domestic or sexual violence, or if they are a family or household member of a victim, including parents of a child abuse victim. Taking unpaid leave cannot result in the person's loss of employment.

Employees are allowed to take unpaid leave to seek medical attention, recover from injury, obtain victim services, obtain counseling, participate in safety planning, seek legal assistance or participate in legal proceedings.



<p>WHO IS ELIGIBLE?</p>	<ul style="list-style-type: none"> • Victim of domestic violence (as defined in Section 455.010 RSMo) • Victim of sexual violence (as defined in Section 455.010 RSMo) • Family or household member of victim of domestic or sexual violence (as defined in Section 285.625 RSMo)
<p>TYPES OF ELIGIBLE ASSISTANCE TO REQUEST UNPAID EMPLOYMENT LEAVE</p>	<ul style="list-style-type: none"> • Seeking medical attention • Services from a victim services organization (as defined in Section 285.625 RSMo) • Participating in safety planning or relocating • Counseling • Civil or criminal legal proceedings
<p>EMPLOYER REQUIREMENTS</p>	<ul style="list-style-type: none"> • Employers with fewer than 20 employees: No requirement in statute to provide unpaid leave • Employers with 20 to 49 employees: 1 week of unpaid leave allowed per 12-month period • Employers with 50 or more employees: Two weeks of unpaid leave allowed per 12-month period
<p>CERTIFICATION FOR UNPAID LEAVE</p>	<p>Certification for unpaid leave, if required by an employer, can require a sworn statement of the employee and one of the following:</p> <ul style="list-style-type: none"> • An employee or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional, or • A police or court record, or • Other corroborating evidence





Unpaid leave is limited to two weeks of leave per year if the employer employs at least 50 employees. The leave is limited to one week per year if the employer employs at least 20 but not more than 49 employees.

The employee is required to provide the employer with at least 48 hours' advance notice of their intent to take unpaid leave, unless providing such notice "is not practicable."

Employees also may be required to provide certification to the employer that the leave is necessary. That documentation, in addition to a sworn statement by the employee, can be from an employee of a victim service agency, an attorney, a law enforcement officer, a clergy member or health care provider, or a police or court report. Employers are required to keep the information provided by the employee confidential.

On return from leave, employees are to be restored to the same or equivalent employment position and shall not lose accrued benefits. Employers are required to maintain health coverage for the employee while on leave but the premium may be recovered if the employee does not return.

Employees are allowed to request "reasonable safety accommodations" of their employers.

Employers are required to post a notice summarizing the Missouri law providing unpaid leave from work for victims. The notice shall be prepared by the Department of Labor and Industrial Relations. At this printing, the poster was not yet available.

FIREARMS

***Note:** Soon after the June 12, 2021 effective date of these sections of law, court cases were filed to challenge several provisions. It can be expected that court rulings may change the scope of law in Sections 1.410 to 1.485 RSMo. Advocates can contact MOCADSV for updates.*

“SECOND AMENDMENT PRESERVATION ACT” REJECTS FEDERAL GUN LAWS, PROHIBITS THEIR ENFORCEMENT

Missouri law, titled the “Second Amendment Preservation Act,” declares federal firearm law “shall not be recognized by this state, shall be specifically rejected by this state, and shall not be enforced by this state” ([Section 1.430 RSMo](#)).

Missouri law enforcement officers are prohibited by this state law from enforcing federal firearms laws in Missouri that are not the same as any Missouri gun laws ([Section 1.480 RSMo](#)).

The law also deems federal laws that restrict firearms possession, or that tax firearms, to be “infringements on the people’s right to keep and bear arms” ([Section 1.420 RSMo](#)).

Law enforcement officers and agencies that enforce federal law that limits a person’s Second Amendment rights can be sued ([Section 1.460 RSMo](#)).

MISSOURI COURT ORDERS STILL CAN LIMIT POSSESSION OF FIREARMS BY OFFENDERS AND RESPONDENTS

Missouri Order of Protection law gives authority to judges to issue Orders of Protection that may include provisions that prohibit a respondent from possessing or purchasing firearms. Missouri law also grants courts the authority to limit a criminal defendant’s possession or purchase of firearms through a judge’s order issued pre-trial, upon conviction and/or sentencing, and as a condition of probation or parole.

Missouri domestic violence law states that judges, when issuing Orders of Protection “...may include such terms as the court reasonably deems necessary to ensure the petitioner’s safety” ([Section 455.050.1 RSMo](#)). Consequently, despite the Second Amendment Preservation Act, Missouri law enforcement officers can enforce protection order gun restrictions because they are orders of Missouri courts, issued in accord with Missouri law. Similarly, law enforcement officers also retain the ability to make arrests for violations of bond or probation conditions that prohibit firearm as an order of a Missouri court.

STATUTES

[Section 1.410 RSMo](#)

[Section 1.420 RSMo](#)

[Section 1.430 RSMo](#)

[Section 1.440 RSMo](#)

[Section 1.450 RSMo](#)

[Section 1.460 RSMo](#)

[Section 1.470 RSMo](#)

[Section 1.480 RSMo](#)

[Section 1.485 RSMo](#)

PASSED AS

[House Bills 85 & 310](#)



LAWS OF INTEREST

OMNIBUS LEGISLATION ADDRESSING MULTIPLE SUBJECTS

More than 100 sections of Missouri law were amended or created through a 176-page, multi-provision omnibus bill that included a wide range of topics. [A full summary](#) of these sections of law, all passed in [Senate Bills 53 & 60](#), is available on the Missouri Senate website at www.senate.mo.gov.

STATUTES

100 Sections of updated Missouri law

PASSED AS

[Senate Bills 53 & 60](#)

SUMMARY

More than 100 wide-ranging sections of Missouri law updated or created

LAW ENFORCEMENT

NEW CRIMINAL OFFENSE OF “SEXUAL CONDUCT IN THE COURSE OF PUBLIC DUTY”

A person employed as a law enforcement officer, jailer or corrections official can be charged with the offense of sexual conduct in the course of public duty. The offense of sexual conduct in the course of public duty is a class E felony and consent to sexual conduct is not a defense to the crime ([Section 566.145 RSMo](#)).

The criminal offense of sexual conduct in the course of public duty occurs against the following persons:

- **A *detainee*:** a person deprived of liberty and kept under involuntary restraint, confinement, or custody
- **A *prisoner*:** a person who is in the custody of a jail, whether pretrial or after disposition of a charge
- **An *offender*:** any person in the custody of a prison or correctional facility, and any person who is under the supervision of the division of probation and parole
- **A *coerced person*:** someone who is not a detainee, prisoner, or offender if the offense was committed by means of coercion, which includes the abuse or threatened abuse of the legal process (coercion is defined in [Section 566.200 RSMo](#)).

BAN ON USE OF POLICE CHOKE HOLDS

The use of choke holds by law enforcement officers is prohibited unless the use “is in defense of the officer or another from serious physical injury or death” ([Section 590.805 RSMo](#)).

CONFIDENTIALITY OF CRIME-STOPPERS REPORTS

The identity of those who report alleged criminal acts to a “crime stoppers organization” is protected by legally designating those reports as privileged communications ([Section 546.265 RSMo](#)). A defendant may petition the court to review the report to determine if it contains evidence favorable to the defendant.

JUVENILES & CHILDREN

PROHIBITING JAILING JUVENILES WITH ADULTS

Prohibitions are expanded on jailing juveniles in adult jails and prisons to include pre-trial, pending judgement or appeal, unless a court finds, with monthly reviews, that jailing a juvenile in an adult jail is “in the best interests of justice” ([Section 211.072 RSMo](#)). The additions to this section of law bring Missouri into compliance with the federal Prison Rape Elimination Act (PREA).





COURT PROCEEDINGS

ALTERNATIVE COMMUNITY-BASED SENTENCING FOR PRIMARY CARETAKERS OF CHILDREN

Non-violent offenders who are the primary caregivers of their dependent child(ren) may be sentenced to participate in a community corrections program newly established in the Department of Corrections to promote local sentencing alternatives and community-based treatment programs ([Section 217.777 RSMo](#) and [Section 559.120 RSMo](#)).

ADMISSIBILITY OF UNAVAILABLE WITNESS' STATEMENTS DUE TO OFFENDER'S "WRONGDOING"

Statements by witnesses who are unavailable to appear in court are admissible if they are unable to appear as a result of "forfeiture by wrongdoing" actions by the defendant in a criminal case. The witness's testimony is allowed after a court finding that the defendant's actions led to the unavailability of the witness, and that prosecutors tried but failed to ensure the witness would appear in court ([Section 491.016 RSMo](#)).

FEDERAL STIMULUS FUNDS TO BE USED FOR COURT-ORDERED RESTITUTION

Offenders convicted for violations of local, state or federal law are required to make court-ordered restitution payments from any money they receive from federal stimulus and/or COVID-related funds ([Section 217.845 RSMo](#)).

SEXUAL ASSAULT RESPONSE

STATEWIDE SEXUAL ASSAULT TELEHEALTH NETWORK

Missouri law is updated to clarify training can be in person or virtual for medical providers to implement a statewide sexual assault forensic evidence telehealth network by 2023. The Department of Health and Senior Services' statewide coordinator for the telehealth network is required to regularly consult with Missouri-based stakeholders and clinicians about the trainings as well as the implementation and operation of the network. Finally, victims of sexual offenses who are age 14 to 17 may be referred by hospitals to SAFE CARE providers for children to complete medical or forensic evaluations and case review ([Section 192.2520 RSMo](#) and [Section 197.135 RSMo](#)).

RIGHTS OF THE INCARCERATED

NO-COST FEMININE HYGIENE PRODUCTS IN PRISONS/JAILS

Missouri correctional centers and/or jails are required to provide free, sufficiently available feminine hygiene products to confined female offenders ([Section 217.199 RSMo](#) and [Section 221.065 RSMo](#)).



HOMELESS/UNACCOMPANIED YOUTH

NO HOTLINE REPORT REQUIRED DUE TO TEEN'S STATUS AS HOMELESS

Unless a juvenile is younger than age 16 or is an incapacitated person, their status as homeless or as an “unaccompanied youth” is no longer sufficient as the sole cause for a hotline report to be made by a mandated child abuse reporter. This change in Missouri law for mandated reporters was made with a goal of increasing access to supportive services by homeless, unaccompanied youth ([Section 210.115.9 RSMo](#)).

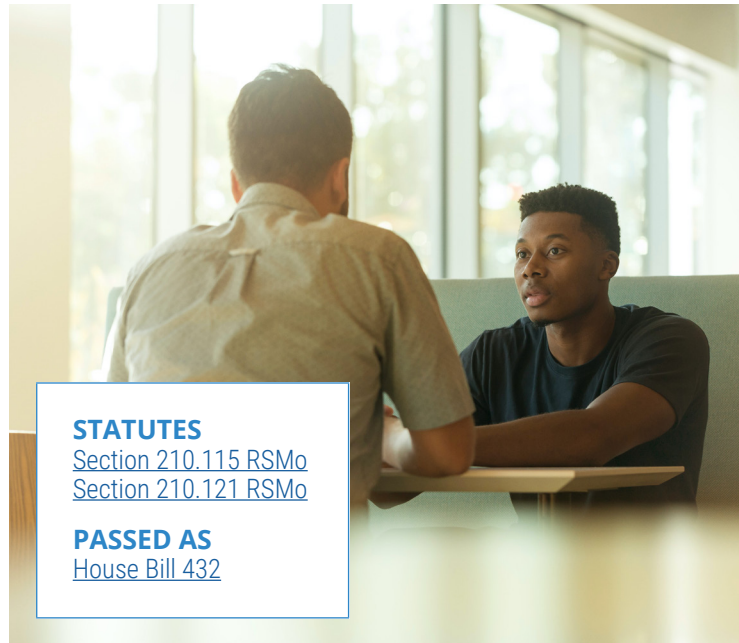
Unaccompanied youth are defined as not being in the custody of a parent or guardian, and homeless youth are defined as not having a fixed address, who may be sharing another’s housing, living in cars or on the streets. Missouri law uses the federal definition of homeless and unaccompanied youth ([42 U.S.C. Section 11434a\(6\)](#)).

HOMELESS YOUTH DEFINITION SIMILAR TO QUALIFIED MINOR LAW

The definition of homeless, unaccompanied youth is similar to the Missouri law that defines “qualified minors” ([Section 431.056 RSMo](#)). This law allows domestic violence and sexual assault agencies to provide services to youth who are age 16 to 17 and are not being supported by a parent or guardian.

RANGE OF SERVICES ALLOWED FOR HOMELESS YOUTH

To provide supportive service to “homeless and unaccompanied youth,” documentation is required that the youth is unaccompanied. This documentation can be from a licensed counselor, social worker, mental health



professional who works for “a government or nonprofit agency that receives public or private funding to provide services to homeless people and is currently licensed as a case management service provider” ([Section 210.221.3 RSMo](#)). This section of law does not define “case management service provider.”

“Supportive services” to assist homeless and/or unaccompanied youth are defined in ([Section 210.121.1\(3\) RSMo](#)) as including:

- shelter, which includes an emergency shelter, transitional living program, or independent living program;
- services to prevent or treat violence and crime victimization;
- assistance and advocacy to gain access to public assistance benefits, education, job training and employment;
- housing search and supports, including financial assistance for rent, utilities, relocation, or eviction prevention;
- legal services, life skills training, child care;
- outpatient health, behavioral health, and substance abuse treatment;
- transportation;
- outreach services;
- homelessness prevention.



HIV PREVENTION/TREATMENT

PHARMACISTS ALLOWED TO DISPENSE HIV POST-EXPOSURE MEDICATION WITHOUT A DOCTORS' PRESCRIPTION

Missouri pharmacists are legally allowed to dispense post-exposure HIV medication without a physician's prescription ([Section 338.010 RSMo](#)).

When dispensing the post-exposure prophylaxis medication, often called “PEP” pharmacists must do so in accordance with written protocols from a licensed physician, and in accordance with guidelines from the federal Centers for Disease Control and Prevention (CDC) ([Section 338.730 RSMo](#)). Those guidelines are detailed on the CDC website: <https://www.cdc.gov/hiv/guidelines/index.html>.



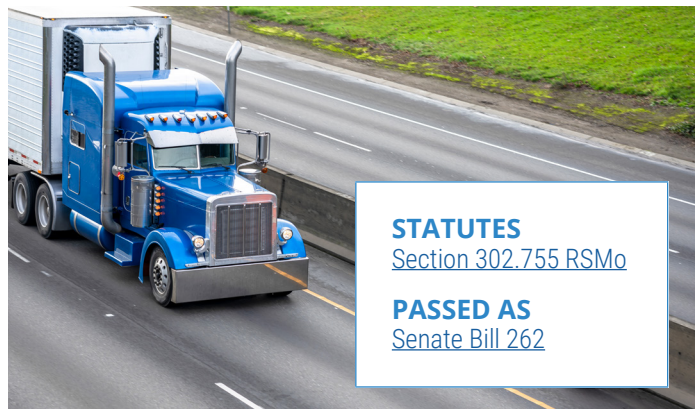
STATUTES
[Section 338.010 RSMo](#)
[Section 338.730 RSMo](#)

PASSED AS
[House Bill 476](#)

HUMAN TRAFFICKING

USE OF COMMERCIAL MOTOR VEHICLE FOR HUMAN TRAFFICKING RESULTS IN LIFETIME COMMERCIAL LICENSE BAN

Any person convicted of using a commercial motor vehicle to commit a felony human trafficking offense will be banned for life from obtaining a commercial driver's license. This section of Missouri law cites the federal law definition of “severe forms of human trafficking in persons” ([22 U.S.C. 7102\(11\)](#)). This lifetime disqualification cannot be reduced.



STATUTES
[Section 302.755 RSMo](#)

PASSED AS
[Senate Bill 262](#)





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