

SECOND REGULAR SESSION

HOUSE BILL NO. 1183

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GASKILL.

Pre-filed December 10, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2516L.011

AN ACT

To repeal sections 160.261, 455.085, 491.600, 491.610, 491.620, 547.200, 565.001, 565.002, 565.004, 565.005, 565.006, 565.030, 565.032, 565.035, 565.040, 575.020, 575.030, 575.100, 575.240, 575.250, 575.270 and 578.421, RSMo, and to enact in lieu thereof twenty-nine new sections relating to anti-terrorism, with penalty provisions.

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

Section A. Sections 160.261, 455.085, 491.600, 491.610, 491.620, 547.200, 565.001, 2 565.002, 565.004, 565.005, 565.006, 565.030, 565.032, 565.035, 565.040, 575.020, 575.030, 3 575.100, 575.240, 575.250, 575.270 and 578.421, RSMo, are repealed and twenty-nine new 4 sections enacted in lieu thereof, to be known as sections 160.261, 455.085, 491.600, 491.610, 5 491.620, 547.200, 565.001, 565.002, 565.004, 565.005, 565.006, 565.030, 565.032, 565.035, 6 565.040, 574.125, 574.130, 574.135, 574.140, 574.145, 574.150, 575.020, 575.030, 575.100, 7 575.240, 575.250, 575.270, 575.273 and 578.421, to read as follows:

160.261. 1. The local board of education of each school district shall clearly establish 2 a written policy of discipline, including the district's determination on the use of corporal 3 punishment and the procedures in which punishment will be applied. A written copy of the 4 district's discipline policy and corporal punishment procedures, if applicable, shall be provided 5 to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning 6 of each school year and also made available in the office of the superintendent of such district, 7 during normal business hours, for public inspection. All employees of the district shall annually 8 receive instruction related to the specific contents of the policy of discipline and any 9 interpretations necessary to implement the provisions of the policy in the course of their duties,

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

10 including but not limited to approved methods of dealing with acts of school violence,
11 disciplining students with disabilities and instruction in the necessity and requirements for
12 confidentiality.

13 2. The policy shall require school administrators to report acts of school violence to
14 teachers and other school district employees with a need to know. For the purposes of this
15 chapter or chapter 167, RSMo, "need to know" is defined as school personnel who are directly
16 responsible for the student's education or who otherwise interact with the student on a
17 professional basis while acting within the scope of their assigned duties. As used in this section,
18 the phrase "act of school violence" or "violent behavior" means the exertion of physical force by
19 a student with the intent to do serious physical injury as defined in subdivision [(6)] (8) of
20 section 565.002, RSMo, to another person while on school property, including a school bus in
21 service on behalf of the district, or while involved in school activities. The policy shall at a
22 minimum require school administrators to report, as soon as reasonably practical, to the
23 appropriate law enforcement agency any of the following felonies, or any act which if committed
24 by an adult would be one of the following felonies:

- 25 (1) First degree murder under section 565.020, RSMo;
- 26 (2) Second degree murder under section 565.021, RSMo;
- 27 (3) Kidnapping under section 565.110, RSMo;
- 28 (4) First degree assault under section 565.050, RSMo;
- 29 (5) Forcible rape under section 566.030, RSMo;
- 30 (6) Forcible sodomy under section 566.060, RSMo;
- 31 (7) Burglary in the first degree under section 569.160, RSMo;
- 32 (8) Burglary in the second degree under section 569.170, RSMo;
- 33 (9) Robbery in the first degree under section 569.020, RSMo;
- 34 (10) Distribution of drugs under section 195.211, RSMo;
- 35 (11) Distribution of drugs to a minor under section 195.212, RSMo;
- 36 (12) Arson in the first degree under section 569.040, RSMo;
- 37 (13) Voluntary manslaughter under section 565.023, RSMo;
- 38 (14) Involuntary manslaughter under section 565.024, RSMo;
- 39 (15) Second degree assault under section 565.060, RSMo;
- 40 (16) Sexual assault under section 566.040, RSMo;
- 41 (17) Felonious restraint under section 565.120, RSMo;
- 42 (18) Property damage in the first degree under section 569.100, RSMo;
- 43 (19) The possession of a weapon under chapter 571, RSMo;
- 44 (20) Child molestation in the first degree pursuant to section 566.067, RSMo;
- 45 (21) Deviate sexual assault pursuant to section 566.070, RSMo;

46 (22) Sexual misconduct involving a child pursuant to section 566.083, RSMo; or

47 (23) Sexual abuse pursuant to section 566.100, RSMo;

48

49 committed on school property, including but not limited to actions on any school bus in service
50 on behalf of the district or while involved in school activities. The policy shall require that any
51 portion of a student's individualized education program that is related to demonstrated or
52 potentially violent behavior shall be provided to any teacher and other school district employees
53 who are directly responsible for the student's education or who otherwise interact with the
54 student on an educational basis while acting within the scope of their assigned duties. The policy
55 shall also contain the consequences of failure to obey standards of conduct set by the local board
56 of education, and the importance of the standards to the maintenance of an atmosphere where
57 orderly learning is possible and encouraged.

58 3. The policy shall provide for a suspension for a period of not less than one year, or
59 expulsion, for a student who is determined to have brought a weapon to school, including but
60 not limited to the school playground or the school parking lot, brought a weapon on a school bus
61 or brought a weapon to a school activity whether on or off of the school property in violation of
62 district policy, except that:

63 (1) The superintendent, or in a school district with no high school, the principal of the
64 school which such child attends may modify such suspension on a case-by-case basis; and

65 (2) This section shall not prevent the school district from providing educational services
66 in an alternative setting to a student suspended under the provisions of this section.

67 4. For the purpose of this section, the term "weapon" shall mean a firearm as defined
68 under 18 U.S.C. 921 and the following items, as defined in section 571.010, RSMo: a blackjack,
69 a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife,
70 knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade
71 knife; except that this section shall not be construed to prohibit a school board from adopting a
72 policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for
73 educational purposes so long as the firearm is unloaded. The local board of education shall
74 define weapon in the discipline policy. Such definition shall include the weapons defined in this
75 subsection but may also include other weapons.

76 5. All school district personnel responsible for the care and supervision of students are
77 authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any
78 property of the school, on any school bus going to or returning from school, during
79 school-sponsored activities, or during intermission or recess periods.

80 6. Teachers and other authorized district personnel in public schools responsible for the
81 care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable

82 care by the school district, shall not be civilly liable when acting in conformity with the
83 established policy of discipline developed by each board under this section, or when reporting
84 to his or her supervisor or other person as mandated by state law, acts of school violence or
85 threatened acts of school violence, within the course and scope of the duties of the teacher,
86 authorized district personnel or volunteer, when such individual is acting in conformity with the
87 established policies developed by the board. Nothing in this section shall be construed to create
88 a new cause of action against such school district, or to relieve the school district from liability
89 for the negligent acts of such persons.

90 7. Each school board shall define in its discipline policy acts of violence and any other
91 acts that constitute a serious violation of that policy. Acts of violence as defined by school
92 boards shall include but not be limited to exertion of physical force by a student with the intent
93 to do serious bodily harm to another person while on school property, including a school bus in
94 service on behalf of the district, or while involved in school activities. School districts shall for
95 each student enrolled in the school district compile and maintain records of any serious violation
96 of the district's discipline policy. Such records shall be made available to teachers and other
97 school district employees with a need to know while acting within the scope of their assigned
98 duties, and shall be provided as required in section 167.020, RSMo, to any school district in
99 which the student subsequently attempts to enroll.

100 8. Spanking, when administered by certificated personnel of a school district in a
101 reasonable manner in accordance with the local board of education's written policy of discipline,
102 is not abuse within the meaning of chapter 210, RSMo. The provisions of sections 210.110 to
103 210.165, RSMo, notwithstanding, the division of family services shall not have jurisdiction over
104 or investigate any report of alleged child abuse arising out of or related to any spanking
105 administered in a reasonable manner by any certificated school personnel pursuant to a written
106 policy of discipline established by the board of education of the school district. Upon receipt of
107 any reports of child abuse by the division of family services pursuant to sections 210.110 to
108 210.165, RSMo, which allegedly involves personnel of a school district, the division of family
109 services shall notify the superintendent of schools of the district or, if the person named in the
110 alleged incident is the superintendent of schools, the president of the school board of the school
111 district where the alleged incident occurred. If, after an initial investigation, the superintendent
112 of schools or the president of the school board finds that the report involves an alleged incident
113 of child abuse other than the administration of a spanking by certificated school personnel
114 pursuant to a written policy of discipline or a report made for the sole purpose of harassing a
115 public school employee, the superintendent of schools or the president of the school board shall
116 immediately refer the matter back to the division of family services and take no further action.
117 In all matters referred back to the division of family services, the division of family services shall

118 treat the report in the same manner as other reports of alleged child abuse received by the
119 division. If the report pertains to an alleged incident which arose out of or is related to a
120 spanking administered by certificated personnel of a school district pursuant to a written policy
121 of discipline or a report made for the sole purpose of harassing a public school employee, a
122 notification of the reported child abuse shall be sent by the superintendent of schools or the
123 president of the school board to the juvenile officer of the county in which the alleged incident
124 occurred. The report shall be jointly investigated by the juvenile officer or a law enforcement
125 officer designated by the juvenile officer and the superintendent of schools or, if the subject of
126 the report is the superintendent of schools, by the juvenile officer or a law enforcement officer
127 designated by the juvenile officer and the president of the school board or such president's
128 designee. The investigation shall begin no later than forty-eight hours after notification from the
129 division of family services is received, and shall consist of, but need not be limited to,
130 interviewing and recording statements of the child and the child's parents or guardian within two
131 working days after the start of the investigation, of the school district personnel allegedly
132 involved in the report, and of any witnesses to the alleged incident. The juvenile officer or a law
133 enforcement officer designated by the juvenile officer and the investigating school district
134 personnel shall issue separate reports of their findings and recommendations after the conclusion
135 of the investigation to the school board of the school district within seven days after receiving
136 notice from the division of family services. The reports shall contain a statement of conclusion
137 as to whether the report of alleged child abuse is substantiated or is unsubstantiated. The school
138 board shall consider the separate reports and shall issue its findings and conclusions and the
139 action to be taken, if any, within seven days after receiving the last of the two reports. The
140 findings and conclusions shall be made in substantially the following form:

141 (1) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law
142 enforcement officer designated by the juvenile officer and the investigating school board
143 personnel agree that the evidence shows that no abuse occurred;

144 (2) The report of the alleged child abuse is substantiated. The juvenile officer or a law
145 enforcement officer designated by the juvenile officer and the investigating school district
146 personnel agree that the evidence is sufficient to support a finding that the alleged incident of
147 child abuse did occur;

148 (3) The issue involved in the alleged incident of child abuse is unresolved. The juvenile
149 officer or a law enforcement officer designated by the juvenile officer and the investigating
150 school personnel are unable to agree on their findings and conclusions on the alleged incident.

151 9. The findings and conclusions of the school board shall be sent to the division of
152 family services. If the findings and conclusions of the school board are that the report of the
153 alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and

154 no record shall be entered in the division of family services' central registry. If the findings and
155 conclusions of the school board are that the report of the alleged child abuse is substantiated, the
156 division of family services shall report the incident to the prosecuting attorney of the appropriate
157 county along with the findings and conclusions of the school district and shall include the
158 information in the division's central registry. If the findings and conclusions of the school board
159 are that the issue involved in the alleged incident of child abuse is unresolved, the division of
160 family services shall report the incident to the prosecuting attorney of the appropriate county
161 along with the findings and conclusions of the school board, however, the incident and the names
162 of the parties allegedly involved shall not be entered into the central registry of the division of
163 family services unless and until the alleged child abuse is substantiated by a court of competent
164 jurisdiction.

165 10. Any superintendent of schools, president of a school board or such person's designee
166 or juvenile officer who knowingly falsifies any report of any matter pursuant to this section or
167 who knowingly withholds any information relative to any investigation or report pursuant to this
168 section is guilty of a class A misdemeanor.

455.085. 1. When a law enforcement officer has probable cause to believe a party has
2 committed a violation of law amounting to abuse or assault, as defined in section 455.010,
3 against a family or household member, the officer may arrest the offending party whether or not
4 the violation occurred in the presence of the arresting officer. When the officer declines to make
5 arrest pursuant to this subsection, the officer shall make a written report of the incident
6 completely describing the offending party, giving the victim's name, time, address, reason why
7 no arrest was made and any other pertinent information. Any law enforcement officer
8 subsequently called to the same address within a twelve-hour period, who shall find probable
9 cause to believe the same offender has again committed a violation as stated in this subsection
10 against the same or any other family or household member, shall arrest the offending party for
11 this subsequent offense. The primary report of nonarrest in the preceding twelve-hour period
12 may be considered as evidence of the defendant's intent in the violation for which arrest
13 occurred. The refusal of the victim to sign an official complaint against the violator shall not
14 prevent an arrest under this subsection.

15 2. When a law enforcement officer has probable cause to believe that a party, against
16 whom a protective order has been entered and who has notice of such order entered, has
17 committed an act of abuse in violation of such order, the officer shall arrest the offending
18 party-respondent whether or not the violation occurred in the presence of the arresting officer.
19 Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest
20 under this subsection.

21 3. When an officer makes an arrest he is not required to arrest two parties involved in

22 an assault when both parties claim to have been assaulted. The arresting officer shall attempt to
23 identify and shall arrest the party he believes is the primary physical aggressor. The term
24 "primary physical aggressor" is defined as the most significant, rather than the first, aggressor.
25 The law enforcement officer shall consider any or all of the following in determining the primary
26 physical aggressor:

- 27 (1) The intent of the law to protect victims of domestic violence from continuing abuse;
- 28 (2) The comparative extent of injuries inflicted or serious threats creating fear of physical
29 injury;
- 30 (3) The history of domestic violence between the persons involved.

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32 No law enforcement officer investigating an incident of family violence shall threaten the arrest
33 of all parties for the purpose of discouraging requests or law enforcement intervention by any
34 party. Where complaints are received from two or more opposing parties, the officer shall
35 evaluate each complaint separately to determine whether he should seek a warrant for an arrest.

36 4. In an arrest in which a law enforcement officer acted in good faith reliance on this
37 section, the arresting and assisting law enforcement officers and their employing entities and
38 superiors shall be immune from liability in any civil action alleging false arrest, false
39 imprisonment or malicious prosecution.

40 5. When a person against whom an order of protection has been entered fails to surrender
41 custody of minor children to the person to whom custody was awarded in an order of protection,
42 the law enforcement officer shall arrest the respondent, and shall turn the minor children over
43 to the care and custody of the party to whom such care and custody was awarded.

44 6. The same procedures, including those designed to protect constitutional rights, shall
45 be applied to the respondent as those applied to any individual detained in police custody.

46 7. A violation of the terms and conditions, with regard to abuse, stalking, child custody,
47 communication initiated by the respondent or entrance upon the premises of the petitioner's
48 dwelling unit, of an ex parte order of protection of which the respondent has notice, shall be a
49 class A misdemeanor unless the respondent has previously pleaded guilty to or has been found
50 guilty of violating an ex parte order of protection or a full order of protection within five years
51 of the date of the subsequent violation, in which case the subsequent violation shall be a class
52 D felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of
53 the presence of the jury prior to submission of the case to the jury. If the court finds the
54 existence of such prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court
55 shall decide the extent or duration of sentence or other disposition and shall not instruct the jury
56 as to the range of punishment or allow the jury to assess and declare the punishment as a part of
57 its verdict.

58 8. A violation of the terms and conditions, with regard to abuse, stalking, child custody,
59 communication initiated by the respondent or entrance upon the premises of the petitioner's
60 dwelling unit, of a full order of protection shall be a class A misdemeanor, unless the respondent
61 has previously pleaded guilty to or has been found guilty of violating an ex parte order of
62 protection or a full order of protection within five years of the date of the subsequent violation,
63 in which case the subsequent violation shall be a class D felony. Evidence of prior pleas of
64 guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to
65 submission of the case to the jury. If the court finds the existence of such prior plea of guilty or
66 finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of the
67 sentence or other disposition and shall not instruct the jury as to the range of punishment or allow
68 the jury to assess and declare the punishment as a part of its verdict. For the purposes of this
69 subsection, in addition to the notice provided by actual service of the order, a party is deemed
70 to have notice of an order of protection if the law enforcement officer responding to a call of a
71 reported incident of abuse or violation of an order of protection presented a copy of the order of
72 protection to the respondent.

73 9. Good faith attempts to effect a reconciliation of a marriage shall not be deemed
74 tampering with a witness or victim tampering under [section] **sections 575.270 and 575.273**,
75 RSMo.

76 10. Nothing in this section shall be interpreted as creating a private cause of action for
77 damages to enforce the provisions set forth herein.

 491.600. Any court with jurisdiction over any criminal matter may, in its discretion,
2 upon substantial evidence, which may include hearsay, that intimidation or dissuading of any
3 person who is a victim or who is a witness has occurred or is reasonably likely to occur, issue
4 orders including but not limited to the following:

5 (1) An order that a defendant not engage in activity as defined by [section] **sections**
6 **575.270 and 575.273**, RSMo, and maintain a prescribed geographic distance from a witness or
7 victim;

8 (2) An order that a person before the court other than a defendant, including but not
9 limited to a subpoenaed witness or other person entering the courtroom of said court, not engage
10 in activity as defined by [section] **sections 575.270 and 575.273**, RSMo, and maintain a
11 prescribed geographic distance from a witness or victim;

12 (3) An order that any person described in subdivision (1) or (2) of this section have no
13 connection whatsoever with any specified witness or any victim, except through an attorney
14 under such reasonable restrictions as the court may impose.

 491.610. Any person violating any order made pursuant to section 491.600 may be
2 punished in any of the following ways:

3 (1) For any substantive offense described in [section] **sections 575.270 and 575.273**,
4 RSMo, where such violation of an order is a violation of [section] **sections 575.270 and**
5 **575.273**, RSMo, as a contempt of the court making such order; however, no finding of contempt
6 shall be a bar for prosecution for a substantive offense as defined in [section] **sections 575.270**
7 **and 575.273**, RSMo, but:

8 (a) Any person so held in contempt shall be entitled to credit for any punishment
9 imposed against any sentence imposed or conviction of said substantive offense; and

10 (b) Any conviction or acquittal for any substantive offense under [section] **sections**
11 **575.270 and 575.273**, RSMo, shall be a bar to subsequent punishment for contempt arising out
12 of the same act;

13 (2) By revocation of any form of pretrial release, or the forfeiture of bail or both and to
14 issuance of a bench warrant for the defendant's arrest or remanding him to custody. The
15 revocation may be made whether the violation of the order complained of has been committed
16 by the defendant personally or was caused or encouraged to have been committed by such
17 defendant.

491.620. 1. Any pretrial release of any defendant whether on bail or under any other
2 form of recognizance shall be deemed as a matter of law to include a condition that the defendant
3 neither do nor cause to be done nor permit to be done on his behalf any act prescribed by
4 [section] **sections 575.270 and 575.273**, RSMo.

5 2. Any request form for bail or bond given by the clerk of any court, by any court, by any
6 surety or bondsman, and any written promise to appear on one's own recognizance shall contain
7 in a conspicuous location notice of prohibited activities under [section] **sections 575.270 and**
8 **575.273**, RSMo.

547.200. 1. An appeal may be taken by the state through the prosecuting or circuit
2 attorney from any order or judgment the substantive effect of which results in:

3 (1) Quashing an arrest warrant;

4 (2) A determination by the court that the accused lacks the mental capacity or fitness to
5 proceed to trial, pursuant to section 552.020, RSMo;

6 (3) Suppressing evidence; or

7 (4) Suppressing a confession or admission.

8 2. The state, in any criminal prosecution, shall be allowed an appeal in the cases and
9 under the circumstances mentioned in section 547.210 and in all other criminal cases except in
10 those cases where the possible outcome of such an appeal would result in double jeopardy for
11 the defendant. The supreme court shall issue rules governing such appeals.

12 3. The appeal provided in subsection 1 of this section shall be an interlocutory appeal,
13 filed in the appropriate district of the Missouri court of appeals, unless the proceedings involve

14 a charge of capital murder, [or] murder in the first degree, **or terrorism in the first degree when**
15 **the underlying felony is murder in the first degree**, pursuant to the provisions of section
16 565.001 or 565.003, RSMo, in which case notices of appeal shall be filed in the supreme court
17 of Missouri.

18 4. Notices of appeal involving appeals under subsection 1 of this section shall be filed
19 in the appropriate court within five days of the entry of the order of the trial court. In such
20 appeals, the time requirements of section 545.780, RSMo, shall be tolled until the decision is
21 rendered by the appropriate appellate court.

22 5. The supreme court shall issue appropriate rules to facilitate the disposition of such
23 appeals, balancing the right of the state to review the correctness of pretrial decisions of a trial
24 court against the rights of the defendant to a speedy trial, including measures to facilitate these
25 appeals by shortening of the time to file appellant's brief under supreme court rule 30.06(K) to
26 ten days, and eliminations of motions for rehearing or transfer under supreme court rules 30.26
27 and 30.27.

565.001. 1. The provisions of this chapter shall govern the construction and procedures
2 for charging, trial, punishment and appellate review of any offense defined in this chapter and
3 committed after July 1, 1984.

4 2. The provisions of this chapter shall not govern the construction or procedures for
5 charging, trial, punishment or appellate review of any offense committed before the effective
6 date of this chapter. Such an offense must be construed, punished, charged, tried and reviewed
7 on appeal according to applicable provisions of law existing prior to the effective date of this
8 chapter in the same manner as if this chapter had not been enacted, the provisions of section
9 1.160, RSMo, notwithstanding.

10 3. All provisions of "The Criminal Code" or other law consistent with the provisions of
11 this chapter shall apply to this chapter. In the event of a conflict, the provisions of this chapter
12 shall govern the interpretation of the provisions of this chapter.

13 4. Persons accused of committing a homicide offense **or a homicidal terrorist offense**
14 shall be prosecuted:

15 (1) In the county in which the offense is committed; or

16 (2) If the offense is committed partly in one county and partly in another, or if the
17 elements of the offense occur in more than one county, then in any of the counties where any
18 element of the offense occurred; or

19 (3) In the county in which the body of [the] **any** deceased victim is found; or

20 (4) If subdivisions (1), (2), and (3) of this subsection do not apply, then in the county in
21 which **any of** the [victim] **victims** lived.

565.002. As used in this chapter, unless a different meaning is otherwise plainly

2 required:

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

6 (2) "Conduct" includes any act or omission;

7 (3) "Deliberation" means cool reflection for any length of time no matter how brief;

8 (4) **"Homicidal terrorist offense", terrorism in the first degree when the underlying
9 felony offense is murder in the first degree;**

10 (5) "Intoxicated condition" means under the influence of alcohol, a controlled substance,
11 or drug, or any combination thereof;

12 [(5)] (6) "Operates" means physically driving or operating or being in actual physical
13 control of a motor vehicle;

14 (7) **"Serious illness", any illness which requires hospitalization, surgery or any
15 form of life support, or results in a protracted loss or impairment of a limb or bodily
16 function or death;**

17 [(6)] (8) "Serious physical injury" means physical injury that creates a substantial risk
18 of death or that causes serious disfigurement or protracted loss or impairment of the function of
19 any part of the body;

20 [(7)] (9) "Sudden passion" means passion directly caused by and arising out of
21 provocation by the victim or another acting with the victim which passion arises at the time of
22 the offense and is not solely the result of former provocation;

23 [(8)] (10) "Trier" means the judge or jurors to whom issues of fact, guilt or innocence,
24 or the assessment and declaration of punishment are submitted for decision.

565.004. 1. Each homicide **or homicidal terrorist** offense which is lawfully joined in
2 the same indictment or information together with any homicide **or homicidal terrorist** offense,
3 or offense other than a homicide **or homicidal terrorist offense** shall be charged together with
4 such offense in separate counts. A count charging any [offense of] homicide **or a homicidal
5 terrorist offense**, may only be charged and tried together with one or more counts of any other
6 homicide **or homicidal terrorist offense**, or offense other than a homicide **or homicidal
7 terrorist offense**, as provided in subsection 2 of section 545.140, RSMo. Except as provided
8 in subsections 2, 3, and 4 of this section, no **offense of** murder in the first degree [offense], **or
9 terrorism in the first degree when the underlying felony is murder in the first degree**, may
10 be tried together with any offense other than murder in the first degree, **or terrorism in the first
11 degree when the underlying felony is murder in the first degree**. In the event of a joinder of
12 homicide offenses **or homicidal terrorist offenses or homicide and homicidal terrorist
13 offenses**, all offenses charged which are supported by the evidence in the case, together with all

14 proper lesser offenses under section 565.025, shall, when requested by one of the parties or the
15 court, be submitted to the jury or, in a jury-waived trial, considered by the judge.

16 2. A count charging any [offense of] homicide **or homicidal terrorist offense** of a
17 particular individual may be joined in an indictment or information and tried with one or more
18 counts charging alternatively any other homicide **or homicidal terrorist offense** or offense other
19 than a homicide **or homicidal terrorist offense** committed against that individual. The state
20 shall not be required to make an election as to the alternative count on which it will proceed.
21 This subsection in no way limits the right to try in the conjunctive, where they are properly
22 joined under subsection 1 of this section, either separate offenses other than murder in the first
23 degree, **or terrorism in the first degree when the underlying felony is murder in the first**
24 **degree**, or separate offenses of murder in the first degree **or terrorism in the first degree when**
25 **the underlying felony is murder in the first degree**, committed against different individuals.

26 3. When a defendant has been charged and proven before trial to be a prior offender
27 pursuant to chapter 558, RSMo, so that the judge shall assess punishment and not a jury for an
28 offense other than murder in the first degree, **or terrorism in the first degree when the**
29 **underlying felony is murder in the first degree**, that offense may be tried and submitted to the
30 trier together with any **charge of** murder in the first degree [charge], **or terrorism in the first**
31 **degree when the underlying felony is murder in the first degree**, with which it is lawfully
32 joined. In such case the judge will assess punishment on any offense joined with a **charge of**
33 murder in the first degree [charge], **or terrorism in the first degree when the underlying**
34 **felony is murder in the first degree**, according to law and, when the trier is a jury, it shall be
35 instructed upon punishment on the charge of murder in the first degree, **or terrorism in the first**
36 **degree when the underlying felony is murder in the first degree**, in accordance with section
37 565.030.

38 4. When the state waives the death penalty for a murder first degree offense, **or**
39 **terrorism in the first degree offense when the underlying felony is murder in the first**
40 **degree**, that offense may be tried and submitted to the trier together with any other charge with
41 which it is lawfully joined.

565.005. 1. At a reasonable time before the commencement of the first stage of any trial
2 of murder in the first degree, **or terrorism in the first degree when the underlying felony is**
3 **murder in the first degree**, at which the death penalty is not waived, the state and defendant,
4 upon request and without order of the court, shall serve counsel of the opposing party with:

5 (1) A list of all aggravating or mitigating circumstances as provided in subsection 1 of
6 section 565.032, which the party intends to prove at the second stage of the trial;

7 (2) The names of all persons whom the party intends to call as witnesses at the second
8 stage of the trial;

9 (3) Copies or locations and custodian of any books, papers, documents, photographs or
10 objects which the party intends to offer at the second stage of the trial. If copies of such
11 materials are not supplied to opposing counsel, the party shall cause them to be made available
12 for inspection and copying without order of the court.

13 2. The disclosures required in subsection 1 of this section are supplemental to those
14 required by rules of the supreme court relating to a continuing duty to disclose information, the
15 use of matters disclosed, matters not subject to disclosure, protective orders, and sanctions for
16 failure to comply with an applicable discovery rule or order, all of which shall also apply to any
17 disclosure required by this section.

565.006. 1. At any time before the commencement of the trial of a homicide **or**
2 **homicidal terrorist** offense, the defendant may, with the assent of the court, waive a trial by jury
3 and agree to submit all issues in the case to the court, whose finding shall have the force and
4 effect of a verdict of a jury. Such a waiver must include a waiver of a trial by jury of all issues
5 and offenses charged in the case, including the punishment to be assessed and imposed if the
6 defendant is found guilty.

7 2. No defendant who pleads guilty to a homicide **or homicidal terrorist** offense or who
8 is found guilty of a homicide **or homicidal terrorist** offense after trial to the court without a jury
9 shall be permitted a trial by jury on the issue of the punishment to be imposed, except by
10 agreement of the state.

11 3. If a defendant is found guilty of murder in the first degree, **or terrorism in the first**
12 **degree when the underlying felony is murder in the first degree**, after a jury trial in which
13 the state has not waived the death penalty, the defendant may not waive a jury trial of the issue
14 of the punishment to be imposed, except by agreement with the state and the court.

15 4. Any waiver of a jury trial and agreement permitted by this section shall be entered in
16 the court record.

565.030. 1. Where murder in the first degree, **or terrorism in the first degree when**
2 **the underlying felony is murder in the first degree**, is charged but not submitted or where the
3 state waives the death penalty, the submission to the trier and all subsequent proceedings in the
4 case shall proceed as in all other criminal cases with a single stage trial in which guilt and
5 punishment are submitted together.

6 2. Where murder in the first degree, **or terrorism in the first degree when the**
7 **underlying felony is murder in the first degree**, is submitted to the trier without a waiver of
8 the death penalty, the trial shall proceed in two stages before the same trier. At the first stage the
9 trier shall decide only whether the defendant is guilty or not guilty of any submitted offense. The
10 issue of punishment shall not be submitted to the trier at the first stage. If an offense is charged
11 other than murder in the first degree, **or terrorism in the first degree when the underlying**

12 **felony is murder in the first degree**, in a count together with a count of murder in the first
13 degree, **or terrorism in the first degree when the underlying felony is murder in the first**
14 **degree**, the trial judge shall assess punishment on any such offense according to law, after the
15 defendant is found guilty of such offense and after he finds the defendant to be a prior offender
16 pursuant to chapter 558, RSMo.

17 3. If murder in the first degree, **or terrorism in the first degree when the underlying**
18 **felony is murder in the first degree**, is submitted and the death penalty was not waived but the
19 trier finds the defendant guilty of a lesser [homicide] **offense**, a second stage of the trial shall
20 proceed at which the only issue shall be the punishment to be assessed and declared. No further
21 evidence shall be received. If the trier is a jury it shall be instructed on the law. The attorneys
22 may then argue as in other criminal cases the issue of punishment, after which the trier shall
23 assess and declare the punishment as in all other criminal cases.

24 4. If the trier at the first stage of a trial where the death penalty was not waived finds the
25 defendant guilty of murder in the first degree **or terrorism in the first degree when the**
26 **underlying felony is murder in the first degree**, a second stage of the trial shall proceed at
27 which the only issue shall be the punishment to be assessed and declared. Evidence in
28 aggravation and mitigation of punishment, including but not limited to evidence supporting any
29 of the aggravating or mitigating circumstances listed in subsection 2 [or], 3, **or 4** of section
30 565.032, may be presented subject to the rules of evidence at criminal trials. Such evidence may
31 include, within the discretion of the court, evidence concerning [the] **any of the** murder [victim]
32 **victims** and the impact of the crime upon the [family] **families** of the [victim] **victims** and
33 others. Rebuttal and surrebuttal evidence may be presented. The state shall be the first to
34 proceed. If the trier is a jury it shall be instructed on the law. The attorneys may then argue the
35 issue of punishment to the jury, and the state shall have the right to open and close the argument.
36 The trier shall assess and declare the punishment at life imprisonment without eligibility for
37 probation, parole, or release except by act of the governor:

38 (1) If the trier finds by a preponderance of the evidence that the defendant is mentally
39 retarded; or

40 (2) If the trier does not find beyond a reasonable doubt at least one of the statutory
41 aggravating circumstances set out in subsection 2 **or 3** of section 565.032; or

42 (3) If the trier concludes that there is evidence in mitigation of punishment, including
43 but not limited to evidence supporting the statutory mitigating circumstances listed in subsection
44 [3] **4** of section 565.032, which is sufficient to outweigh the evidence in aggravation of
45 punishment found by the trier; or

46 (4) If the trier decides under all of the circumstances not to assess and declare the
47 punishment at death. If the trier is a jury it shall be so instructed.

48 If the trier assesses and declares the punishment at death it shall, in its findings or verdict, set out
49 in writing the aggravating circumstance or circumstances listed in subsection 2 **or 3** of section
50 565.032 which it found beyond a reasonable doubt. If the trier is a jury it shall be instructed
51 before the case is submitted that if it is unable to decide or agree upon the punishment the court
52 shall assess and declare the punishment at life imprisonment without eligibility for probation,
53 parole, or release except by act of the governor or death. The court shall follow the same
54 procedure as set out in this section whenever it is required to determine punishment for murder
55 in the first degree, **or terrorism in the first degree when the underlying felony is murder in**
56 **the first degree.**

57 5. Upon written agreement of the parties and with leave of the court, the issue of the
58 defendant's mental retardation may be taken up by the court and decided prior to trial without
59 prejudicing the defendant's right to have the issue submitted to the trier of fact as provided in
60 subsection 4 of this section.

61 6. As used in this section, the terms "mental retardation" or "mentally retarded" refer to
62 a condition involving substantial limitations in general functioning characterized by significantly
63 subaverage intellectual functioning with continual extensive related deficits and limitations in
64 two or more adaptive behaviors such as communication, self-care, home living, social skills,
65 community use, self-direction, health and safety, functional academics, leisure and work, which
66 conditions are manifested and documented before eighteen years of age.

67 7. The provisions of this section shall only govern offenses committed on or after August
68 28, 2001.

565.032. 1. In all cases of murder in the first degree, **or terrorism in the first degree**
2 **when the underlying felony is murder in the first degree**, for which the death penalty is
3 authorized, the judge in a jury-waived trial shall consider, or he **or she** shall include in his **or her**
4 instructions to the jury for it to consider:

5 (1) Whether a statutory aggravating circumstance or circumstances enumerated in
6 [subsection] **subsections 2 and 3** of this section [is] **are** established by the evidence beyond a
7 reasonable doubt; and

8 (2) If a statutory aggravating circumstance or circumstances is proven beyond a
9 reasonable doubt, whether the evidence as a whole justifies a sentence of death or a sentence of
10 life imprisonment without eligibility for probation, parole, or release except by act of the
11 governor. In determining the issues enumerated in subdivisions (1) and (2) of this subsection,
12 the trier shall consider all evidence which it finds to be in aggravation or mitigation of
13 punishment, including evidence received during the first stage of the trial and evidence
14 supporting any of the statutory aggravating or mitigating circumstances set out in subsections 2
15 [and], 3, **and 4** of this section. If the trier is a jury, it shall not be instructed upon any specific

16 evidence which may be in aggravation or mitigation of punishment, but shall be instructed that
17 each juror shall consider any evidence which he **or she** considers to be aggravating or mitigating.

18 2. Statutory aggravating circumstances for a murder in the first degree offense shall be
19 limited to the following:

20 (1) The offense was committed by a person with a prior record of conviction for murder
21 in the first degree, or the offense was committed by a person who has one or more serious
22 assaultive criminal convictions;

23 (2) The murder in the first degree offense was committed while the offender was
24 engaged in the commission or attempted commission of another unlawful homicide;

25 (3) The offender by his **or her** act of murder in the first degree knowingly created a great
26 risk of death to more than one person by means of a weapon or device which would normally be
27 hazardous to the lives of more than one person;

28 (4) The offender committed the offense of murder in the first degree for himself **or**
29 **herself** or another, for the purpose of receiving money or any other thing of monetary value from
30 the victim of the murder or another;

31 (5) The murder in the first degree was committed against a judicial officer, former
32 judicial officer, prosecuting attorney or former prosecuting attorney, circuit attorney or former
33 circuit attorney, assistant prosecuting attorney or former assistant prosecuting attorney, assistant
34 circuit attorney or former assistant circuit attorney, peace officer or former peace officer, elected
35 official or former elected official during or because of the exercise of his **or her** official duty;

36 (6) The offender caused or directed another to commit murder in the first degree or
37 committed murder in the first degree as an agent or employee of another person;

38 (7) The murder in the first degree was outrageously or wantonly vile, horrible or
39 inhuman in that it involved torture, or depravity of mind;

40 (8) The murder in the first degree was committed against any peace officer, or fireman
41 while engaged in the performance of his **or her** official duty;

42 (9) The murder in the first degree was committed by a person in, or who has escaped
43 from, the lawful custody of a peace officer or place of lawful confinement;

44 (10) The murder in the first degree was committed for the purpose of avoiding,
45 interfering with, or preventing a lawful arrest or custody in a place of lawful confinement, of
46 himself **or herself** or another;

47 (11) The murder in the first degree was committed while the defendant was engaged in
48 the perpetration or was aiding or encouraging another person to perpetrate or attempt to
49 perpetrate a felony of any degree of rape, sodomy, burglary, robbery, kidnapping, or any felony
50 offense in chapter 195, RSMo;

51 (12) The murdered individual was a witness or potential witness in any past or pending

52 investigation or past or pending prosecution, and was killed as a result of his **or her** status as a
53 witness or potential witness;

54 (13) The murdered individual was an employee of an institution or facility of the
55 department of corrections of this state or local correction agency and was killed in the course of
56 performing his **or her** official duties, or the murdered individual was an inmate of such
57 institution or facility;

58 (14) The murdered individual was killed as a result of the hijacking of an airplane, train,
59 ship, bus or other public conveyance;

60 (15) The murder was committed for the purpose of concealing or attempting to conceal
61 any felony offense defined in chapter 195, RSMo;

62 (16) The murder was committed for the purpose of causing or attempting to cause a
63 person to refrain from initiating or aiding in the prosecution of a felony offense defined in
64 chapter 195, RSMo;

65 (17) The murder was committed during the commission of a crime which is part of a
66 pattern of criminal street gang activity as defined in section 578.421.

67 **3. Statutory aggravating circumstances for a terrorism in the first degree offense**
68 **where the underlying felony is murder in the first degree shall be limited to the following:**

69 (1) **The offense was committed by a person with a prior record of conviction for**
70 **murder in the first degree, terrorism in the first degree, terrorism in the second degree,**
71 **soliciting or providing support for an act of terrorism, making a terroristic threat in the**
72 **first degree, making a terroristic threat in the second degree, or the offense was committed**
73 **by a person who has one or more serious assaultive criminal convictions;**

74 (2) **The offender by his or her terrorism knowingly created a great risk of death,**
75 **serious illness, or serious physical injury to more than one person by means of a weapon,**
76 **device, radioactive material, explosive nuclear device, or biological or chemical agent or**
77 **substance which would normally be hazardous to the lives of more than one person;**

78 (3) **The offender committed the offense of terrorism in the first degree for himself**
79 **or another, for the purpose of receiving money or any other thing of monetary value from**
80 **any of the victims of the terrorism or another;**

81 (4) **Any victim of the terrorism was a judicial officer, former judicial officer,**
82 **prosecuting attorney or former prosecuting attorney, circuit attorney or former circuit**
83 **attorney, assistant prosecuting attorney or former assistant prosecuting attorney, assistant**
84 **circuit attorney or former assistant circuit attorney, peace officer or former peace officer,**
85 **elected official or former elected official engaged in the exercise of his or her official duty;**

86 (5) **The offender caused or directed another to commit terrorism in the first degree**
87 **or committed terrorism in the first degree as an agent or employee of another person;**

88 **(6) The underlying felony of murder in the first degree for the terrorism offense**
89 **was outrageously or wantonly vile, horrible or inhuman in that it involved torture, or**
90 **depravity of mind;**

91 **(7) Any victim of the terrorism was a peace officer, or fireman engaged in the**
92 **performance of his or her official duty;**

93 **(8) Ten or more people died or suffered serious physical injury as a result of the**
94 **terrorism;**

95 **(9) The terrorism caused substantial damage to five or more buildings or**
96 **inhabitable structures or substantial damage to a vital public facility which seriously**
97 **impairs its usefulness or operation.**

98 [3.] **4.** Statutory mitigating circumstances shall include the following:

99 (1) The defendant has no significant history of prior criminal activity;

100 (2) The murder in the first degree, **or terrorism in the first degree when the**
101 **underlying felony is murder in the first degree**, was committed while the defendant was under
102 the influence of extreme mental or emotional disturbance;

103 (3) [The victim was a participant] **Any of the victims were participants** in the
104 defendant's conduct or consented to the act;

105 (4) The defendant was an accomplice in the murder in the first degree, **or terrorism in**
106 **the first degree when the underlying felony is murder in the first degree**, committed by
107 another person and his **or her** participation was relatively minor;

108 (5) The defendant acted under extreme duress or under the substantial domination of
109 another person;

110 (6) The capacity of the defendant to appreciate the criminality of his conduct or to
111 conform his conduct to the requirements of law was substantially impaired;

112 (7) The age of the defendant at the time of the crime.

565.035. 1. Whenever the death penalty is imposed in any case, and upon the judgment
2 becoming final in the trial court, the sentence shall be reviewed on the record by the supreme
3 court of Missouri. The circuit clerk of the court trying the case, within ten days after receiving
4 the transcript, shall transmit the entire record and transcript to the supreme court together with
5 a notice prepared by the circuit clerk and a report prepared by the trial judge. The notice shall
6 set forth the title and docket number of the case, the name of the defendant and the name and
7 address of his attorney, a narrative statement of the judgment, the offense, and the punishment
8 prescribed. The report by the judge shall be in the form of a standard questionnaire prepared and
9 supplied by the supreme court of Missouri.

10 2. The supreme court of Missouri shall consider the punishment as well as any errors
11 enumerated by way of appeal.

- 12 3. With regard to the sentence, the supreme court shall determine:
- 13 (1) Whether the sentence of death was imposed under the influence of passion, prejudice,
- 14 or any other arbitrary factor; and
- 15 (2) Whether the evidence supports the jury's or judge's finding of a statutory aggravating
- 16 circumstance as enumerated in subsection 2 **or** 3 of section 565.032 and any other circumstance
- 17 found;
- 18 (3) Whether the sentence of death is excessive or disproportionate to the penalty imposed
- 19 in similar cases, considering both the crime, the strength of the evidence and the defendant.
- 20 4. Both the defendant and the state shall have the right to submit briefs within the time
- 21 provided by the supreme court, and to present oral argument to the supreme court.
- 22 5. The supreme court shall include in its decision a reference to those similar cases which
- 23 it took into consideration. In addition to its authority regarding correction of errors, the supreme
- 24 court, with regard to review of death sentences, shall be authorized to:
- 25 (1) Affirm the sentence of death; or
- 26 (2) Set the sentence aside and resentence the defendant to life imprisonment without
- 27 eligibility for probation, parole, or release except by act of the governor; or
- 28 (3) Set the sentence aside and remand the case for retrial of the punishment hearing. A
- 29 new jury shall be selected or a jury may be waived by agreement of both parties and then the
- 30 punishment trial shall proceed in accordance with this chapter, with the exception that the
- 31 evidence of the guilty verdict shall be admissible in the new trial together with the official
- 32 transcript of any testimony and evidence properly admitted in each stage of the original trial
- 33 where relevant to determine punishment.
- 34 6. There shall be an assistant to the supreme court, who shall be an attorney appointed
- 35 by the supreme court and who shall serve at the pleasure of the court. The court shall accumulate
- 36 the records of all cases in which the sentence of death or life imprisonment without probation
- 37 or parole was imposed after May 26, 1977, or such earlier date as the court may deem
- 38 appropriate. The assistant shall provide the court with whatever extracted information the court
- 39 desires with respect thereto, including but not limited to a synopsis or brief of the facts in the
- 40 record concerning the crime and the defendant. The court shall be authorized to employ an
- 41 appropriate staff, within the limits of appropriations made for that purpose, and such methods
- 42 to compile such data as are deemed by the supreme court to be appropriate and relevant to the
- 43 statutory questions concerning the validity of the sentence. The office of the assistant to the
- 44 supreme court shall be attached to the office of the clerk of the supreme court for administrative
- 45 purposes.
- 46 7. In addition to the mandatory sentence review, there shall be a right of direct appeal
- 47 of the conviction to the supreme court of Missouri. This right of appeal may be waived by the

48 defendant. If an appeal is taken, the appeal and the sentence review shall be consolidated for
49 consideration. The court shall render its decision on legal errors enumerated, the factual
50 substantiation of the verdict, and the validity of the sentence.

565.040. 1. In the event that the death penalty provided in this chapter is held to be
2 unconstitutional, any person convicted of murder in the first degree, **or terrorism in the first**
3 **degree when the underlying felony is murder in the first degree**, shall be sentenced by the
4 court to life imprisonment without eligibility for probation, parole, or release except by act of
5 the governor, with the exception that when a specific aggravating circumstance found in a case
6 is held to be unconstitutional or invalid for another reason, the supreme court of Missouri is
7 further authorized to remand the case for resentencing or retrial of the punishment pursuant to
8 subsection 5 of section [565.036] **565.035**.

9 2. In the event that any death sentence imposed pursuant to this chapter is held to be
10 unconstitutional, the trial court which previously sentenced the defendant to death shall cause
11 the defendant to be brought before the court and shall sentence the defendant to life
12 imprisonment without eligibility for probation, parole, or release except by act of the governor,
13 with the exception that when a specific aggravating circumstance found in a case is held to be
14 inapplicable, unconstitutional or invalid for another reason, the supreme court of Missouri is
15 further authorized to remand the case for retrial of the punishment pursuant to subsection 5 of
16 section 565.035.

574.125. 1. Sections 574.125 to 574.150 shall be known and may be cited as the
2 **"Anti-Terrorism Act"**.

3 **2. As used in sections 574.125 to 574.150, the following terms shall mean:**

4 (1) **"Act of terrorism", terrorism in the first degree or terrorism in the second**
5 **degree;**

6 (2) **"Material, support or resources", currency or other financial securities,**
7 **financial services, lodging, training, safehouses, false documentation or identification,**
8 **communications equipment, facilities, weapons, lethal substances, explosives, personnel,**
9 **transportation, and other physical assets, except medicine or religious materials;**

10 (3) **"Specified felony offense", any of the following felony offenses and any attempt**
11 **or conspiracy to commit any of the following felony offenses:**

12 (a) **Murder in the first degree;**

13 (b) **Murder in the second degree;**

14 (c) **Voluntary manslaughter;**

15 (d) **Involuntary manslaughter;**

16 (e) **Assault in the first degree;**

17 (f) **Assault in the second degree;**

- 18 (g) Assault while on school property;
- 19 (h) Assault of a law enforcement officer in the first degree;
- 20 (i) Assault of a law enforcement officer in the second degree;
- 21 (j) Tampering with a judicial officer;
- 22 (k) Kidnapping;
- 23 (l) Felonious restraint;
- 24 (m) False imprisonment;
- 25 (n) Stalking;
- 26 (o) Forcible rape;
- 27 (p) Statutory rape in the first degree;
- 28 (q) Statutory rape in the second degree;
- 29 (r) Sexual assault;
- 30 (s) Forcible sodomy;
- 31 (t) Statutory sodomy in the first degree;
- 32 (u) Statutory sodomy in the second degree;
- 33 (v) Deviate sexual assault;
- 34 (w) Sexual misconduct involving a child;
- 35 (x) Sexual abuse;
- 36 (y) Promoting prostitution in the first degree;
- 37 (z) Endangering the welfare of a child in the first degree;
- 38 (aa) Endangering the welfare of a child in the second degree;
- 39 (bb) Abuse of a child;
- 40 (cc) Genital mutilation;
- 41 (dd) Use of a child in a sexual performance;
- 42 (ee) Promoting a sexual performance;
- 43 (ff) Robbery in the first degree;
- 44 (gg) Pharmacy robbery in the first degree;
- 45 (hh) Robbery in the second degree;
- 46 (ii) Pharmacy robbery in the second degree;
- 47 (jj) Arson in the first degree;
- 48 (kk) Arson in the second degree;
- 49 (ll) Knowingly burning or exploding;
- 50 (mm) Causing a catastrophe;
- 51 (nn) Tampering in the first degree;
- 52 (oo) Tampering in the second degree;
- 53 (pp) Tampering with computer data;

54 **(qq) Tampering with computer equipment;**
55 **(rr) Tampering with computer users;**
56 **(ss) Burglary in the first degree;**
57 **(tt) Burglary in the second degree;**
58 **(uu) Unlawful use of weapons;**
59 **(vv) Unlawful transfer of weapons;**
60 **(ww) Use or possession of a metal-penetrating bullet during the commission of a**
61 **crime.**

62 **(4) "Specified misdemeanor offense", any of the following misdemeanor offenses**
63 **and any attempt or conspiracy to commit any of the following misdemeanor offenses:**

64 **(a) Assault in the third degree;**
65 **(b) Assault of a law enforcement officer in the third degree;**
66 **(c) Harassment;**
67 **(d) False imprisonment;**
68 **(e) Stalking;**
69 **(f) Endangering the welfare of a child in the second degree;**
70 **(g) Reckless burning or exploding;**
71 **(h) Tampering in the second degree;**
72 **(i) Tampering with computer data;**
73 **(j) Tampering with computer equipment;**
74 **(k) Tampering with computer users;**
75 **(l) Unlawful use of weapons;**
76 **(m) Unlawful transfer of weapons;**
77 **(n) Transfer of a concealable firearm without a permit.**

78 **(5) "Threat", an express or implied threat but does not include a report made in**
79 **good faith for the purpose of preventing harm.**

574.130. 1. A person commits the crime of terrorism in the first degree if that
2 **person knowingly commits or attempts or conspires to commit a specified felony offense**
3 **with the intent to:**

4 **(1) Intimidate or coerce a civilian population; or**
5 **(2) Influence the policy of a unit of government by intimidation or coercion; or**
6 **(3) Affect the conduct of a unit of government by murder, assassination, or**
7 **kidnapping.**

8 **2. The punishment for terrorism in the first degree shall be one classification higher**
9 **than the punishment for the underlying specified felony offense unless:**

10 **(1) The underlying specified felony offense is murder in the first degree in which**

11 case the punishment shall be either death or imprisonment for life without eligibility for
12 probation or parole, or release, except by act of the governor;

13 (2) The underlying specified felony offense is any class A felony, except murder in
14 the first degree, in which case the punishment shall be either imprisonment for life or
15 imprisonment for life without eligibility for probation or parole, or release, except by act
16 of the governor;

17 (3) The underlying specified felony offense is a nonclassified felony offense in which
18 case the punishment shall be a term of years not less than ten years and not to exceed thirty
19 years, or imprisonment for life, or imprisonment for life without eligibility for probation
20 or parole, or release, except by act of the governor.

21 3. The punishment imposed pursuant to this section shall be in addition to any
22 punishment provided by law for the underlying felony offense or any other felony offense
23 committed during the same act of terrorism, and in addition to any punishment imposed
24 for armed criminal action pursuant to section 571.015, RSMo.

574.135. 1. A person commits the crime of terrorism in the second degree if that
2 person knowingly commits or attempts or conspires to commit a specified misdemeanor
3 offense with the intent to:

4 (1) Intimidate or coerce a civilian population; or

5 (2) Influence the policy of a unit of government by intimidation or coercion.

6 2. Terrorism in the second degree is a class C felony.

7 3. The punishment imposed pursuant to this section shall be in addition to any
8 punishment provided by law for the underlying misdemeanor offense or any other
9 misdemeanor offense committed during the same act of terrorism.

574.140. 1. A person commits the crime of soliciting or providing support for an
2 act of terrorism if that person knowingly raises, solicits, collects, or provides material,
3 support, or resources with the intent that such material, support, or resources will be used,
4 in whole or in part, to plan, prepare, carry out, or aid in either an act of terrorism or the
5 concealment of, or an escape from, an act of terrorism.

6 2. Soliciting or providing support for an act of terrorism is a felony for which the
7 authorized term of imprisonment is twenty-five years.

574.145. 1. A person commits the crime of making a terroristic threat in the first
2 degree if such person knowingly communicates a threat to commit a felony, or knowingly
3 makes a false report, knowing that it is false, concerning the commission of a felony or the
4 occurrence of a catastrophe as defined in section 569.070, RSMo, or knowingly causes a
5 felony to be committed, with the intent to:

6 (1) Intimidate or coerce a civilian population; or

- 7 (2) **Influence the policy of a unit of government by intimidation or coercion; or**
 8 (3) **Affect the conduct of a unit of government by murder, assassination, or**
 9 **kidnapping; or**
 10 (4) **Cause the evacuation or closure of any building, inhabitable structure, place of**
 11 **assembly, or facility of transportation;**

12

13 **And thereby causes a reasonable expectation or fear of the imminent commission of such**
 14 **felony or catastrophe or causes the actual evacuation or closure of any building,**
 15 **inhabitable structure, place of assembly or facility of transportation.**

16 **2. It shall be no defense to a prosecution pursuant to this section that the defendant**
 17 **did not have the intent or capability of committing the threatened felony or that the threat**
 18 **was not made to a person who was the intended victim of that felony.**

19 **3. Making a terroristic threat in the first degree is a class C felony.**

574.150. 1. A person commits the crime of making a terroristic threat in the second
 2 **degree if such person, with reckless disregard of the risk of causing the evacuation or**
 3 **closure of any building, inhabitable structure, place of assembly, or facility of**
 4 **transportation, communicates a threat to commit a felony, or makes a false report,**
 5 **knowing that it is false, concerning the commission of a felony or the occurrence of a**
 6 **catastrophe as defined in section 569.070, RSMo, or causes a felony to be committed, and**
 7 **thereby causes the evacuation or closure of any building, inhabitable structure, place of**
 8 **assembly, or facility of transportation.**

9 **2. It shall be no defense to a prosecution pursuant to this section that the defendant**
 10 **did not have the intent or capability of committing the threatened felony or that the threat**
 11 **was not made to a person who was the intended victim of that felony.**

12 **3. Making a terroristic threat in the second degree is a class D felony.**

575.020. 1. A person commits the crime of concealing an offense if:

2 (1) **He confers or agrees to confer any pecuniary benefit or other consideration to any**
 3 **person in consideration of that person's concealing of any offense, refraining from initiating or**
 4 **aiding in the prosecution of an offense, or withholding any evidence thereof; or**

5 (2) **He accepts or agrees to accept any pecuniary benefit or other consideration in**
 6 **consideration of his concealing any offense, refraining from initiating or aiding in the**
 7 **prosecution of an offense, or withholding any evidence thereof.**

8 **2. Concealing an offense is a class [D felony if the offense concealed is a felony;**
 9 **otherwise concealing an offense is a class A misdemeanor] A misdemeanor unless:**

10 **(1) The offense concealed is any felony except terrorism in the first degree or**
 11 **terrorism in the second degree in which case it is a class D felony; or**

12 **(2) The offense concealed is terrorism in the first degree or terrorism in the second**
13 **degree in which case it is a class B felony.**

 575.030. 1. A person commits the crime of hindering prosecution if for the purpose of
2 preventing the apprehension, prosecution, conviction or punishment of another for conduct
3 constituting a crime he:

4 (1) Harbors or conceals such person; or

5 (2) Warns such person of impending discovery or apprehension, except this does not
6 apply to a warning given in connection with an effort to bring another into compliance with the
7 law; or

8 (3) Provides such person with money, transportation, weapon, disguise or other means
9 to aid him in avoiding discovery or apprehension; or

10 (4) Prevents or obstructs, by means of force, deception or intimidation, anyone from
11 performing an act that might aid in the discovery or apprehension of such person.

12 2. Hindering prosecution is a class [D felony if the conduct of the other person
13 constitutes a felony; otherwise hindering prosecution is a class A misdemeanor] **A misdemeanor**
14 **unless:**

15 **(1) The conduct of the other person constitutes a felony except terrorism in the first**
16 **degree or terrorism in the second degree in which case it is a class D felony; or**

17 **(2) The conduct of the other person constitutes terrorism in the second degree in**
18 **which case it is a class C felony; or**

19 **(3) The conduct of the other person constitutes terrorism in the first degree in**
20 **which case it is a class B felony.**

 575.100. 1. A person commits the crime of tampering with physical evidence if he:

2 (1) Alters, destroys, suppresses or conceals any record, document or thing with purpose
3 to impair its verity, legibility or availability in any official proceeding or investigation; or

4 (2) Makes, presents or uses any record, document or thing knowing it to be false with
5 purpose to mislead a public servant who is or may be engaged in any official proceeding or
6 investigation.

7 2. Tampering with physical evidence is a class [D felony if the actor impairs or obstructs
8 the prosecution or defense of a felony; otherwise, tampering with physical evidence is a class A
9 misdemeanor] **A misdemeanor unless:**

10 **(1) The actor impairs or obstructs the prosecution or defense of a felony except**
11 **terrorism in the first degree or terrorism in the second degree in which case it is a class D**
12 **felony; or**

13 **(2) The actor impairs or obstructs the prosecution or defense of terrorism in the**
14 **first degree or terrorism in the second degree in which case it is a class B felony.**

575.240. 1. A public servant who is authorized and required by law to have charge of any person charged with or convicted of any crime commits the crime of permitting escape if he knowingly:

(1) Suffers, allows or permits any deadly weapon or dangerous instrument, or anything adapted or designed for use in making an escape, to be introduced into or allowed to remain in any place of confinement, in violation of law, regulations or rules governing the operation of the place of confinement; or

(2) Suffers, allows or permits a person in custody or confinement to escape.

2. Permitting escape is a **class D felony unless the person permits escape** by suffering, allowing or permitting any deadly weapon or dangerous instrument to be introduced into a place of confinement **or permits the escape of a person who is in custody or confinement for terrorism in the first degree or terrorism in the second degree in which case it is a class B felony** [; otherwise, permitting escape is a class D felony].

575.250. 1. A person commits the crime of disturbing a judicial proceeding if, with purpose to intimidate a judge, attorney, juror, party or witness, and thereby to influence a judicial proceeding, he disrupts or disturbs a judicial proceeding by participating in an assembly and calling aloud, shouting, or holding or displaying a placard or sign containing written or printed matter, concerning the conduct of the judicial proceeding, or the character of a judge, attorney, juror, party or witness engaged in such proceeding, or calling for or demanding any specified action or determination by such judge, attorney, juror, party or witness in connection with such proceeding.

2. Disturbing a judicial proceeding is a class A misdemeanor **unless the judicial proceeding is a prosecution for terrorism in the first degree or terrorism in the second degree in which case it is a class B felony**.

575.270. 1. A person commits the crime of tampering with a witness if, with purpose to induce a witness or a prospective witness in an official proceeding to disobey a subpoena or other legal process, or to absent himself or avoid subpoena or other legal process, or to withhold evidence, information or documents, or to testify falsely, he:

(1) Threatens or causes harm to any person or property; or

(2) Uses force, threats or deception; or

(3) Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness;

or

(4) Conveys any of the foregoing to another in furtherance of a conspiracy.

2. [A person commits the crime of "victim tampering" if, with purpose to do so, he prevents or dissuades or attempts to prevent or dissuade any person who has been a victim of any crime or a person who is acting on behalf of any such victim from:

13 (1) Making any report of such victimization to any peace officer, or state, local or federal
14 law enforcement officer or prosecuting agency or to any judge;

15 (2) Causing a complaint, indictment or information to be sought and prosecuted or
16 assisting in the prosecution thereof;

17 (3) Arresting or causing or seeking the arrest of any person in connection with such
18 victimization.

19 3.] Tampering with a witness [in a prosecution, tampering with a witness with purpose
20 to induce the witness to testify falsely, or victim tampering] is a class [C felony if the] A
21 **misdemeanor unless:**

22 (1) **The original charge is a felony[. Otherwise, tampering with a witness or victim**
23 **tampering is a class A misdemeanor] except terrorism in the first degree or terrorism in the**
24 **second degree in which case it is a class D felony;**

25 (2) **The original charge is terrorism in the first degree or terrorism in the second**
26 **degree in which case it is a class B felony.** Persons convicted under this section shall not be
27 eligible for parole.

575.273. 1. A person commits the crime of "victim tampering" if, with purpose to
2 **do so, he or she prevents or dissuades or attempts to prevent or dissuade any person who**
3 **has been a victim of any crime or a person who is acting on behalf of any such victim from:**

4 (1) **Making any report of such victimization to any peace officer, or state, local or**
5 **federal law enforcement officer or prosecuting agency or to any judge;**

6 (2) **Causing a complaint, indictment or information to be sought and prosecuted**
7 **or assisting in the prosecution thereof;**

8 (3) **Arresting or causing or seeking the arrest of any person in connection with such**
9 **victimization.**

10 **2. Victim tampering is a class A misdemeanor unless:**

11 (1) **The original charge is any felony except terrorism in the first degree or**
12 **terrorism in the second degree in which case it is a class D felony;**

13 (2) **The original charge is terrorism in the first degree or terrorism in the second**
14 **degree in which case it is a class B felony. Persons convicted pursuant to this section shall**
15 **not be eligible for parole.**

578.421. As used in sections 578.421 to 578.437, the following terms mean:

2 (1) "Criminal street gang", any ongoing organization, association, or group of three or
3 more persons, whether formal or informal, having as one of its primary activities the commission
4 of one or more of the criminal acts enumerated in subdivision (2) of this section, which has a
5 common name or common identifying sign or symbol, whose members individually or
6 collectively engage in or have engaged in a pattern of criminal gang activity;

- 7 (2) "Pattern of criminal street gang activity", the commission, attempted commission,
8 or solicitation of two or more of the following offenses, provided at least one of those offenses
9 occurred after August 28, 1993, and the last of those offenses occurred within three years after
10 a prior offense, and the offenses are committed on separate occasions, or by two or more persons:
- 11 (a) Assault with a deadly weapon or by means of force likely to cause serious physical
12 injury, as provided in sections 565.050 and 565.060, RSMo;
 - 13 (b) Robbery, arson and those offenses under chapter 569, RSMo, which are related to
14 robbery and arson;
 - 15 (c) Murder or manslaughter, as provided in sections 565.020 to 565.024, RSMo;
 - 16 (d) Any violation of the provisions of chapter 195, RSMo, which involves the
17 distribution, delivery or manufacture of a substance prohibited by chapter 195, RSMo;
 - 18 (e) Unlawful use of a weapon which is a felony pursuant to section 571.030, RSMo;
 - 19 (f) Tampering with witnesses [and victims,] as provided in section 575.270, RSMo;
 - 20 (g) **Tampering with victims as provided in section 575.273, RSMo.**