

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 1243, 1094 & 931
92ND GENERAL ASSEMBLY

Reported from the Committee on Crime Prevention, April 1, 2004, with recommendation that the House Committee Substitute for House Bill Nos. 1243, 1094 and 931 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

4055L.02C

AN ACT

To repeal sections 1.160, 43.530, 43.540, 50.550, 302.060, 302.309, 302.321, 302.341, 302.541, 302.775, 304.070, 488.5336, 557.036, 558.016, 558.019, 559.021, 565.092, 575.150, 575.195, 577.041, 577.500, 578.421, 650.050, 650.052, 650.055, and 650.100, RSMo, and to enact in lieu thereof thirty-two new sections relating to crime, with penalty provisions and an emergency clause for a certain section.

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

Section A. Sections 1.160, 43.530, 43.540, 50.550, 302.060, 302.309, 302.321, 302.341, 302.541, 302.775, 304.070, 488.5336, 557.036, 558.016, 558.019, 559.021, 565.092, 575.150, 575.195, 577.041, 577.500, 578.421, 650.050, 650.052, 650.055, and 650.100, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 1.160, 43.530, 43.540, 50.550, 50.565, 302.060, 302.309, 302.321, 302.341, 302.541, 302.775, 304.070, 304.078, 404.729, 488.5336, 488.5400, 557.036, 558.016, 558.019, 559.021, 565.087, 565.092, 575.150, 575.195, 577.041, 577.500, 578.421, 650.050, 650.052, 650.055, 650.100, and 1, to read as follows:

1.160. No offense committed and no fine, penalty or forfeiture incurred, or prosecution commenced or pending previous to or at the time when any statutory provision is repealed or amended, shall be affected by the repeal or amendment, but the trial and punishment of all such offenses, and the recovery of the fines, penalties or forfeitures shall be had, in all respects, as if the provision had not been repealed or amended, except[
(1)] that all such proceedings shall be conducted according to existing procedural laws[;

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

7 and

8 (2) That if the penalty or punishment for any offense is reduced or lessened by any
9 alteration of the law creating the offense prior to original sentencing, the penalty or punishment
10 shall be assessed according to the amendatory law].

43.530. 1. For each request requiring the payment of a fee received by the central
2 repository, the requesting entity shall pay a fee of not more than [five] **ten** dollars per request for
3 criminal history record information not based on a fingerprint search and pay a fee of not more
4 than [fourteen] **twenty** dollars per request for criminal history record information based on a
5 fingerprint search. Each such request shall be limited to check and search on one individual.
6 Each request shall be accompanied by a check, warrant, voucher, money order, or electronic
7 payment payable to the state of Missouri-criminal record system or payment shall be made in a
8 manner approved by the highway patrol. The highway patrol may establish procedures for
9 receiving requests for criminal history record information for classification and search for
10 fingerprints, from courts and other entities, and for the payment of such requests. There is
11 hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal
12 Record System Fund". Notwithstanding the provisions of section 33.080, RSMo, to the contrary,
13 if the moneys collected and deposited into this fund are not totally expended annually for the
14 purposes set forth in sections 43.500 to 43.543, the unexpended moneys in such fund shall
15 remain in the fund and the balance shall be kept in the fund to accumulate from year to year.

16 2. For purposes of obtaining criminal records prior to issuance of a school bus operator's
17 permit pursuant to section 302.272, RSMo, and for determining eligibility for such permit, the
18 applicant for such permit shall submit two sets of fingerprints to the director of revenue when
19 applying for the permit. The fingerprints shall be collected in a manner approved by the
20 superintendent of the highway patrol. The school bus permit applicant shall pay the appropriate
21 fee described in this section and pay the appropriate fee determined by the Federal Bureau of
22 Investigation for the federal criminal history record when he or she applies for the school bus
23 permit. Collections for records described in this subsection shall be deposited in the criminal
24 record system fund.

43.540. 1. As used in this section, the following terms mean:

2 (1) "Authorized state agency", a division of state government or an office of state
3 government designated by the statutes of Missouri to issue or renew a license, permit,
4 certification, or registration of authority to a qualified entity;

5 (2) "Care", the provision of care, treatment, education, training, instruction, supervision,
6 or recreation;

7 (3) "Missouri criminal record review", a review of criminal history records [or] **and** sex
8 offender registration records pursuant to sections 589.400 to 589.425, RSMo, maintained by the

9 Missouri state highway patrol in the Missouri criminal records repository;

10 (4) "National criminal record review", a review of the criminal history records
11 maintained by the Federal Bureau of Investigation;

12 (5) "Patient or resident", a person who by reason of age, illness, disease or physical or
13 mental infirmity receives or requires care or services furnished by a provider, as defined in this
14 section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in
15 a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive
16 hours;

17 (6) "Provider", a person who:

18 (a) Has or may have unsupervised access to children, the elderly, or persons with
19 disabilities; and

20 (b) Is employed by or seeks employment with a qualified entity; or

21 (c) Volunteers or seeks to volunteer with a qualified entity; or

22 (d) Owns or operates a qualified entity;

23 (7) "Qualified entity", a person, business, or organization, whether public or private, for
24 profit, not for profit, or voluntary, that provides care, placement, or educational services for
25 children, the elderly, or persons with disabilities as patients or residents, including a business or
26 organization that licenses or certifies others to provide care or placement services;

27 (8) "Youth services agency", any public or private agency, school, or association which
28 provides programs, care or treatment for or which exercises supervision over minors.

29 2. A qualified entity may obtain a Missouri criminal record review of a provider from
30 the highway patrol by furnishing information on forms and in the manner approved by the
31 highway patrol.

32 3. A qualified entity may request a Missouri criminal record review and a national
33 criminal record review of a provider through an authorized state agency. No authorized state
34 agency is required by this section to process Missouri or national criminal record reviews for a
35 qualified entity, however, if an authorized state agency agrees to process Missouri and national
36 criminal record reviews for a qualified entity, the qualified entity shall provide to the authorized
37 state agency on forms and in a manner approved by the highway patrol the following:

38 (1) Two sets of fingerprints of the provider;

39 (2) A statement signed by the provider which contains:

40 (a) The provider's name, address, and date of birth;

41 (b) Whether the provider has been convicted of or has pled guilty to a crime which
42 includes a suspended imposition of sentence;

43 (c) If the provider has been convicted of or has pled guilty to a crime, a description of
44 the crime, and the particulars of the conviction or plea;

- 45 (d) The authority of the qualified entity to check the provider's criminal history;
46 (e) The right of the provider to review the report received by the qualified entity; and
47 (f) The right of the provider to challenge the accuracy of the report. If the challenge is
48 to the accuracy of the criminal record review, the challenge shall be made to the highway patrol.

49 4. The authorized state agency shall forward the required forms and fees to the highway
50 patrol. The results of the record review shall be forwarded to the authorized state agency who
51 will notify the qualified entity. The authorized state agency may assess a fee to the qualified
52 entity to cover the cost of handling the criminal record review and may establish an account
53 solely for the collection and dissemination of fees associated with the criminal record reviews.

54 5. Any information received by an authorized state agency or a qualified entity pursuant
55 to the provisions of this section shall be used solely for internal purposes in determining the
56 suitability of a provider. The dissemination of criminal history information from the Federal
57 Bureau of Investigation beyond the authorized state agency or related governmental entity is
58 prohibited. All criminal record check information shall be confidential and any person who
59 discloses the information beyond the scope allowed is guilty of a class A misdemeanor.

60 6. The highway patrol shall make available or approve the necessary forms, procedures,
61 and agreements necessary to implement the provisions of this section.

50.550. 1. The annual budget shall present a complete financial plan for the ensuing
2 budget year. It shall set forth all proposed expenditures for the administration, operation and
3 maintenance of all offices, departments, commissions, courts and institutions; the actual or
4 estimated operating deficits or surpluses from prior years; all interest and debt redemption
5 charges during the year and expenditures for capital projects.

6 2. The budget shall contain adequate provisions for the expenditures necessary for the
7 care of insane pauper patients in state hospitals, for the cost of holding elections and for the costs
8 of holding circuit court in the county that are chargeable against the county, for the repair and
9 upkeep of bridges other than on state highways and not in any special road district, and for the
10 salaries, office expenses and deputy and clerical hire of all county officers and agencies.

11 3. In addition, the budget shall set forth in detail the anticipated income and other means
12 of financing the proposed expenditures.

13 4. All receipts of the county for operation and maintenance shall be credited to the
14 general fund, and all expenditures for these purposes shall be charged to this fund; except, that
15 receipts from the special tax levy for roads and bridges shall be kept in a special fund and
16 expenditures for roads and bridges may be charged to the special fund.

17 5. All receipts from the sale of bonds for any purpose shall be credited to the bond fund
18 created for the purpose, and all expenditures for this purpose shall be charged to the fund. All
19 receipts for the retirement of any bond issue shall be credited to a retirement fund for the issue,

20 and all payments to retire the issue shall be charged to the fund. All receipts for interest on
21 outstanding bonds and all premiums and accrued interest on bonds sold shall be credited to the
22 interest fund, and all payments of interest on the bonds shall be charged to the interest fund.

23 **6. Subject to the provisions of section 50.565 the county commission may create a**
24 **fund to be known as "The County Law Enforcement Restitution Fund".**

25 **7. The county commission may create other funds as are necessary from time to time.**

50.565. 1. A county commission may establish by ordinance or order a fund whose
2 **proceeds may be expended only for the purposes provided for in subsection 3 of this**
3 **section. The fund shall be designated as a county law enforcement restitution fund and**
4 **shall be under the supervision of a board of trustees consisting of two citizens of the county**
5 **appointed by the presiding commissioner of the county, two citizens of the county**
6 **appointed by the sheriff of the county, and one citizen of the county appointed by the**
7 **county coroner or medical examiner. The citizens so appointed shall not be current or**
8 **former employees of either the sheriff's department or the office of the prosecuting**
9 **attorney for the county.**

10 **2. Money from the county law enforcement restitution fund shall only be expended**
11 **upon the approval of a majority of the members of the county law enforcement restitution**
12 **fund's board of trustees and only for the purposes provided for by subsection 3 of this**
13 **section.**

14 **3. Money from the county law enforcement restitution fund shall only be expended**
15 **for the following purposes:**

16 **(1) Narcotics investigation, prevention, and intervention;**
17 **(2) Purchase of law enforcement related equipment and supplies for the sheriff's**
18 **office;**

19 **(3) Matching funds for federal or state law enforcement grants;**

20 **(4) Funding for the reporting of all state and federal crime statistics or information;**
21 **and**

22 **(5) Any law enforcement related expense, including those of the prosecuting**
23 **attorney, approved by the board of trustees for the county law enforcement restitution**
24 **fund that is reasonably related to investigation, charging, preparation, trial, and**
25 **disposition of criminal cases before the courts of the state of Missouri.**

26 **4. The county commission may not reduce any law enforcement agency's budget**
27 **as a result of funds the law enforcement agency receives from the county law enforcement**
28 **restitution fund. The restitution fund is to be used only as a supplement to the law**
29 **enforcement agency's funding received from other county, state, or federal funds.**

30 **5. County law enforcement restitution funds shall be audited as are all other county**

31 **funds.**

2 302.060. The director shall not issue any license and shall immediately deny any driving
3 privilege:

4 (1) To any person who is under the age of eighteen years, if such person operates a motor
5 vehicle in the transportation of persons or property as classified in section 302.015;

6 (2) To any person who is under the age of sixteen years, except as hereinafter provided;

7 (3) To any person whose license has been suspended, during such suspension, or to any
8 person whose license has been revoked, until the expiration of one year after such license was
9 revoked;

10 (4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

11 (5) To any person who has previously been adjudged to be incapacitated and who at the
12 time of application has not been restored to partial capacity;

13 (6) To any person who, when required by this law to take an examination, has failed to
14 pass such examination;

15 (7) To any person who has an unsatisfied judgment against such person, as defined in
16 chapter 303, RSMo, until such judgment has been satisfied or the financial responsibility of such
17 person, as defined in section 303.120, RSMo, has been established;

18 (8) To any person whose application shows that the person has been convicted within
19 one year prior to such application of violating the laws of this state relating to failure to stop after
20 an accident and to disclose the person's identity or driving a motor vehicle without the owner's
21 consent;

22 (9) To any person who has been convicted more than twice of violating state law, or a
23 county or municipal ordinance where [the judge in such cases was an attorney and] the defendant
24 was represented by or waived the right to an attorney in writing, relating to [driving while
25 intoxicated] **an intoxication-related traffic offense as defined in section 577.023, RSMo;**
26 except that, after the expiration of ten years from the date of conviction of the last offense of
27 violating such law or ordinance relating to [driving while intoxicated] **an intoxication-related**
28 **traffic offense as defined in section 577.023, RSMo,** a person who was so convicted may
29 petition the circuit court of the county in which such last conviction was rendered and the court
30 shall review the person's habits and conduct since such conviction. If the court finds that the
31 petitioner has not been convicted of any **intoxication-related traffic** offense [related to alcohol,
32 controlled substances or drugs] **as defined in section 577.023, RSMo,** during the preceding ten
33 years and that the petitioner's habits and conduct show such petitioner to no longer pose a threat
34 to the public safety of this state, the court may order the director to issue a license to the
35 petitioner if the petitioner is otherwise qualified pursuant to the provisions of sections 302.010
to 302.540. No person may obtain a license pursuant to the provisions of this subdivision

36 through court action more than one time;

37 (10) To any person who has been convicted twice within a five-year period of violating
38 state law, or a county or municipal ordinance where [the judge in such cases was an attorney and]
39 the defendant was represented by or waived the right to an attorney in writing, [of driving while
40 intoxicated] **relating to an intoxication-related traffic offense as defined in section 577.023,**
41 **RSMo**, or who has been convicted **once within a five-year period** of the crime of involuntary
42 manslaughter while operating a motor vehicle in an intoxicated condition. The director shall not
43 issue a license to such person for five years from the date such person was convicted for
44 involuntary manslaughter while operating a motor vehicle in an intoxicated condition or [for
45 driving while intoxicated] for the second time **for an intoxication-related traffic offense as**
46 **defined in section 577.023, RSMo.** Any person who has been denied a license for two
47 convictions of [driving while intoxicated] **an intoxication-related traffic offense as defined**
48 **in section 577.023, RSMo**, prior to July 27, 1989, shall have the person's license issued, upon
49 application, unless the two convictions occurred within a five-year period, in which case, no
50 license shall be issued to the person for five years from the date of the second conviction;

51 (11) To any person who is otherwise disqualified pursuant to the provisions of sections
52 302.010 to 302.780, chapter 303, RSMo, or section 544.046, RSMo;

53 (12) To any person who is under the age of eighteen years, if such person's parents or
54 legal guardians file a certified document with the department of revenue stating that the director
55 shall not issue such person a driver's license. Each document filed by the person's parents or
56 legal guardians shall be made upon a form furnished by the director and shall include identifying
57 information of the person for whom the parents or legal guardians are denying the driver's
58 license. The document shall also contain identifying information of the person's parents or legal
59 guardians. The document shall be certified by the parents or legal guardians to be true and
60 correct. This provision shall not apply to any person who is legally emancipated. The parents
61 or legal guardians may later file an additional document with the department of revenue which
62 reinstates the person's ability to receive a driver's license.

302.309. 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309,
2 the director of revenue shall return the license to the operator immediately upon the termination
3 of the period of suspension and upon compliance with the requirements of chapter 303, RSMo.

4 2. Any operator whose license is revoked pursuant to these sections, upon the
5 termination of the period of revocation, shall apply for a new license in the manner prescribed
6 by law.

7 3. (1) All circuit courts or the director of revenue shall have jurisdiction to hear
8 applications and make eligibility determinations granting limited driving privileges. Any
9 application may be made in writing to the director of revenue and the person's reasons for

10 requesting the limited driving privilege shall be made therein.

11 (2) When any court of record having jurisdiction or the director of revenue finds that an
12 operator is required to operate a motor vehicle in connection with any of the following:

13 (a) A business, occupation, or employment;

14 (b) Seeking medical treatment for such operator;

15 (c) Attending school or other institution of higher education;

16 (d) Attending alcohol or drug treatment programs; or

17 (e) Any other circumstance the court or director finds would create an undue hardship
18 on the operator;

19

20 the court or director may grant such limited driving privilege as the circumstances of the case
21 justify if the court or director finds undue hardship would result to the individual, and while so
22 operating a motor vehicle within the restrictions and limitations of the limited driving privilege
23 the driver shall not be guilty of operating a motor vehicle without a valid license.

24 (3) An operator may make application to the proper court in the county in which such
25 operator resides or in the county in which is located the operator's principal place of business or
26 employment. Any application for a limited driving privilege made to a circuit court shall name
27 the director as a party defendant and shall be served upon the director prior to the grant of any
28 limited privilege, and shall be accompanied by a copy of the applicant's driving record as
29 certified by the director. Any applicant for a limited driving privilege shall have on file with the
30 department of revenue proof of financial responsibility as required by chapter 303, RSMo. Any
31 application by a person who transports persons or property as classified in section 302.015 may
32 be accompanied by proof of financial responsibility as required by chapter 303, RSMo, but if
33 proof of financial responsibility does not accompany the application, or if the applicant does not
34 have on file with the department of revenue proof of financial responsibility, the court or the
35 director has discretion to grant the limited driving privilege to the person solely for the purpose
36 of operating a vehicle whose owner has complied with chapter 303, RSMo, for that vehicle, and
37 the limited driving privilege must state such restriction. When operating such vehicle under such
38 restriction the person shall carry proof that the owner has complied with chapter 303, RSMo, for
39 that vehicle.

40 (4) The court order or the director's grant of the limited driving privilege shall indicate
41 the termination date of the privilege, which shall be not later than the end of the period of
42 suspension or revocation. A copy of any court order shall be sent by the clerk of the court to the
43 director, and a copy shall be given to the driver which shall be carried by the driver whenever
44 such driver operates a motor vehicle. The director of revenue upon granting a limited driving
45 privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall

46 carry a copy of the limited driving privilege while operating a motor vehicle. A conviction
47 which results in the assessment of points pursuant to section 302.302, other than a violation of
48 a municipal stop sign ordinance where no accident is involved, against a driver who is operating
49 a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points
50 are assessed to the person's driving record. If the date of arrest is prior to the issuance of the
51 limited driving privilege, the privilege shall not be terminated. The director shall notify by
52 ordinary mail the driver whose privilege is so terminated.

53 (5) Except as provided in subdivision (6) of this subsection, no person is eligible to
54 receive a limited driving privilege who at the time of application for a limited driving privilege
55 has previously been granted such a privilege within the immediately preceding five years, or
56 whose license has been suspended or revoked for the following reasons:

57 (a) A conviction of violating the provisions of section 577.010 or 577.012, RSMo, or any
58 similar provision of any federal or state law, or a municipal or county law where [the judge in
59 such case was an attorney and] the defendant was represented by or waived the right to an
60 attorney in writing, until the person has completed the first thirty days of a suspension or
61 revocation imposed pursuant to this chapter;

62 (b) A conviction of any felony in the commission of which a motor vehicle was used;

63 (c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5),
64 (6), (7), (8), (9), (10) or (11) of section 302.060;

65 (d) Because of operating a motor vehicle under the influence of narcotic drugs, a
66 controlled substance as defined in chapter 195, RSMo, or having left the scene of an accident as
67 provided in section 577.060, RSMo;

68 (e) Due to a revocation for the first time for failure to submit to a chemical test pursuant
69 to section 577.041, RSMo, or due to a refusal to submit to a chemical test in any other state, if
70 such person has not completed the first ninety days of such revocation;

71 (f) Violation more than once of the provisions of section 577.041, RSMo, or a similar
72 implied consent law of any other state;

73 (g) Disqualification of a commercial driver's license pursuant to sections 302.700 to
74 302.780, however, nothing in this subsection shall prevent a person holding a commercial
75 driver's license who is suspended or revoked as a result of an action occurring while not driving
76 a commercial motor vehicle or driving for pay, but while driving in an individual capacity as an
77 operator of a personal vehicle from applying for a limited driving privilege to operate a
78 commercial vehicle, if otherwise eligible for such limited privilege; or

79 (h) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not
80 completed the first thirty days of such suspension, provided the person is not otherwise ineligible
81 for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525

82 if such person has not completed such revocation.

83 (6) (a) Provided that pursuant to the provisions of this section, the applicant is not
84 otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the
85 manner prescribed in this subsection, allow a person who has had such person's license to operate
86 a motor vehicle revoked where that person cannot obtain a new license for a period of ten years,
87 as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege
88 pursuant to this subsection if such person has served at least three years of such disqualification
89 or revocation. Such person shall present evidence satisfactory to the court or the director that
90 such person has not been convicted of any offense related to alcohol, controlled substances or
91 drugs during the preceding three years and that the person's habits and conduct show that the
92 person no longer poses a threat to the public safety of this state.

93 (b) Provided that pursuant to the provisions of this section, the applicant is not otherwise
94 ineligible for a limited driving privilege or convicted of involuntary manslaughter while
95 operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the
96 manner prescribed in this subsection, allow a person who has had such person's license to operate
97 a motor vehicle revoked where that person cannot obtain a new license for a period of five years
98 because of two convictions of [driving while intoxicated] **an intoxication-related traffic**
99 **offense as defined in section 577.023, RSMo**, as prescribed in subdivision (10) of section
100 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has
101 served at least two years of such disqualification or revocation. Such person shall present
102 evidence satisfactory to the court or the director that such person has not been convicted of any
103 offense related to alcohol, controlled substances or drugs during the preceding two years and that
104 the person's habits and conduct show that the person no longer poses a threat to the public safety
105 of this state. Any person who is denied a license permanently in this state because of an
106 [alcohol-related conviction] **intoxication-related traffic offense as defined in section 577.023,**
107 **RSMo**, subsequent to a restoration of such person's driving privileges pursuant to subdivision
108 (9) of section 302.060 shall not be eligible for limited driving privilege pursuant to the provisions
109 of this subdivision.

110 4. Any person who has received notice of denial of a request of limited driving privilege
111 by the director of revenue may make a request for a review of the director's determination in the
112 circuit court of the county in which the person resides or the county in which is located the
113 person's principal place of business or employment within thirty days of the date of mailing of
114 the notice of denial. Such review shall be based upon the records of the department of revenue
115 and other competent evidence and shall be limited to a review of whether the applicant was
116 statutorily entitled to the limited driving privilege.

117 5. The director of revenue shall promulgate rules and regulations necessary to carry out

118 the provisions of this section. Any rule or portion of a rule, as that term is defined in section
119 536.010, RSMo, that is created under the authority delegated in this section shall become
120 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
121 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
122 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
123 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently
124 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
125 after August 28, 2001, shall be invalid and void.

302.321. 1. A person commits the crime of driving while revoked if [he] **such person**
2 operates a motor vehicle on a highway when [his] **such person's** license or driving privilege has
3 been canceled, suspended, or revoked under the laws of this state or any other state and acts with
4 criminal negligence with respect to knowledge of the fact that [his] **such person's** driving
5 privilege has been canceled, suspended, or revoked.

6 2. Any person convicted of driving while revoked is guilty of a class A misdemeanor.
7 Any person with no prior alcohol-related enforcement contacts as defined in section 302.525,
8 convicted a fourth or subsequent time of driving while revoked or a county or municipal
9 ordinance of driving while suspended or revoked where [the judge in such case was an attorney
10 and] the defendant was represented by or waived the right to an attorney in writing, and where
11 the prior three driving-while-revoked offenses occurred within ten years of the date of occurrence
12 of the present offense [and where the person received and served a sentence of ten days or more
13 on such previous offenses]; and any person with a prior alcohol-related enforcement contact as
14 defined in section 302.525, convicted a third or subsequent time of driving while revoked or a
15 county or municipal ordinance of driving while suspended or revoked where [the judge in such
16 case was an attorney and] the defendant was represented by or waived the right to an attorney in
17 writing, and where the prior two driving-while-revoked offenses occurred within ten years of the
18 date of occurrence of the present offense [and where the person received and served a sentence
19 of ten days or more on such previous offenses] is guilty of a class D felony. No court shall
20 suspend the imposition of sentence as to such a person nor sentence such person to pay a fine in
21 lieu of a term of imprisonment, nor shall such person be eligible for parole or probation until [he]
22 **such person** has served a minimum of forty-eight consecutive hours of imprisonment, unless as
23 a condition of such parole or probation, such person performs at least ten days involving at least
24 forty hours of community service under the supervision of the court in those jurisdictions which
25 have a recognized program for community service. Driving while revoked is a class D felony
26 on the second or subsequent conviction pursuant to section 577.010, RSMo, or a fourth or
27 subsequent conviction for any other offense.

302.341. If a Missouri resident charged with a moving traffic violation of this state or

2 any county or municipality of this state fails to dispose of the charges of which he is accused
3 through authorized prepayment of fine and court costs and fails to appear on the return date or
4 at any subsequent date to which the case has been continued, or without good cause fails to pay
5 any fine or court costs assessed against him for any such violation within the period of time
6 specified or in such installments as approved by the court or as otherwise provided by law, any
7 court having jurisdiction over the charges shall within ten days of the failure to comply inform
8 the defendant by ordinary mail at the last address shown on the court records that the court will
9 order the director of revenue to suspend the defendant's driving privileges if the charges are not
10 disposed of and fully paid within thirty days from the date of mailing. Thereafter, if the defendant
11 fails to timely act to dispose of the charges and fully pay any applicable fines and court costs, the
12 court shall notify the director of revenue of such failure and of the pending charges against the
13 defendant. Upon receipt of this notification, the director shall suspend the license of the driver,
14 effective immediately, and provide notice of the suspension to the driver at the last address for
15 the driver shown on the records of the department of revenue. Such suspension shall remain in
16 effect until the court with the subject pending charge requests setting aside the noncompliance
17 suspension pending final disposition, or satisfactory evidence of disposition of pending charges
18 and payment of fine and court costs, if applicable, is furnished to the director by the individual.
19 Upon proof of disposition of charges and payment of fine and court costs, if applicable, and
20 payment of the reinstatement fee as set forth in section 302.304, **in the case of an individual**
21 **who possesses a noncommercial driver's license** the director shall [reinstate] **return** the license
22 **and remove the suspension from the individual's driving record. In the case of an**
23 **individual who possesses a commercial driver's license or is required to possess a**
24 **commercial driver's license, the director shall reinstate the license.** The filing of financial
25 responsibility with the bureau of safety responsibility, department of revenue, shall not be
26 required as a condition of reinstatement of a driver's license suspended solely under the
27 provisions of this section. If any city, town or village receives more than forty-five percent of
28 its total annual revenue from fines for traffic violations occurring on state highways, all revenues
29 from such violations in excess of forty-five percent of the total annual revenue of the city, town
30 or village shall be sent to the director of the department of revenue and shall be distributed
31 annually to the schools of the county in the same manner that proceeds of all penalties,
32 forfeitures and fines collected for any breach of the penal laws of the state are distributed. For
33 the purpose of this section the words "state highways" shall mean any state or federal highway,
34 including any such highway continuing through the boundaries of a city, town or village with a
35 designated street name other than the state highway number.

302.541. 1. In addition to other fees required by law, any person who has had a license
2 to operate a motor vehicle suspended or revoked following a determination, pursuant to section

3 302.505, or section 577.010, 577.012, 577.041 or 577.510, RSMo, or any county or municipal
4 ordinance, where [the judge in such case was an attorney and] the defendant was represented by
5 or waived the right to an attorney, that such person was driving while intoxicated or with a blood
6 alcohol content of eight-hundredths of one percent or more by weight or, where such person was
7 at the time of the arrest less than twenty-one years of age and was driving with a blood alcohol
8 content of two-hundredths of one percent or more by weight, shall pay an additional fee of
9 twenty-five dollars prior to the reinstatement or reissuance of the license.

10 2. Any person less than twenty-one years of age whose driving privilege has been
11 suspended or revoked solely for a first determination pursuant to sections 302.500 to 302.540
12 that such person was driving a motor vehicle with two-hundredths of one percent or more blood
13 alcohol content is exempt from filing proof of financial responsibility with the department of
14 revenue in accordance with chapter 303, RSMo, as a prerequisite for reinstatement of driving
15 privileges or obtaining a restricted driving privilege as provided by section 302.525.

302.775. The provisions of sections 302.700 to 302.780 shall not apply to:

2 (1) Any person driving a farm vehicle as defined in section 302.700;

3 (2) Any active duty military personnel, members of the reserves and national guard on
4 active duty, including personnel on full-time national guard duty, personnel on part-time training
5 and national guard military technicians, while driving military vehicles for military purposes;

6 (3) Any person who drives emergency or fire equipment necessary to the preservation
7 of life or property or the execution of emergency governmental functions [under emergency
8 conditions];

9 (4) Any person driving or pulling a recreational vehicle, as defined in sections 301.010
10 and 700.010, RSMo, for personal use; and

11 (5) Any other class of persons exempted by rule or regulation of the director, which rule
12 or regulation is in compliance with the Commercial Motor Vehicle Safety Act of 1986 and any
13 amendments or regulations drafted to that act.

304.070. Any person who violates any of the provisions of subsections 1, 3 and 6 of
2 section 304.050 is guilty of a class A misdemeanor. **In addition, the court may suspend the**
3 **driver's license of any person who violates the provision of subsection 1 of section 304.050.**
4 **If ordered by the court, the director shall suspend the driver's license for ninety days for**
5 **a first offense of subsection 1 of section 304.050, and one hundred twenty days for a second**
6 **or subsequent offense of subsection 1 of section 304.050.**

304.078. 1. As used in this section "emergency personnel" means any of the
2 following:

3 (1) Any member of the state highway patrol, the state water patrol, any state park
4 ranger, any federal, state, or local law enforcement officer or traffic officer, or any

5 coroner;

6 (2) Any person operating an ambulance or other vehicle used for the purpose of
7 transporting emergency medical supplies or organs while performing emergency service;

8 (3) Any driver of any wrecker, or tow truck or a vehicle owned and operated by a
9 public utility or public service corporation while performing emergency service;

10 (4) Any person transporting equipment designed to extricate human beings from
11 the wreckage of a motor vehicle, but only while transporting such equipment in response
12 to a request from other emergency personnel to transport such equipment to the site of an
13 emergency;

14 (5) Any person designated to perform emergency functions for a civil defense or
15 emergency management agency established pursuant to the provisions of chapter 44,
16 RSMo;

17 (6) Any authorized employee of the department of corrections, who as a part of the
18 employee's official duties, is responding to a riot, disturbance, hostage incident, escape or
19 other critical situation where there is the threat of serious physical injury or death,
20 responding to mutual aid call from another criminal justice agency in an emergency
21 situation or accompanying an ambulance which is transporting an offender to a medical
22 facility when such transport is an emergency situation;

23 (7) Any person designated to perform hazardous substance emergency functions;

24 (8) Any member of an organized fire department, ambulance association, or rescue
25 squad, whether paid or volunteer, but only while responding to an emergency fire call, an
26 emergency rescue call or an emergency ambulance call or at the scene of an emergency fire
27 call, an emergency rescue call, or an emergency ambulance call.

28 2. No person other than emergency personnel shall use any device to change a
29 traffic control signal as defined in section 300.010, RSMo.

30 3. No person other than emergency personnel shall possess any device which can
31 be used to change a traffic control signal as defined in section 300.010, RSMo, unless he or
32 she possesses it for the purpose of selling such a device to emergency personnel.

33 4. No person or business entity in this state shall sell to any person, other than
34 emergency personnel, any device which can be used to change a traffic control signal, and
35 no person or business entity shall sell such a device through the use of the Internet to any
36 person in this state, other than emergency personnel.

37 5. Any person who violates the provisions of this section shall be guilty of a class
38 A misdemeanor.

404.729. 1. A person commits the crime of misuse of a power of attorney if such
2 person misuses a power of attorney in such a manner that it results in the unauthorized

3 **appropriation, sale, or transfer of funds, assets, or property for the benefit of someone**
4 **other than the principal of the power of attorney.**

5 **2. Misuse of a power of attorney is a class A misdemeanor for a first offense unless**
6 **the value of the funds, assets, or property is five hundred dollars or more in which case it**
7 **is a class C felony. A second or subsequent offense is a class C felony.**

488.5336. 1. A surcharge of [two] **three** dollars may be assessed as costs in each
2 criminal case involving violations of any county ordinance or a violation of any criminal or
3 traffic laws of the state, including infractions, or violations of municipal ordinances, provided
4 that no such fee shall be collected in any proceeding in any court when the proceeding or
5 defendant has been dismissed by the court or when costs are to be paid by the state, county or
6 municipality. For violations of the general criminal laws of the state or county ordinances, no
7 such surcharge shall be collected unless it is authorized by the county government where the
8 violation occurred. For violations of municipal ordinances, no such surcharge shall be collected
9 unless it is authorized by the municipal government where the violation occurred. If imposed
10 by a municipality, such surcharges shall be collected by the clerk of the municipal court
11 responsible for collecting court costs and fines and shall be transmitted monthly to the treasurer
12 of the municipality where the violation occurred in cases of violations of municipal ordinances.
13 If imposed by a county, such surcharges shall be collected and disbursed as provided in sections
14 488.010 to 488.020. Such surcharges shall be payable to the treasurer of the county where the
15 violation occurred in the case of violations of the general criminal laws of the state or county
16 ordinances. Without regard to whether the aforementioned surcharge is assessed, a surcharge
17 in the amount of [one dollar] **two dollars** shall be assessed as provided in this section, and shall
18 be collected and disbursed as provided in sections 488.010 to 488.020 and payable to the state
19 treasury to the credit of the peace officer standards and training commission fund created in
20 section 590.178, RSMo. Such surcharges shall be in addition to the court costs and fees and
21 limits on such court costs and fees established by section 66.110, RSMo, and section 479.260,
22 RSMo.

23 **2. Each county and municipality shall use all funds received under this section only to**
24 **pay for the training required as provided in sections 590.100 to 590.180, RSMo, or for the**
25 **training of county coroners and their deputies provided that any excess funds not allocated to pay**
26 **for such training may be used to pay for additional training of peace officers or for training of**
27 **other law enforcement personnel employed or appointed by the county or municipality and**
28 **deposit all funds in a special law enforcement training account.** No county or municipality
29 shall retain more than [one] **three** thousand five hundred dollars of such funds for each certified
30 law enforcement officer, candidate for certification employed by that agency or a coroner and
31 the coroner's deputies. Any excess funds shall be transmitted quarterly to the general revenue

32 fund of the county or municipality treasury which assessed the costs. **If a municipality or**
33 **county supplants the funds identified in this section in any way, or reduces the municipal**
34 **funding due to the existence of these funds, prohibits the lawful use of these funds, or**
35 **transfers the minimum retailed balance per person to the municipal or county general**
36 **revenue the political subdivision shall reinstate all funds declared supplanted after a**
37 **finding by the attorney general's office. The attorney general shall investigate all alleged**
38 **acts of supplanting of this fund.**

2 **488.5400. 1. In addition to any other surcharges authorized by statute, the clerk**
3 **of each court of this state shall collect the surcharges provided for in subsection 2 of this**
4 **section.**

5 **2. A surcharge of thirty dollars shall be assessed as costs in each circuit court**
6 **proceeding filed within this state in all criminal cases in which the defendant pleads guilty**
7 **or nolo contendere to or is convicted of a felony. A surcharge of fifteen dollars shall be**
8 **assessed as costs in each court proceeding filed within this state in all criminal cases in**
9 **which the defendant pleads guilty or nolo contendere to or is convicted of a misdemeanor.**
10 **A surcharge of one dollar shall be assessed as costs in each circuit court proceeding filed**
11 **within this state in all traffic-related cases in which the defendant pleads guilty or nolo**
12 **contendre to, or is convicted.**

13 **3. Notwithstanding any other provisions of law, the moneys collected by clerks of**
14 **the courts pursuant to the provisions of subsection 1 of this section shall be collected and**
15 **disbursed in accordance with section 488.010 to 488.020, and shall be payable to the state**
16 **treasurer.**

17 **4. The state treasurer shall deposit such moneys on a monthly basis into the DNA**
18 **profiling analysis fund, which is hereby created in the state treasury. The moneys**
19 **deposited into the DNA profiling analysis fund shall be used only for DNA profiling**
20 **analysis performed to fulfill the purposes of the DNA profiling system pursuant to section**
21 **650.052, RSMo. Notwithstanding the provisions of section 33.080, RSMo, moneys in the**
22 **fund shall not revert to general revenue. The state treasurer shall invest the moneys from**
23 **the fund in the same manner as other state funds are invested. Interest accruing to the**
24 **fund shall be deposited in the fund and shall not be transferred to the general revenue**
25 **fund. No moneys from the state general revenue fund shall be appropriated for the**
26 **purposes of funding the DNA profiling analysis provided for in sections 650.050 to 650.100,**
RSMo.

2 **557.036. 1. Subject to the limitation provided in subsection 3 of this section, upon**
3 **a finding of guilt upon verdict or plea, the court shall decide the extent or duration of sentence**
4 **or other disposition to be imposed under all the circumstances, having regard to the nature and**

4 circumstances of the offense and the history and character of the defendant and render judgment
5 accordingly.

6 2. [Where an offense is submitted to the jury, the trial shall proceed in two stages. At
7 the first stage, the jury shall decide only whether the defendant is guilty or not guilty of any
8 submitted offense. The issue of punishment shall not be submitted to the jury at the first stage.

9 3. If the jury at the first stage of a trial finds the defendant guilty of the submitted
10 offense, the second stage of the trial shall proceed. The issue at the second stage of the trial shall
11 be the punishment to be assessed and declared. Evidence supporting or mitigating punishment
12 may be presented. Such evidence may include, within the discretion of the court, evidence
13 concerning the impact of the crime upon the victim, the victim's family and others, the nature and
14 circumstances of the offense, and the history and character of the defendant. Rebuttal and
15 surrebuttal evidence may be presented. The state shall be the first to proceed. The court shall
16 instruct the jury as to the range of punishment authorized by statute for each submitted offense.
17 The attorneys may argue the issue of punishment to the jury, and the state shall have the right to
18 open and close the argument. The jury shall assess and declare the punishment as authorized by
19 statute.

20 4. A second stage of the trial shall not proceed and the court, and not the jury, shall
21 assess punishment if:] **The court shall instruct the jury as to the range of punishment**
22 **authorized by statute and upon a finding of guilt to assess and declare the punishment as**
23 **a part of their verdict, unless:**

24 (1) The defendant requests in writing, prior to voir dire, that the court assess the
25 punishment in case of a finding of guilt; or

26 (2) The state pleads and proves the defendant is a prior offender, persistent offender,
27 dangerous offender, or persistent misdemeanor offender as defined in section 558.016, RSMo,
28 a persistent sexual offender as defined in section 558.018, RSMo, or a predatory sexual offender
29 as defined in section 558.018, RSMo.

30

31 If the jury **finds the defendant guilty but** cannot agree on the punishment to be assessed, the
32 court shall proceed as provided in subsection 1 of this section. If **there is a trial by jury and**
33 **the jury is to assess punishment and if**, after due deliberation by the jury, the court finds the
34 jury cannot agree on punishment, then the court may instruct the jury that if it cannot agree on
35 punishment that **it may return its verdict without assessing punishment and** the court will
36 assess punishment.

37 [5.] 3. If the jury returns a verdict of guilty [in the first stage] and declares a term of
38 imprisonment [in the second stage] **as provided in subsection 2 of this section**, the court shall
39 proceed as provided in subsection 1 of this section except that any term of imprisonment

40 imposed cannot exceed the term declared by the jury unless the term declared by the jury is less
41 than the authorized lowest term for the offense, in which event the court cannot impose a term
42 of imprisonment greater than the lowest term provided for the offense.

43 [6.] 4. If the defendant is found to be a prior offender, persistent offender, dangerous
44 offender or persistent misdemeanor offender as defined in section 558.016, RSMo:

45 (1) If he has been found guilty of an offense, the court shall proceed as provided in
46 section 558.016, RSMo; or

47 (2) If he has been found guilty of a class A felony, the court may impose any sentence
48 authorized for the class A felony.

49 [7.] 5. The court shall not seek an advisory verdict from the jury in cases of prior
50 offenders, persistent offenders, dangerous offenders, persistent sexual offenders or predatory
51 sexual offenders; if an advisory verdict is rendered, the court shall not deem it advisory, but shall
52 consider it as mere surplusage.

558.016. 1. The court may sentence a person who has pleaded guilty to or has been
2 found guilty of an offense to a term of imprisonment as authorized by section 558.011 or to a
3 term of imprisonment authorized by a statute governing the offense if it finds the defendant is
4 a prior offender or a persistent misdemeanor offender, or to an extended term of imprisonment
5 if it finds the defendant is a persistent offender or a dangerous offender.

6 2. A "prior offender" is one who has pleaded guilty to or has been found guilty of one
7 felony.

8 3. A "persistent offender" is one who has pleaded guilty to or has been found guilty of
9 two or more felonies committed at different times.

10 4. A "dangerous offender" is one who:

11 (1) Is being sentenced for a felony during the commission of which he knowingly
12 murdered or endangered or threatened the life of another person or knowingly inflicted or
13 attempted or threatened to inflict serious physical injury on another person; and

14 (2) Has pleaded guilty to or has been found guilty of a class A or B felony or a dangerous
15 felony.

16 5. A "persistent misdemeanor offender" is one who has pleaded guilty to or has been
17 found guilty of two or more class A or B misdemeanors, committed at different times, which are
18 defined as offenses under chapters 195, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575,
19 and 576, RSMo.

20 6. The pleas or findings of guilty shall be prior to the date of commission of the present
21 offense.

22 7. The total authorized maximum terms of imprisonment for a persistent offender or a
23 dangerous offender are:

- 24 (1) For a class A felony, any sentence authorized for a class A felony;
25 (2) For a class B felony, any sentence authorized for a class A felony;
26 (3) For a class C felony, any sentence authorized for a class B felony;
27 (4) For a class D felony, any sentence authorized for a class C felony.

28 8. An offender convicted of a nonviolent class C or class D felony **on or after June 27,**
29 **2003**, with no prior prison commitments, after serving one hundred twenty days of his or her
30 sentence, may, in writing, petition the court to serve the remainder of his or her sentence on
31 probation, parole, or other court-approved alternative sentence. No hearing shall be conducted
32 unless the court deems it necessary. Upon the offender petitioning the court, the department of
33 corrections shall submit a report to the sentencing court which evaluates the conduct of the
34 offender while in custody, alternative custodial methods available to the offender, and shall
35 recommend whether the offender be released or remain in custody. If the report issued by the
36 department is favorable and recommends probation, parole, or other alternative sentence, the
37 court shall follow the recommendations of the department if the court deems it appropriate. Any
38 placement of an offender pursuant to section 559.115, RSMo, shall be excluded from the
39 provisions of this subsection. **This subsection shall not apply to any conviction occurring**
40 **before June 27, 2003.**

558.019. 1. This section shall not be construed to affect the powers of the governor
2 under article IV, section 7, of the Missouri Constitution. This statute shall not affect those
3 provisions of section 565.020, RSMo, section 558.018 or section 571.015, RSMo, which set
4 minimum terms of sentences, or the provisions of section 559.115, RSMo, relating to probation.

5 2. The provisions of subsections 2 to 5 of this section shall be applicable to all classes
6 of felonies except those set forth in chapter 195, RSMo, and those otherwise excluded in
7 subsection 1 of this section. For the purposes of this section, "prison commitment" means and
8 is the receipt by the department of corrections of an offender after sentencing. For purposes of
9 this section, prior prison commitments to the department of corrections shall not include
10 commitment to a regimented discipline program established pursuant to section 217.378, RSMo.
11 Other provisions of the law to the contrary notwithstanding, any offender who has pleaded guilty
12 to or has been found guilty of a felony other than a dangerous felony as defined in section
13 556.061, RSMo, and is committed to the department of corrections shall be required to serve the
14 following minimum prison terms:

- 15 (1) If the offender has one previous prison commitment to the department of corrections
16 for a felony offense, the minimum prison term which the offender must serve shall be forty
17 percent of his or her sentence or until the offender attains seventy years of age, and has served
18 at least thirty percent of the sentence imposed, whichever occurs first;
19 (2) If the offender has two previous prison commitments to the department of corrections

20 for felonies unrelated to the present offense, the minimum prison term which the offender must
21 serve shall be fifty percent of his or her sentence or until the offender attains seventy years of
22 age, and has served at least forty percent of the sentence imposed, whichever occurs first;

23 (3) If the offender has three or more previous prison commitments to the department of
24 corrections for felonies unrelated to the present offense, the minimum prison term which the
25 offender must serve shall be eighty percent of his or her sentence or until the offender attains
26 seventy years of age, and has served at least forty percent of the sentence imposed, whichever
27 occurs first.

28 3. Other provisions of the law to the contrary notwithstanding, any offender who has
29 pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061,
30 RSMo, and is committed to the department of corrections shall be required to serve a minimum
31 prison term of eighty-five percent of the sentence imposed by the court or until the offender
32 attains seventy years of age, and has served at least forty percent of the sentence imposed,
33 whichever occurs first.

34 4. For the purpose of determining the minimum prison term to be served, the following
35 calculations shall apply:

36 (1) A sentence of life shall be calculated to be thirty years;

37 (2) Any sentence either alone or in the aggregate with other consecutive sentences for
38 crimes committed at or near the same time which is over seventy-five years shall be calculated
39 to be seventy-five years.

40 5. For purposes of this section, the term "minimum prison term" shall mean time
41 required to be served by the offender before he or she is eligible for parole, conditional release
42 or other early release by the department of corrections. [Except that the board of probation and
43 parole, in the case of consecutive sentences imposed at the same time pursuant to a course of
44 conduct constituting a common scheme or plan, shall be authorized to convert consecutive
45 sentences to concurrent sentences, when the board finds, after hearing with notice to the
46 prosecuting or circuit attorney, that the sum of the terms results in an unreasonably excessive
47 total term, taking into consideration all factors related to the crime or crimes committed and the
48 sentences received by others similarly situated.]

49 6. (1) A sentencing advisory commission is hereby created to consist of eleven
50 members. One member shall be appointed by the speaker of the house. One member shall be
51 appointed by the president pro tem of the senate. One member shall be the director of the
52 department of corrections. Six members shall be appointed by and serve at the pleasure of the
53 governor from among the following: the public defender commission; private citizens; a private
54 member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members
55 shall be appointed by the supreme court, one from a metropolitan area and one from a rural area.

56 All members shall be appointed to a four-year term. All members of the sentencing commission
57 appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory
58 commission at the pleasure of the governor.

59 (2) The commission shall study sentencing practices in the circuit courts throughout the
60 state for the purpose of determining whether and to what extent disparities exist among the
61 various circuit courts with respect to the length of sentences imposed and the use of probation
62 for offenders convicted of the same or similar crimes and with similar criminal histories. The
63 commission shall also study and examine whether and to what extent sentencing disparity among
64 economic and social classes exists in relation to the sentence of death and if so, the reasons
65 therefor sentences are comparable to other states, if the length of the sentence is appropriate, and
66 the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw
67 conclusions, and perform other duties relevant to the research and investigation of disparities in
68 death penalty sentencing among economic and social classes.

69 (3) The commission shall establish a system of recommended sentences, within the
70 statutory minimum and maximum sentences provided by law for each felony committed under
71 the laws of this state. This system of recommended sentences shall be distributed to all
72 sentencing courts within the state of Missouri. The recommended sentence for each crime shall
73 take into account, but not be limited to, the following factors:

74 (a) The nature and severity of each offense;

75 (b) The record of prior offenses by the offender;

76 (c) The data gathered by the commission showing the duration and nature of sentences
77 imposed for each crime; and

78 (d) The resources of the department of corrections and other authorities to carry out the
79 punishments that are imposed.

80 (4) The commission shall study alternative sentences, prison work programs, work
81 release, home-based incarceration, probation and parole options, and any other programs and
82 report the feasibility of these options in Missouri.

83 (5) The commission shall publish and distribute its recommendations on or before July
84 1, 2004. The commission shall study the implementation and use of the recommendations until
85 July 1, 2005, and return a report to the governor, the speaker of the house of representatives, and
86 the president pro tem of the senate. Following the July 1, 2005, report, the commission shall
87 revise the recommended sentences every two years.

88 (6) The governor shall select a chairperson who shall call meetings of the commission
89 as required or permitted pursuant to the purpose of the sentencing commission.

90 (7) The members of the commission shall not receive compensation for their duties on
91 the commission, but shall be reimbursed for actual and necessary expenses incurred in the

92 performance of these duties and for which they are not reimbursed by reason of their other paid
93 positions.

94 (8) The circuit and associate circuit courts of this state, the office of the state courts
95 administrator, the department of public safety, and the department of corrections shall cooperate
96 with the commission by providing information or access to information needed by the
97 commission. The office of the state courts administrator will provide needed staffing resources.

98 7. [Courts shall retain discretion to lower or exceed the sentence recommended by the
99 commission as otherwise allowable by law, and to order restorative justice methods, when
100 applicable.] **If the imposition or execution of a sentence is suspended, the court may**
101 **consider ordering restorative justice methods pursuant to section 217.777, RSMo, including**
102 **any or all of the following, or any other method that the court finds just or appropriate:**

- 103 (1) **Restitution to any victim for costs incurred as a result of the offender's actions;**
104 (2) **Offender treatment programs;**
105 (3) **Mandatory community services;**
106 (4) **Work release programs in local facilities; and**
107 (5) **Community-based residential and nonresidential programs.**

108 8. If the imposition or execution of a sentence is suspended, **in addition to the**
109 **provisions of subsection 7 of this section,** the court may order [any or all of the following
110 restorative justice methods, or any other method that the court finds just or appropriate:

- 111 (1) Restitution to any victim for costs incurred as a result of the offender's actions;
112 (2) Offender treatment programs;
113 (3) Mandatory community service;
114 (4) Work release programs in local facilities; and
115 (5) Community-based residential and nonresidential programs.] **the assessment and**
116 **payment of a designated amount of money to a county law enforcement restitution fund**
117 **established by the county commission pursuant to section 50.565, RSMo. Such**
118 **contribution shall not exceed two hundred seventy-five dollars for any charged offense.**
119 **Any money deposited into the county law enforcement restitution fund pursuant to this**
120 **section shall only be expended pursuant to the provisions of section 50.565, RSMo. County**
121 **law enforcement restitution funds shall be audited as are all other county funds.**

122 9. The provisions of this section shall apply only to offenses occurring on or after August
123 28, [2003] **2004.**

559.021. 1. The conditions of probation shall be such as the court in its discretion deems
2 reasonably necessary to ensure that the defendant will not again violate the law. When a
3 defendant is placed on probation he shall be given a certificate explicitly stating the conditions
4 on which he is being released.

5 2. In addition to such other authority as exists to order conditions of probation, the court
6 may order such conditions as the court believes will serve to compensate the victim, any
7 dependent of the victim, or society. Such conditions may include, but shall not be limited to:

8 (1) Restitution to the victim or any dependent of the victim, in an amount to be
9 determined by the judge; and

10 (2) The performance of a designated amount of free work for a public or charitable
11 purpose, or purposes, as determined by the judge.

12 **3. In addition to such other authority as exists to order conditions of probation, in**
13 **the case of a plea of guilty or a finding of guilt, the court may order the assessment and**
14 **payment of a designated amount of money to a county law enforcement restitution fund**
15 **established by the county commission pursuant to section 50.565, RSMo. Such**
16 **contribution shall not exceed two hundred seventy-five dollars for any charged offense.**
17 **Any money deposited into the county law enforcement restitution fund pursuant to this**
18 **section shall only be expended pursuant to the provisions of section 50.565, RSMo. County**
19 **law enforcement restitution funds shall be audited as are all other county funds.**

20 [3.] **4.** The defendant may refuse probation conditioned on the performance of free work.
21 If he does so, the court shall decide the extent or duration of sentence or other disposition to be
22 imposed and render judgment accordingly. Any county, city, person, organization, or agency,
23 or employee of a county, city, organization or agency charged with the supervision of such free
24 work or who benefits from its performance shall be immune from any suit by the defendant or
25 any person deriving a cause of action from him if such cause of action arises from such
26 supervision of performance, except for an intentional tort or gross negligence. The services
27 performed by the defendant shall not be deemed employment within the meaning of the
28 provisions of chapter 288, RSMo. A defendant performing services pursuant to this section shall
29 not be deemed an employee within the meaning of the provisions of chapter 287, RSMo.

30 [4.] **5.** The court may modify or enlarge the conditions of probation at any time prior to
31 the expiration or termination of the probation term.

32 **6. The defendant may refuse probation conditioned on a payment to a county law**
33 **enforcement restitution fund. If he or she does so, the court shall decide the extent or**
34 **duration of sentence or other disposition to be imposed and render judgment accordingly.**
35 **A judge may order payment to a law enforcement restitution fund only if such fund had**
36 **been created prior to sentencing by ordinance or resolution of a county of the state of**
37 **Missouri. A judge shall not have any direct supervisory authority or administrative**
38 **control over any fund to which the judge is ordering the probationers to make payments.**
39 **A defendant who fails to make a payment or payments to a county law enforcement**
40 **restitution fund may not have his or her probation revoked solely for failing to make such**

41 **payment unless the judge, after evidentiary hearing, makes a finding supported by a**
42 **preponderance of the evidence that the defendant either willfully refused to make the**
43 **payment or that the defendant willfully, intentionally, and purposefully failed to make**
44 **sufficient bona fide efforts to acquire the resources to pay.**

45 **565.087. 1. A person commits the crime of endangering a corrections employee if**
46 **such person is an offender or prisoner and such person attempts to cause or knowingly**
47 **causes a corrections employee to come into contact with a substance, including but not**
48 **limited to blood, seminal fluid, urine, feces, or saliva.**

49 **2. As used in this section the following terms shall mean:**

50 **(1) "Offender", a person in the custody of the department of corrections;**

51 **(2) "Prisoner", a person confined in a county or city jail;**

52 **(3) "Corrections employee", a person who is an employee of a department or**
53 **agency responsible for operating a jail, prison, or correctional facility, or a person who is**
54 **assigned to work in a jail, prison, or correctional facility.**

55 **3. Endangering a corrections employee is a class D felony unless the substance is**
56 **unidentifiable in which case it is a class A misdemeanor, except that if an offender or**
57 **prisoner knows that he or she is infected with the human immunodeficiency virus (HIV),**
58 **hepatitis B, or hepatitis C and in the course of committing the crime exposes another**
59 **person to HIV, hepatitis B, or hepatitis C, then it is a class B felony.**

2 **565.092. 1. [An inmate,] A patient or respondent is guilty of aggravated harassment of**
3 **an employee when, with intent to harass, annoy, threaten or alarm a person in a facility whom**
4 **the person knows or reasonably should know to be an employee of such facility [or of the**
5 **department of corrections] or the department of mental health or to be an employee of any law**
6 **enforcement agency, the person causes or attempts to cause such employee to come into contact**
7 **with blood, seminal fluid, urine or feces, by throwing, tossing or expelling such fluid or material.**

8 **2. For the purposes of this section, ["inmate" means an offender, as defined in section**
9 **217.010, RSMo, or any person incarcerated in a local detention facility. For the purposes of this**
10 **section,] "patient" means any person who is a patient in a facility operated by the department of**
11 **mental health. For purposes of this section, "respondent" means a juvenile in a secure facility**
12 **operated and maintained by the division of youth services. For purposes of this section, "facility"**
13 **means a [correctional facility or local correctional facility,] hospital operated by the department**
14 **of mental health or a secure facility operated by the division of youth services.**

15 **3. [No person convicted and serving a sentence for the crime of aggravated harassment**
16 **of an employee pursuant to the provisions of this section shall be eligible to participate in a work**
17 **release program pursuant to section 217.435, RSMo.**

4.] **Any person who violates the provisions of this section is guilty of a class A**

18 misdemeanor.

575.150. 1. A person commits the crime of resisting or interfering with arrest, detention, or stop if, knowing that a law enforcement officer is making an arrest, or attempting to lawfully detain or stop an individual or vehicle, or the person reasonably should know that a law enforcement officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle, for the purpose of preventing the officer from effecting the arrest, stop or detention, the person:

(1) Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or

(2) Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference; or

(3) Interferes with the arrest, stop or detention of any person by providing false information to a law enforcement officer regarding the person's name, address, date of birth, or Social Security number.

2. This section applies to arrests, stops or detentions with or without warrants and to arrests, stops or detentions for any crime, infraction or ordinance violation.

3. A person is presumed to be fleeing a vehicle stop if that person continues to operate a motor vehicle after that person has seen or should have seen clearly visible emergency lights or has heard or should have heard an audible signal emanating from the law enforcement vehicle pursuing that person.

4. It is no defense to a prosecution pursuant to subsection 1 of this section that the law enforcement officer was acting unlawfully in making the arrest. However, nothing in this section shall be construed to bar civil suits for unlawful arrest.

5. Resisting or interfering with an arrest for a felony is a class D felony. Resisting an arrest, **detention or stop** by fleeing in such a manner that the person fleeing creates a substantial risk of serious physical injury or death to any person is a class D felony; otherwise, resisting or interfering with an arrest, detention or stop **in violation of subdivision (1) or (2) of subsection 1 of this section** is a class A misdemeanor, **and resisting arrest or interfering with an arrest, detention or stop in violation of subdivision (3) of subsection 1 of this section is a class C misdemeanor.**

575.195. 1. A person commits the crime of escape from commitment if he **or she** has been committed to a state mental hospital under the provisions of [sections 202.700 to 202.770 or of] sections 552.010 to 552.080, RSMo, **or of sections 632.480 to 632.513, RSMo**, and he **or she** escapes from commitment.

2. Escape from commitment is a class D felony.

577.041. 1. **Except as provided in subsection 9 of this section**, if a person under

2 arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section
3 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section
4 577.020, then none shall be given and evidence of the refusal shall be admissible in a proceeding
5 pursuant to section 565.024 or 565.060, RSMo, or section 577.010 or 577.012. The request of
6 the officer shall include the reasons of the officer for requesting the person to submit to a test and
7 also shall inform the person that evidence of refusal to take the test may be used against such
8 person and that the person's license shall be immediately revoked upon refusal to take the test.
9 If a person when requested to submit to any test allowed pursuant to section 577.020 requests
10 to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact
11 an attorney. If upon the completion of the twenty-minute period the person continues to refuse
12 to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the
13 director of revenue, serve the notice of license revocation personally upon the person and shall
14 take possession of any license to operate a motor vehicle issued by this state which is held by that
15 person. The officer shall issue a temporary permit, on behalf of the director of revenue, which
16 is valid for fifteen days and shall also give the person a notice of such person's right to file a
17 petition for review to contest the license revocation.

18 2. The officer shall make a sworn report to the director of revenue, which shall include
19 the following:

20 (1) That the officer has:

21 (a) Reasonable grounds to believe that the arrested person was driving a motor vehicle
22 while in an intoxicated or drugged condition; or

23 (b) Reasonable grounds to believe that the person stopped, being under the age of
24 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths
25 of one percent or more by weight; or

26 (c) Reasonable grounds to believe that the person stopped, being under the age of
27 twenty-one years, was committing a violation of the traffic laws of the state, or political
28 subdivision of the state, and such officer has reasonable grounds to believe, after making such
29 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

30 (2) That the person refused to submit to a chemical test;

31 (3) Whether the officer secured the license to operate a motor vehicle of the person;

32 (4) Whether the officer issued a fifteen-day temporary permit;

33 (5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice
34 of the right to file a petition for review, which notices and permit may be combined in one
35 document; [and]

36 (6) Any license to operate a motor vehicle which the officer has taken into possession.

37 3. Upon receipt of the officer's report, the director shall revoke the license of the person

38 refusing to take the test for a period of one year; or if the person is a nonresident, such person's
39 operating permit or privilege shall be revoked for one year; or if the person is a resident without
40 a license or permit to operate a motor vehicle in this state, an order shall be issued denying the
41 person the issuance of a license or permit for a period of one year.

42 4. If a person's license has been revoked because of the person's refusal to submit to a
43 chemical test, such person may petition for a hearing before a circuit or associate circuit court
44 in the county in which the arrest or stop occurred. The person may request such court to issue
45 an order staying the revocation until such time as the petition for review can be heard. If the
46 court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the
47 director of revenue and shall send a copy of such order to the director. Such order shall serve
48 as proof of the privilege to operate a motor vehicle in this state and the director shall maintain
49 possession of the person's license to operate a motor vehicle until termination of any revocation
50 pursuant to this section. Upon the person's request the clerk of the court shall notify the
51 prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the
52 director of revenue. At the hearing the court shall determine only:

53 (1) Whether or not the person was arrested or stopped;

54 (2) Whether or not the officer had:

55 (a) Reasonable grounds to believe that the person was driving a motor vehicle while in
56 an intoxicated or drugged condition; or

57 (b) Reasonable grounds to believe that the person stopped, being under the age of
58 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths
59 of one percent or more by weight; or

60 (c) Reasonable grounds to believe that the person stopped, being under the age of
61 twenty-one years, was committing a violation of the traffic laws of the state, or political
62 subdivision of the state, and such officer had reasonable grounds to believe, after making such
63 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

64 (3) Whether or not the person refused to submit to the test.

65 5. If the court determines any issue not to be in the affirmative, the court shall order the
66 director to reinstate the license or permit to drive.

67 6. Requests for review as provided in this section shall go to the head of the docket of
68 the court wherein filed.

69 7. No person who has had a license to operate a motor vehicle suspended or revoked
70 pursuant to the provisions of this section shall have that license reinstated until such person has
71 participated in and successfully completed a substance abuse traffic offender program defined
72 in section 577.001, or a program determined to be comparable by the department of mental
73 health or the court. Assignment recommendations, based upon the needs assessment as

74 described in subdivision (22) of section 302.010, RSMo, shall be delivered in writing to the
75 person with written notice that the person is entitled to have such assignment recommendations
76 reviewed by the court if the person objects to the recommendations. The person may file a
77 motion in the associate division of the circuit court of the county in which such assignment was
78 given, on a printed form provided by the state courts administrator, to have the court hear and
79 determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name
80 the person or entity making the needs assessment as the respondent and a copy of the motion
81 shall be served upon the respondent in any manner allowed by law. Upon hearing the motion,
82 the court may modify or waive any assignment recommendation that the court determines to be
83 unwarranted based upon a review of the needs assessment, the person's driving record, the
84 circumstances surrounding the offense, and the likelihood of the person committing a like
85 offense in the future, except that the court may modify but may not waive the assignment to an
86 education or rehabilitation program of a person determined to be a prior or persistent offender
87 as defined in section 577.023, or of a person determined to have operated a motor vehicle with
88 fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with
89 the court determination of the motion shall satisfy the provisions of this section for the purpose
90 of reinstating such person's license to operate a motor vehicle. The respondent's personal
91 appearance at any hearing conducted pursuant to this subsection shall not be necessary unless
92 directed by the court.

93 8. The fees for the substance abuse traffic offender program, or a portion thereof to be
94 determined by the division of alcohol and drug abuse of the department of mental health, shall
95 be paid by the person enrolled in the program. Any person who is enrolled in the program shall
96 pay, in addition to any fee charged for the program, a supplemental fee to be determined by the
97 department of mental health for the purposes of funding the substance abuse traffic offender
98 program defined in section 302.010, RSMo, and section 577.001. The administrator of the
99 program shall remit to the division of alcohol and drug abuse of the department of mental health
100 on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the
101 program, less two percent for administrative costs. Interest shall be charged on any unpaid
102 balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this
103 section and shall accrue at a rate not to exceed the annual rates established pursuant to the
104 provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and
105 any interest received by the department of mental health pursuant to this section shall be
106 deposited in the mental health earnings fund which is created in section 630.053, RSMo.

107 9. Any administrator who fails to remit to the division of alcohol and drug abuse of the
108 department of mental health the supplemental fees and interest for all persons enrolled in the
109 program pursuant to this section shall be subject to a penalty equal to the amount of interest

110 accrued on the supplemental fees due the division pursuant to this section. If the supplemental
111 fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the
112 department of mental health within six months of the due date, the attorney general of the state
113 of Missouri shall initiate appropriate action of the collection of said fees and interest accrued.
114 The court shall assess attorney fees and court costs against any delinquent program.

115 **10. Even though a person has refused to submit to any test allowed pursuant to**
116 **subdivision (2) or (3) of subsection 1 of section 577.020, blood, saliva, or urine may still be**
117 **collected from such person if the officer has a valid search warrant for such blood, saliva,**
118 **or urine. The fact that such evidence was obtained through the use of a search warrant**
119 **does not negate the person's refusal to submit to any test and such person shall still have**
120 **his or her license revoked pursuant to subsection 3 of this section for refusal to submit to**
121 **any test.**

577.500. 1. A court of competent jurisdiction shall, upon a plea of guilty, conviction or
2 finding of guilt, or, if the court is a juvenile court, upon a finding of fact that the offense was
3 committed by a juvenile, enter an order suspending or revoking the driving privileges of any
4 person determined to have committed one of the following offenses and who, at the time said
5 offense was committed, was under twenty-one years of age:

6 (1) Any alcohol related traffic offense in violation of state law or a county or, beginning
7 July 1, 1992, municipal ordinance, where [the judge in such case was an attorney and] the
8 defendant was represented by or waived the right to an attorney in writing;

9 (2) Any offense in violation of state law or, beginning July 1, 1992, a county or
10 municipal ordinance, where [the judge in such case was an attorney and] the defendant was
11 represented by or waived the right to an attorney in writing, involving the possession or use of
12 alcohol, committed while operating a motor vehicle;

13 (3) Any offense involving the possession or use of a controlled substance as defined in
14 chapter 195, RSMo, in violation of the state law or, beginning July 1, 1992, a county or
15 municipal ordinance, where [the judge in such case was an attorney and] the defendant was
16 represented by or waived the right to an attorney in writing;

17 (4) Any offense involving the alteration, modification or misrepresentation of a license
18 to operate a motor vehicle in violation of section 311.328, RSMo;

19 (5) Any offense in violation of state law or, beginning July 1, 1992, a county or
20 municipal ordinance, where [the judge in such case was an attorney and] the defendant was
21 represented by or waived the right to an attorney in writing, involving the possession or use of
22 alcohol for a second time; except that a determination of guilt or its equivalent shall have been
23 made for the first offense and both offenses shall have been committed by the person when the
24 person was under eighteen years of age.

25 2. The court shall require the surrender to it of any license to operate a motor vehicle
26 then held by any person against whom a court has entered an order suspending or revoking
27 driving privileges under subsection 1 of this section.

28 3. The court, if other than a juvenile court, shall forward to the director of revenue the
29 order of suspension or revocation of driving privileges and any licenses acquired under
30 subsection 2 of this section.

31 4. (1) The court, if a juvenile court, shall forward to the director of revenue the order
32 of suspension or revocation of driving privileges and any licenses acquired under subsection 2
33 of this section for any person sixteen years of age or older, the provision of chapter 211, RSMo,
34 to the contrary notwithstanding.

35 (2) The court, if a juvenile court, shall hold the order of suspension or revocation of
36 driving privileges for any person less than sixteen years of age until thirty days before the
37 person's sixteenth birthday, at which time the juvenile court shall forward to the director of
38 revenue the order of suspension or revocation of driving privileges, the provision of chapter 211,
39 RSMo, to the contrary notwithstanding.

40 5. The period of suspension for a first offense under this section shall be ninety days.
41 Any second or subsequent offense under this section shall result in revocation of the offender's
42 driving privileges for one year.

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] **All** offenses under chapter 569, RSMo[, which are related
14 to 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, **or trafficking** of a substance prohibited by chapter 195,
18 RSMo;

- 19 (e) Unlawful use of a weapon which is a felony pursuant to section 571.030, RSMo;
20 (f) Tampering with witnesses and victims, as provided in section 575.270, RSMo;
21 **(g) All felony stealing offenses as provided under section 570.030, RSMo.**

650.050. 1. **In any criminal trial or proceeding, the results of forensic DNA analysis shall be admissible in evidence to prove or disprove any relevant fact.** The Missouri department of public safety shall develop and establish a "DNA Profiling System", referred to in sections 650.050 to 650.057 as the system to [support criminal justice services in the local communities throughout this state in DNA identification] **assist federal, state, and local criminal justice and law enforcement agencies in the identification, investigation, and prosecution of individuals as well as the identification of missing and unidentified persons.** [This establishment] **The DNA profiling system** shall be accomplished through consultation with the Kansas City, Missouri regional **police** crime laboratory, Missouri state highway patrol crime laboratory, St. Louis, Missouri metropolitan crime laboratory, St. Louis county crime laboratory, southeast Missouri regional crime laboratory, Springfield regional crime laboratory, and the Missouri Southern State College police academy regional crime lab.

2. The DNA profiling system as established in this section shall be compatible with that used by the Federal Bureau of Investigation to ensure that DNA records are fully exchangeable between DNA laboratories and that quality assurance standards issued by the director of the Federal Bureau of Investigations are applied and performed.

650.052. 1. The state's DNA profiling system shall:

(1) Assist federal, state and local criminal justice and law enforcement agencies in the [putative] identification, detection or exclusion of individuals who are subjects of the investigation or prosecution of [violent or sex-related crime] **criminal offenses** in which biological evidence is recovered [from the crime scene]; and

(2) [Support] **If personally identifiable information is removed, support development of forensic validation studies, forensic protocols, and the establishment and maintenance of a population statistics database, [when personal identifying information is removed] or support development of forensic validation studies, forensic protocols or the establishment and maintenance of a population statistics database, for federal, state, or local crime laboratories or law enforcement agencies; and**

(3) [Support identification research and protocol development of forensic DNA analysis methods; and

(4) For quality control purposes; or

(5) Assist in the recovery or identification of human remains from mass disasters, or for other humanitarian purposes, including identification of living missing persons.

2. The Missouri state highway patrol shall act as the central repository for the DNA

18 profiling system and shall [coordinate with the Federal Bureau of Investigation on the national
19 database program] **collaborate with the Federal Bureau of Investigation and other criminal**
20 **justice agencies relating to the state's participation in CODIS and the national DNA**
21 **identification index or in any DNA database.**

22 3. The Missouri state highway patrol **crime laboratory** may promulgate rules **and**
23 **regulations to implement the provisions of sections 650.050 to 650.057** in accordance with
24 Federal Bureau of Investigation recommendations for the form and manner of collection of blood
25 or other scientifically accepted biological samples and other procedures for the operation of
26 sections 650.050 to 650.057. No rule or portion of a rule promulgated pursuant to the authority
27 of this section shall become effective unless it has been promulgated pursuant to the provisions
28 of section 536.024, RSMo.

29 4. The Missouri state highway patrol shall provide the necessary components for
30 collection of the convicted offender's biological samples. **The DNA sample collection shall be**
31 **performed by the Missouri department of corrections and Missouri department of**
32 **probation and parole or their authorized designee, or contracted third party.** The
33 specimens shall thereafter be forwarded to the Missouri state highway patrol crime laboratory.

34 5. The state's **participating** forensic DNA laboratories shall meet quality assurance
35 standards specified by the Missouri state highway patrol **crime laboratory** and the Federal
36 Bureau of Investigation to ensure quality DNA identification records submitted to the central
37 repository.

38 6. The state's **participating** forensic DNA laboratories may provide the system for
39 identification purposes to criminal justice, law enforcement officials and prosecutors in the
40 preparation and utilization of DNA evidence for presentation in court and provide expert
41 testimony in court on DNA evidentiary issues.

650.055. 1. Every individual **who pleads guilty or nolo contendere to or is** convicted
2 in a Missouri circuit court, of a felony[, defined as a violent offense under chapter 565, RSMo,]
3 or [as a sex] **any** offense under chapter 566, RSMo, [excluding sections 566.010 and 566.020,
4 RSMo,] shall have a blood or scientifically accepted biological sample collected for purposes
5 of DNA profiling analysis:

6 (1) Upon entering the department of correction's reception and diagnostic centers; or

7 (2) Before release from a county jail or detention facility, **state correctional facility,**
8 **mental health facility, or any other detention facility or institution;** or

9 (3) **When the state accepts a person from another state under any interstate**
10 **compact, or under any other reciprocal agreement with any county, state, or federal**
11 **agency, or any other provision of law, whether the person is confined or released, the**
12 **acceptance is conditional on the person providing a DNA sample if the person was**

13 convicted of, pleaded guilty to, or pleaded nolo contendere to an offense in any other
14 jurisdiction which would be considered a qualifying offense as defined in this section if
15 committed in this state, or if the person was convicted of, pleaded guilty to, or pleaded nolo
16 contendere to any equivalent offense in any other jurisdiction;

17 (4) If such individual is under the jurisdiction of the department of corrections [on or
18 after August 28, 1996]. Such jurisdiction includes persons currently incarcerated, persons on
19 probation, as defined in section 217.650, RSMo, and on parole, as also defined in section
20 217.650, RSMo. **Such individual shall not be released in any manner prior to the**
21 **expiration of the person's maximum term of incarceration or supervised release unless and**
22 **until that person has provided a DNA sample.**

23 2. The Missouri state highway patrol and department of corrections shall be responsible
24 for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to
25 this section shall be required to provide such sample, without the right of refusal, at a collection
26 site designated by the Missouri state highway patrol and the department of corrections.
27 Authorized personnel collecting or assisting in the collection of samples shall not be liable in any
28 civil or criminal action when the act is performed in a reasonable manner. Such force may be
29 used as necessary to the effectual carrying out and application of such processes and operations.
30 The enforcement of these provisions by the authorities in charge of state correctional institutions
31 and others having custody [of] **or jurisdiction over those who have been convicted of [the],**
32 **pleaded guilty to, or pleaded nolo contendere to felony offenses** which shall not be set aside
33 or reversed, is hereby made mandatory. **In the event that a person's DNA sample is not**
34 **adequate for any reason, the person shall provide another sample for analysis.**

35 3. The procedure and rules for the collection, analysis, storage, expungement, use of
36 DNA database records and privacy concerns shall not conflict with procedures and rules
37 applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA
38 data bank system.

39 4. **Database information or evidence of a DNA match shall neither be excluded**
40 **from evidence in the trial of any case, nor shall any identification, detention, arrest, or**
41 **warrant be invalidated, suppressed, excluded, or conviction or plea of a person, based in**
42 **whole or in part upon databasing information, or a database match, be reversed or set**
43 **aside if it is determined that an offender's DNA sample was obtained or placed in the**
44 **database by mistake.**

45 5. Unauthorized uses or dissemination of individually identifiable DNA information in
46 a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

47 [5.] 6. Implementation of section 650.050 and this section shall be subject to future
48 appropriations to keep Missouri's DNA system compatible with the Federal Bureau of

49 Investigation's DNA data bank system.

50 **7. All DNA records and biological materials retained in the DNA profiling system**
51 **are considered closed records pursuant to chapter 610, RSMo. All records containing any**
52 **information held or maintained by any person or by any agency, department, or political**
53 **subdivision of the state concerning an individual's DNA profile shall be strictly confidential**
54 **and shall not be disclosed, except to:**

55 **(1) Peace officers, as defined in section 590.010, RSMo;**

56 **(2) The attorney general or any assistant attorneys general acting on his or her**
57 **behalf, as defined in chapter 27, RSMo;**

58 **(3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo; or**

59 **(4) Public employees of any agency, department, or political subdivision who need**
60 **to obtain such records to perform their public duties.**

61 **9. Any person who obtains records pursuant to the provisions of this section shall**
62 **use such records only for investigative and prosecutorial purposes, including but not**
63 **limited to, use at any criminal trial, hearing, or proceeding; or for law enforcement**
64 **identification purposes, including identification of human remains. Such records shall be**
65 **considered strictly confidential and shall only be released as authorized by this section.**

66 **10. An individual may request expungement of his or her DNA sample and DNA**
67 **profile through the court issuing the reversal or dismissal. A certified copy of the court**
68 **order establishing that such conviction has been reversed or the guilty plea, or plea of nolo**
69 **contendere has been set aside shall be sent to the Missouri state highway patrol crime**
70 **laboratory. Upon receipt of the court order, the laboratory shall determine that the**
71 **requesting individual has no other qualifying offense as a result of any separate plea or**
72 **conviction prior to expungement.**

73 **11. A person whose DNA record or DNA profile has been included in the state DNA**
74 **database in accordance with the provisions of sections 650.050 to 650.057 may request**
75 **expungement on the grounds that the conviction has been reversed, or the guilty plea or**
76 **plea of nolo contendere on which the authority for including that person's DNA record or**
77 **DNA profile was based has been set aside.**

78 **12. Upon receipt of a written request for expungement, a certified copy of the final**
79 **court order reversing the conviction or setting aside the plea, and any other information**
80 **necessary to ascertain the validity of the request, the Missouri state highway patrol crime**
81 **laboratory shall expunge all DNA records and identifiable information in the database**
82 **pertaining to the person and destroy the DNA sample of the person, unless the Missouri**
83 **state highway patrol determines that the person is otherwise obligated to submit a DNA**
84 **sample.**

85 **13. The Missouri state highway patrol is not required to destroy any item of**
86 **physical evidence obtained from a DNA sample if evidence relating to another person**
87 **would thereby be destroyed.**

88 **14. Any identification, warrant, arrest, or evidentiary use of a DNA match derived**
89 **from the database shall not be excluded or suppressed from evidence, nor shall any**
90 **conviction be invalidated or reversed or plea set aside due to the failure to expunge or a**
91 **delay in expunging DNA records.**

 650.100. The following words shall have the following meanings unless a different
2 meaning clearly appears from the context:

3 **(1) "CODIS", is derived from the Federal Bureau of Investigation's combined DNA**
4 **index system that allows the storage and exchange of DNA records submitted by federal,**
5 **state, and local DNA crime laboratories. The term CODIS includes the national DNA**
6 **identification index administered and operated by the Federal Bureau of Investigation;**

7 **(2) "Crime laboratories" means those crime laboratories existing on September 28, 1979,**
8 **in certain cities in this state and which have at least once prior to September 28, 1979, received**
9 **funding through the Missouri council on criminal justice, and such other crime laboratories that**
10 **may be created to serve specified regions of the state as determined by the director of the**
11 **department of public safety;**

12 **[(2)] (3) "Department" means the Missouri department of public safety;**

13 **(4) "DNA", means deoxyribonucleic acid. DNA is located in the cells and provides**
14 **an individual's personal genetic blueprint. DNA encodes genetic information that is the**
15 **basis of human heredity and forensic identification;**

16 **(5) "DNA record", means the DNA identification information stored in the state**
17 **DNA database or CODIS. The DNA record is the result obtained from the DNA analysis.**
18 **The DNA record is comprised of the characteristics of a DNA sample, which are of value**
19 **in establishing the identity of individuals;**

20 **(6) "DNA profile", refers to the collective results of all DNA identification analyses**
21 **on an individual's DNA sample;**

22 **(7) "DNA sample", is a biological sample provided by any person with respect to**
23 **offenses covered by section 650.055 or submitted to the Missouri state highway patrol**
24 **crime laboratory pursuant to the provisions of sections 650.050 to 650.057 for analysis or**
25 **storage or both;**

26 **[(3)] (8) "Local funds" means any funds not provided by the federal government.**

27 **Section 1. After September 1, 2004, no fund shall be created to be used as a**
28 **depository for moneys received or collected to fund additional costs and expenses incurred**
29 **by any county office. Any money received or collected to fund additional costs and**

30 **expenses incurred by any county office, excluding any moneys collected pursuant to any**
31 **section in effect before September 1, 2004, shall be deposited in the general revenue fund**
32 **of the county.**

Section B. Because of the immediate danger posed to the public from sexual predators
2 escaping from mental institutions without penalty, and the premature release of felons from
3 prison, the repeal and reenactment of sections 558.016 and 575.195 of section A of this act is
4 deemed necessary for the immediate preservation of the public health, welfare, peace, and safety,
5 and is hereby declared to be an emergency act within the meaning of the constitution, and the
6 repeal and reenactment of sections 558.016 and 575.195 of section A of this act shall be in full
7 force and effect upon its passage and approval.