

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NOS. 1243, 1094 & 931

1 AN ACT

2 To repeal sections 1.160, 43.530, 43.540,
3 50.550, 302.060, 302.309, 302.321, 302.341,
4 302.541, 302.775, 304.070, 320.106, 320.111,
5 320.116, 320.126, 320.131, 320.136, 320.146,
6 320.151, 320.161, 488.5336, 547.037, 556.036,
7 557.036, 558.016, 558.019, 559.021, 565.092,
8 570.300, 575.150, 575.195, 577.041, 577.500,
9 578.421, 595.209, 650.050, 650.052, 650.055,
10 and 650.100, RSMo, and to enact in lieu
11 thereof forty-six new sections relating to
12 crime, with penalty provisions and an
13 emergency clause for a certain section.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
15 AS FOLLOWS:

16 Section A. Sections 1.160, 43.530, 43.540, 50.550, 302.060,
17 302.309, 302.321, 302.341, 302.541, 302.775, 304.070, 320.106,
18 320.111, 320.116, 320.126, 320.131, 320.136, 320.146, 320.151,
19 320.161, 488.5336, 547.037, 556.036, 557.036, 558.016, 558.019,
20 559.021, 565.092, 570.300, 575.150, 575.195, 577.041, 577.500,
21 578.421, 595.209, 650.050, 650.052, 650.055, and 650.100, RSMo,
22 are repealed and forty-six new sections enacted in lieu thereof,
23 to be known as sections 1.160, 43.530, 43.540, 50.550, 50.565,
24 302.060, 302.309, 302.321, 302.341, 302.541, 302.775, 304.070,

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

1 304.078, 304.079, 320.106, 320.111, 320.116, 320.126, 320.131,
2 320.136, 320.146, 320.151, 320.161, 404.729, 488.5336, 488.5400,
3 547.037, 556.036, 557.036, 558.016, 558.019, 559.021, 565.087,
4 565.092, 569.157, 570.300, 575.150, 575.195, 577.041, 577.500,
5 578.421, 595.209, 650.050, 650.052, 650.055, and 650.100, to read
6 as follows:

7 1.160. No offense committed and no fine, penalty or
8 forfeiture incurred, or prosecution commenced or pending previous
9 to or at the time when any statutory provision is repealed or
10 amended, shall be affected by the repeal or amendment, but the
11 trial and punishment of all such offenses, and the recovery of
12 the fines, penalties or forfeitures shall be had, in all
13 respects, as if the provision had not been repealed or amended,
14 except[:

15 (1)] that all such proceedings shall be conducted according
16 to existing procedural laws[; and

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

21 43.530. 1. For each request requiring the payment of a fee
22 received by the central repository, the requesting entity shall
23 pay a fee of not more than [five] ten dollars per request for
24 criminal history record information not based on a fingerprint

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

20 2. For purposes of obtaining criminal records prior to
21 issuance of a school bus operator's permit pursuant to section
22 302.272, RSMo, and for determining eligibility for such permit,
23 the applicant for such permit shall submit two sets of
24 fingerprints to the director of revenue when applying for the

1 permit. The fingerprints shall be collected in a manner approved
2 by the superintendent of the highway patrol. The school bus
3 permit applicant shall pay the appropriate fee described in this
4 section and pay the appropriate fee determined by the Federal
5 Bureau of Investigation for the federal criminal history record
6 when he or she applies for the school bus permit. Collections
7 for records described in this subsection shall be deposited in
8 the criminal record system fund.

9 43.540. 1. As used in this section, the following terms
10 mean:

11 (1) "Authorized state agency", a division of state
12 government or an office of state government designated by the
13 statutes of Missouri to issue or renew a license, permit,
14 certification, or registration of authority to a qualified
15 entity;

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

18 (3) "Missouri criminal record review", a review of criminal
19 history records [or] and sex offender registration records
20 pursuant to sections 589.400 to 589.425, RSMo, maintained by the
21 Missouri state highway patrol in the Missouri criminal records
22 repository;

23 (4) "National criminal record review", a review of the
24 criminal history records maintained by the Federal Bureau of

1 Investigation;

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

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

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

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

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

16 (d) Owns or operates a qualified entity;

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

24 (8) "Youth services agency", any public or private agency,

1 school, or association which provides programs, care or treatment
2 for or which exercises supervision over minors.

3 2. A qualified entity may obtain a Missouri criminal record
4 review of a provider from the highway patrol by furnishing
5 information on forms and in the manner approved by the highway
6 patrol.

7 3. A qualified entity may request a Missouri criminal
8 record review and a national criminal record review of a provider
9 through an authorized state agency. No authorized state agency
10 is required by this section to process Missouri or national
11 criminal record reviews for a qualified entity, however, if an
12 authorized state agency agrees to process Missouri and national
13 criminal record reviews for a qualified entity, the qualified
14 entity shall provide to the authorized state agency on forms and
15 in a manner approved by the highway patrol the following:

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

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

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

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

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

1 (d) The authority of the qualified entity to check the
2 provider's criminal history;

3 (e) The right of the provider to review the report received
4 by the qualified entity; and

5 (f) The right of the provider to challenge the accuracy of
6 the report. If the challenge is to the accuracy of the criminal
7 record review, the challenge shall be made to the highway patrol.

8 4. The authorized state agency shall forward the required
9 forms and fees to the highway patrol. The results of the record
10 review shall be forwarded to the authorized state agency who will
11 notify the qualified entity. The authorized state agency may
12 assess a fee to the qualified entity to cover the cost of
13 handling the criminal record review and may establish an account
14 solely for the collection and dissemination of fees associated
15 with the criminal record reviews.

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

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

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

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

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

22 4. All receipts of the county for operation and maintenance
23 shall be credited to the general fund, and all expenditures for
24 these purposes shall be charged to this fund; except, that

1 receipts from the special tax levy for roads and bridges shall be
2 kept in a special fund and expenditures for roads and bridges may
3 be charged to the special fund.

4 5. All receipts from the sale of bonds for any purpose
5 shall be credited to the bond fund created for the purpose, and
6 all expenditures for this purpose shall be charged to the fund.
7 All receipts for the retirement of any bond issue shall be
8 credited to a retirement fund for the issue, and all payments to
9 retire the issue shall be charged to the fund. All receipts for
10 interest on outstanding bonds and all premiums and accrued
11 interest on bonds sold shall be credited to the interest fund,
12 and all payments of interest on the bonds shall be charged to the
13 interest fund.

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

17 7. The county commission may create other funds as are
18 necessary from time to time.

19 50.565. 1. A county commission may establish by ordinance
20 or order a fund whose proceeds may be expended only for the
21 purposes provided for in subsection 3 of this section. The fund
22 shall be designated as a county law enforcement restitution fund
23 and shall be under the supervision of a board of trustees
24 consisting of two citizens of the county appointed by the

1 presiding commissioner of the county, two citizens of the county
2 appointed by the sheriff of the county, and one citizen of the
3 county appointed by the county coroner or medical examiner. The
4 citizens so appointed shall not be current or former employees of
5 either the sheriff's department or the office of the prosecuting
6 attorney for the county.

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

12 3. Money from the county law enforcement restitution fund
13 shall only be expended for the following purposes:

14 (1) Narcotics investigation, prevention, and intervention;

15 (2) Purchase of law enforcement related equipment and
16 supplies for the sheriff's office;

17 (3) Matching funds for federal or state law enforcement
18 grants;

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

21 (5) Any law enforcement related expense, including those of
22 the prosecuting attorney, approved by the board of trustees for
23 the county law enforcement restitution fund that is reasonably
24 related to investigation, charging, preparation, trial, and

1 disposition of criminal cases before the courts of the state of
2 Missouri.

3 4. The county commission may not reduce any law enforcement
4 agency's budget as a result of funds the law enforcement agency
5 receives from the county law enforcement restitution fund. The
6 restitution fund is to be used only as a supplement to the law
7 enforcement agency's funding received from other county, state,
8 or federal funds.

9 5. County law enforcement restitution funds shall be
10 audited as are all other county funds.

11 302.060. The director shall not issue any license and shall
12 immediately deny any driving privilege:

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

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

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

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

23 (5) To any person who has previously been adjudged to be
24 incapacitated and who at the time of application has not been

1 restored to partial capacity;

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

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

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

14 (9) To any person who has been convicted more than twice of
15 violating state law, or a county or municipal ordinance where
16 [the judge in such cases was an attorney and] the defendant was
17 represented by or waived the right to an attorney in writing,
18 relating to [driving while intoxicated] an intoxication-related
19 traffic offense as defined in section 577.023, RSMo; except that,
20 after the expiration of ten years from the date of conviction of
21 the last offense of violating such law or ordinance relating to
22 [driving while intoxicated] an intoxication-related traffic
23 offense as defined in section 577.023, RSMo, a person who was so
24 convicted may petition the circuit court of the county in which

1 such last conviction was rendered and the court shall review the
2 person's habits and conduct since such conviction. If the court
3 finds that the petitioner has not been convicted of any
4 intoxication-related traffic offense [related to alcohol,
5 controlled substances or drugs] as defined in section 577.023,
6 RSMo, during the preceding ten years and that the petitioner's
7 habits and conduct show such petitioner to no longer pose a
8 threat to the public safety of this state, the court may order
9 the director to issue a license to the petitioner if the
10 petitioner is otherwise qualified pursuant to the provisions of
11 sections 302.010 to 302.540. No person may obtain a license
12 pursuant to the provisions of this subdivision through court
13 action more than one time;

14 (10) To any person who has been convicted twice within a
15 five-year period of violating state law, or a county or municipal
16 ordinance where [the judge in such cases was an attorney and] the
17 defendant was represented by or waived the right to an attorney
18 in writing, [of driving while intoxicated] relating to an
19 intoxication-related traffic offense as defined in section
20 577.023, RSMo, or who has been convicted once within a five-year
21 period of the crime of involuntary manslaughter while operating a
22 motor vehicle in an intoxicated condition. The director shall
23 not issue a license to such person for five years from the date
24 such person was convicted for involuntary manslaughter while

1 operating a motor vehicle in an intoxicated condition or [for
2 driving while intoxicated] for the second time for an
3 intoxication-related traffic offense as defined in section
4 577.023, RSMo. Any person who has been denied a license for two
5 convictions of [driving while intoxicated] an intoxication-
6 related traffic offense as defined in section 577.023, RSMo,
7 prior to July 27, 1989, shall have the person's license issued,
8 upon application, unless the two convictions occurred within a
9 five-year period, in which case, no license shall be issued to
10 the person for five years from the date of the second conviction;

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

14 (12) To any person who is under the age of eighteen years,
15 if such person's parents or legal guardians file a certified
16 document with the department of revenue stating that the director
17 shall not issue such person a driver's license. Each document
18 filed by the person's parents or legal guardians shall be made
19 upon a form furnished by the director and shall include
20 identifying information of the person for whom the parents or
21 legal guardians are denying the driver's license. The document
22 shall also contain identifying information of the person's
23 parents or legal guardians. The document shall be certified by
24 the parents or legal guardians to be true and correct. This

1 provision shall not apply to any person who is legally
2 emancipated. The parents or legal guardians may later file an
3 additional document with the department of revenue which
4 reinstates the person's ability to receive a driver's license.

5 302.309. 1. Whenever any license is suspended pursuant to
6 sections 302.302 to 302.309, the director of revenue shall return
7 the license to the operator immediately upon the termination of
8 the period of suspension and upon compliance with the
9 requirements of chapter 303, RSMo.

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

13 3. (1) All circuit courts or the director of revenue shall
14 have jurisdiction to hear applications and make eligibility
15 determinations granting limited driving privileges. Any
16 application may be made in writing to the director of revenue and
17 the person's reasons for requesting the limited driving privilege
18 shall be made therein.

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

- 22 (a) A business, occupation, or employment;
- 23 (b) Seeking medical treatment for such operator;
- 24 (c) Attending school or other institution of higher

1 education;

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

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

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

11 (3) An operator may make application to the proper court in
12 the county in which such operator resides or in the county in
13 which is located the operator's principal place of business or
14 employment. Any application for a limited driving privilege made
15 to a circuit court shall name the director as a party defendant
16 and shall be served upon the director prior to the grant of any
17 limited privilege, and shall be accompanied by a copy of the
18 applicant's driving record as certified by the director. Any
19 applicant for a limited driving privilege shall have on file with
20 the department of revenue proof of financial responsibility as
21 required by chapter 303, RSMo. Any application by a person who
22 transports persons or property as classified in section 302.015
23 may be accompanied by proof of financial responsibility as

1 required by chapter 303, RSMo, but if proof of financial
2 responsibility does not accompany the application, or if the
3 applicant does not have on file with the department of revenue
4 proof of financial responsibility, the court or the director has
5 discretion to grant the limited driving privilege to the person
6 solely for the purpose of operating a vehicle whose owner has
7 complied with chapter 303, RSMo, for that vehicle, and the
8 limited driving privilege must state such restriction. When
9 operating such vehicle under such restriction the person shall
10 carry proof that the owner has complied with chapter 303, RSMo,
11 for that vehicle.

12 (4) The court order or the director's grant of the limited
13 driving privilege shall indicate the termination date of the
14 privilege, which shall be not later than the end of the period of
15 suspension or revocation. A copy of any court order shall be
16 sent by the clerk of the court to the director, and a copy shall
17 be given to the driver which shall be carried by the driver
18 whenever such driver operates a motor vehicle. The director of
19 revenue upon granting a limited driving privilege shall give a
20 copy of the limited driving privilege to the applicant. The
21 applicant shall carry a copy of the limited driving privilege
22 while operating a motor vehicle. A conviction which results in
23 the assessment of points pursuant to section 302.302, other than
24 a violation of a municipal stop sign ordinance where no accident

1 is involved, against a driver who is operating a vehicle pursuant
2 to a limited driving privilege terminates the privilege, as of
3 the date the points are assessed to the person's driving record.
4 If the date of arrest is prior to the issuance of the limited
5 driving privilege, the privilege shall not be terminated. The
6 director shall notify by ordinary mail the driver whose privilege
7 is so terminated.

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

14 (a) A conviction of violating the provisions of section
15 577.010 or 577.012, RSMo, or any similar provision of any federal
16 or state law, or a municipal or county law where [the judge in
17 such case was an attorney and] the defendant was represented by
18 or waived the right to an attorney in writing, until the person
19 has completed the first thirty days of a suspension or revocation
20 imposed pursuant to this chapter;

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

23 (c) Ineligibility for a license because of the provisions
24 of subdivision (1), (2), (4), (5), (6), (7), (8), (9), (10) or

1 (11) of section 302.060;

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

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

11 (f) Violation more than once of the provisions of section
12 577.041, RSMo, or a similar implied consent law of any other
13 state;

14 (g) Disqualification of a commercial driver's license
15 pursuant to sections 302.700 to 302.780, however, nothing in this
16 subsection shall prevent a person holding a commercial driver's
17 license who is suspended or revoked as a result of an action
18 occurring while not driving a commercial motor vehicle or driving
19 for pay, but while driving in an individual capacity as an
20 operator of a personal vehicle from applying for a limited
21 driving privilege to operate a commercial vehicle, if otherwise
22 eligible for such limited privilege; or

23 (h) Due to a suspension pursuant to subsection 2 of section
24 302.525 and who has not completed the first thirty days of such

1 suspension, provided the person is not otherwise ineligible for a
2 limited driving privilege; or due to a revocation pursuant to
3 subsection 2 of section 302.525 if such person has not completed
4 such revocation.

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

20 (b) Provided that pursuant to the provisions of this
21 section, the applicant is not otherwise ineligible for a limited
22 driving privilege or convicted of involuntary manslaughter while
23 operating a motor vehicle in an intoxicated condition, a circuit
24 court or the director may, in the manner prescribed in this

1 subsection, allow a person who has had such person's license to
2 operate a motor vehicle revoked where that person cannot obtain a
3 new license for a period of five years because of two convictions
4 of [driving while intoxicated] an intoxication-related traffic
5 offense as defined in section 577.023, RSMo, as prescribed in
6 subdivision (10) of section 302.060, to apply for a limited
7 driving privilege pursuant to this subsection if such person has
8 served at least two years of such disqualification or revocation.
9 Such person shall present evidence satisfactory to the court or
10 the director that such person has not been convicted of any
11 offense related to alcohol, controlled substances or drugs during
12 the preceding two years and that the person's habits and conduct
13 show that the person no longer poses a threat to the public
14 safety of this state. Any person who is denied a license
15 permanently in this state because of an [alcohol-related
16 conviction] intoxication-related traffic offense as defined in
17 section 577.023, RSMo, subsequent to a restoration of such
18 person's driving privileges pursuant to subdivision (9) of
19 section 302.060 shall not be eligible for limited driving
20 privilege pursuant to the provisions of this subdivision.

21 4. Any person who has received notice of denial of a
22 request of limited driving privilege by the director of revenue
23 may make a request for a review of the director's determination
24 in the circuit court of the county in which the person resides or

1 the county in which is located the person's principal place of
2 business or employment within thirty days of the date of mailing
3 of the notice of denial. Such review shall be based upon the
4 records of the department of revenue and other competent evidence
5 and shall be limited to a review of whether the applicant was
6 statutorily entitled to the limited driving privilege.

7 5. The director of revenue shall promulgate rules and
8 regulations necessary to carry out the provisions of this
9 section. Any rule or portion of a rule, as that term is defined
10 in section 536.010, RSMo, that is created under the authority
11 delegated in this section shall become effective only if it
12 complies with and is subject to all of the provisions of chapter
13 536, RSMo, and, if applicable, section 536.028, RSMo. This
14 section and chapter 536, RSMo, are nonseverable and if any of the
15 powers vested with the general assembly pursuant to chapter 536,
16 RSMo, to review, to delay the effective date or to disapprove and
17 annul a rule are subsequently held unconstitutional, then the
18 grant of rulemaking authority and any rule proposed or adopted
19 after August 28, 2001, shall be invalid and void.

20 302.321. 1. A person commits the crime of driving while
21 revoked if [he] such person operates a motor vehicle on a highway
22 when [his] such person's license or driving privilege has been
23 canceled, suspended, or revoked under the laws of this state or
24 any other state and acts with criminal negligence with respect to

1 knowledge of the fact that [his] such person's driving privilege
2 has been canceled, suspended, or revoked.

3 2. Any person convicted of driving while revoked is guilty
4 of a class A misdemeanor. Any person with no prior
5 alcohol-related enforcement contacts as defined in section
6 302.525, convicted a fourth or subsequent time of driving while
7 revoked or a county or municipal ordinance of driving while
8 suspended or revoked where [the judge in such case was an
9 attorney and] the defendant was represented by or waived the
10 right to an attorney in writing, and where the prior three
11 driving-while-revoked offenses occurred within ten years of the
12 date of occurrence of the present offense [and where the person
13 received and served a sentence of ten days or more on such
14 previous offenses]; and any person with a prior alcohol-related
15 enforcement contact as defined in section 302.525, convicted a
16 third or subsequent time of driving while revoked or a county or
17 municipal ordinance of driving while suspended or revoked where
18 [the judge in such case was an attorney and] the defendant was
19 represented by or waived the right to an attorney in writing, and
20 where the prior two driving-while-revoked offenses occurred
21 within ten years of the date of occurrence of the present offense
22 [and where the person received and served a sentence of ten days
23 or more on such previous offenses] is guilty of a class D felony.
24 No court shall suspend the imposition of sentence as to such a

1 person nor sentence such person to pay a fine in lieu of a term
2 of imprisonment, nor shall such person be eligible for parole or
3 probation until [he] such person has served a minimum of
4 forty-eight consecutive hours of imprisonment, unless as a
5 condition of such parole or probation, such person performs at
6 least ten days involving at least forty hours of community
7 service under the supervision of the court in those jurisdictions
8 which have a recognized program for community service. Driving
9 while revoked is a class D felony on the second or subsequent
10 conviction pursuant to section 577.010, RSMo, or a fourth or
11 subsequent conviction for any other offense.

12 302.341. If a Missouri resident charged with a moving
13 traffic violation of this state or any county or municipality of
14 this state fails to dispose of the charges of which he is accused
15 through authorized prepayment of fine and court costs and fails
16 to appear on the return date or at any subsequent date to which
17 the case has been continued, or without good cause fails to pay
18 any fine or court costs assessed against him for any such
19 violation within the period of time specified or in such
20 installments as approved by the court or as otherwise provided by
21 law, any court having jurisdiction over the charges shall within
22 ten days of the failure to comply inform the defendant by
23 ordinary mail at the last address shown on the court records that
24 the court will order the director of revenue to suspend the

1 defendant's driving privileges if the charges are not disposed of
2 and fully paid within thirty days from the date of mailing.
3 Thereafter, if the defendant fails to timely act to dispose of
4 the charges and fully pay any applicable fines and court costs,
5 the court shall notify the director of revenue of such failure
6 and of the pending charges against the defendant. Upon receipt
7 of this notification, the director shall suspend the license of
8 the driver, effective immediately, and provide notice of the
9 suspension to the driver at the last address for the driver shown
10 on the records of the department of revenue. Such suspension
11 shall remain in effect until the court with the subject pending
12 charge requests setting aside the noncompliance suspension
13 pending final disposition, or satisfactory evidence of
14 disposition of pending charges and payment of fine and court
15 costs, if applicable, is furnished to the director by the
16 individual. Upon proof of disposition of charges and payment of
17 fine and court costs, if applicable, and payment of the
18 reinstatement fee as set forth in section 302.304, in the case of
19 an individual who possesses a noncommercial driver's license the
20 director shall [reinstate] return the license and remove the
21 suspension from the individual's driving record. In the case of
22 an individual who possesses a commercial driver's license or is
23 required to possess a commercial driver's license, the director
24 shall reinstate the license. The filing of financial

1 responsibility with the bureau of safety responsibility,
2 department of revenue, shall not be required as a condition of
3 reinstatement of a driver's license suspended solely under the
4 provisions of this section. If any city, town or village
5 receives more than forty-five percent of its total annual revenue
6 from fines for traffic violations occurring on state highways,
7 all revenues from such violations in excess of forty-five percent
8 of the total annual revenue of the city, town or village shall be
9 sent to the director of the department of revenue and shall be
10 distributed annually to the schools of the county in the same
11 manner that proceeds of all penalties, forfeitures and fines
12 collected for any breach of the penal laws of the state are
13 distributed. For the purpose of this section the words "state
14 highways" shall mean any state or federal highway, including any
15 such highway continuing through the boundaries of a city, town or
16 village with a designated street name other than the state
17 highway number.

18 302.541. 1. In addition to other fees required by law, any
19 person who has had a license to operate a motor vehicle suspended
20 or revoked following a determination, pursuant to section
21 302.505, or section 577.010, 577.012, 577.041 or 577.510, RSMo,
22 or any county or municipal ordinance, where [the judge in such
23 case was an attorney and] the defendant was represented by or
24 waived the right to an attorney, that such person was driving

1 while intoxicated or with a blood alcohol content of eight-
2 hundredths of one percent or more by weight or, where such person
3 was at the time of the arrest less than twenty-one years of age
4 and was driving with a blood alcohol content of two-hundredths of
5 one percent or more by weight, shall pay an additional fee of
6 twenty-five dollars prior to the reinstatement or reissuance of
7 the license.

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

17 302.775. The provisions of sections 302.700 to 302.780
18 shall not apply to:

19 (1) Any person driving a farm vehicle as defined in section
20 302.700;

21 (2) Any active duty military personnel, members of the
22 reserves and national guard on active duty, including personnel
23 on full-time national guard duty, personnel on part-time training
24 and national guard military technicians, while driving military

1 vehicles for military purposes;

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

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

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

13 304.070. 1. Any person who violates any of the provisions
14 of [subsections] subsection 1, 3 [and] or 6 of section 304.050 is
15 guilty of a class A misdemeanor. In addition, beginning July 1,
16 2005, the court may suspend the driver's license of any person
17 who violates any provision of subsection 1 of section 304.050.
18 If ordered by the court, the director shall suspend the driver's
19 license for ninety days for a first offense of subsection 1 of
20 section 304.050, and one hundred twenty days for a second or
21 subsequent violation of subsection 1 of section 304.050.

22 2. Any appeal of a suspension imposed pursuant to
23 subsection 1 of this section shall be a direct appeal of the
24 court order and subject to review by the presiding judge of the

1 circuit court or another judge within the circuit other than the
2 judge who issued the original order to suspend the driver's
3 license. The director of revenue's entry of the court ordered
4 suspension on the driving record is not a decision subject to
5 review pursuant to section 302.311, RSMo. Any suspension of the
6 driver's license ordered by the court pursuant to this section
7 shall be in addition to any other suspension that may occur as a
8 result of any conviction pursuant to other provisions of law.

9 304.078. 1. As used in this section "emergency personnel"
10 means any of the following:

11 (1) Any member of the state highway patrol, the state water
12 patrol, any state park ranger, any federal, state, or local law
13 enforcement officer or traffic officer, or any coroner;

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

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

20 (4) Any person transporting equipment designed to extricate
21 human beings from the wreckage of a motor vehicle, but only while
22 transporting such equipment in response to a request from other
23 emergency personnel to transport such equipment to the site of a
24 emergency;

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

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

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

14 (8) Any member of an organized fire department, ambulance
15 association, or rescue squad, whether paid or volunteer, but only
16 while responding to an emergency fire call, an emergency rescue
17 call or an emergency ambulance call or at the scene of an
18 emergency fire call, an emergency rescue call, or an emergency
19 ambulance call.

20 2. No person other than emergency personnel shall use any
21 device to change a traffic control signal as defined in section
22 300.010, RSMo.

23 3. No person other than emergency personnel shall possess
24 any device which can be used to change a traffic control signal

1 as defined in section 300.010, RSMo, unless he or she possesses
2 it for the purpose of selling such a device to emergency
3 personnel.

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

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

12 304.079. 1. As used in this section "emergency personnel"
13 means any of the following:

14 (1) Any member of the state highway patrol, the state water
15 patrol, any state park ranger, any federal, state, or local law
16 enforcement officer or traffic officer, or any coroner;

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

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

23 (4) Any person transporting equipment designed to extricate
24 human beings from the wreckage of a motor vehicle, but only while

1 transporting such equipment in response to a request from other
2 emergency personnel to transport such equipment to the site of an
3 emergency;

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

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

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

17 (8) Any member of an organized fire department, ambulance
18 association, or rescue squad, whether paid or volunteer, but only
19 while responding to an emergency fire call, an emergency rescue
20 call or an emergency ambulance call or at the scene of an
21 emergency fire call, an emergency rescue call, or an emergency
22 ambulance call.

23 2. No person other than emergency personnel shall possess a
24 mobile infrared transmitter which is capable of changing a

1 traffic control signal as defined in section 300.010, RSMo.

2 3. Any person who violates the provisions of this section
3 shall be guilty of a class A misdemeanor.

4 320.106. As used in sections 320.106 to 320.161, unless
5 clearly indicated otherwise, the following terms mean:

6 (1) ["Distributor", any person engaged in the business of
7 selling fireworks to wholesalers, jobbers, seasonal retailers,
8 other persons, or governmental bodies that possess the necessary
9 permits as specified in sections 320.106 to 320.161, including
10 any person that imports any fireworks of any kind in any manner
11 into the state of Missouri;] "American Pyrotechnics Association
12 (APA), Standard 87-1"; or subsequent standard which may amend or
13 supersede this standard for manufacturers, importers and
14 distributors of fireworks;

15 (2) "Chemical composition", all pyrotechnic and explosive
16 composition contained in fireworks devices as defined in American
17 Pyrotechnics Association (APA), Standard 87-1;

18 [(2)] (3) "Consumer fireworks", explosive devices designed
19 primarily to produce visible or audible effects by combustion[.
20 This term] and includes aerial devices and ground devices , all
21 of which are classified as fireworks, UN0336, 1.4G by regulation
22 of the United States Department of Transportation, as amended
23 from time to time, and which were formerly classified as class C
24 common fireworks by regulation of the United States Department of

1 Transportation;

2 (4) "Discharge site", the area immediately surrounding the
3 fireworks mortars used for an outdoor fireworks display;

4 (5) "Display site", the immediate area where a fireworks
5 display is conducted, including the discharge site, the fallout
6 area, and the required separation distance from mortars to
7 spectator viewing areas, but not spectator viewing areas or
8 vehicle parking areas;

9 (6) "Display fireworks", explosive devices designed
10 primarily to produce visible or audible effects by combustion,
11 deflagration or detonation. This term includes devices
12 containing more than two grains (130 mg) of explosive composition
13 intended for public display. These devices are classified as
14 fireworks, UN0335, 1.3G by regulation of the United States
15 Department of Transportation, as amended from time to time, and
16 which were formerly classified as class B display fireworks by
17 regulation of the United States Department of Transportation;

18 (7) "Distributor", any person engaged in the business of
19 selling fireworks to wholesalers, jobbers, seasonal retailers,
20 other persons, or governmental bodies that possess the necessary
21 permits as specified in sections 320.106 to 320.161, including
22 any person that imports any fireworks of any kind in any manner
23 into the state of Missouri;

24 (8) "Fireworks", any composition or device for producing a

1 visible, audible, or both visible and audible effect by
2 combustion, deflagration, or detonation and that meets the
3 definition of consumer, proximate, or display fireworks as set
4 forth by 49 CFR Part 171 to end, United States Department of
5 Transportation hazardous materials regulations, and American
6 Pyrotechnics Association 87-1 standards;

7 [(3)] (9) "Fireworks season", the period beginning on the
8 twentieth day of June and continuing through the tenth day of
9 July of the same year and the period beginning on the twentieth
10 day of December and continuing through the second day of January
11 of the next year, which shall be the only periods of time that
12 seasonal retailers may be permitted to sell consumer fireworks;

13 [(4)] (10) "Jobber", any person engaged in the business of
14 making sales of consumer fireworks at wholesale or retail, within
15 the state of Missouri to nonlicensed buyers for use and
16 distribution outside the state of Missouri during a calendar year
17 from the first day of January through the thirty-first day of
18 December;

19 (11) "Licensed operator", any person who supervises,
20 manages, or directs the discharge of outdoor display fireworks,
21 either by manual or electrical means; who has met additional
22 requirements established by promulgated rule and has successfully
23 completed a display fireworks training course recognized and
24 approved by the state fire marshal;

1 [(5)] (12) "Manufacturer", any person engaged in the
2 making, manufacture, assembly or construction of fireworks of any
3 kind within the state of Missouri;

4 (13) "NFPA", National Fire Protection Association; an
5 international codes and standards organization;

6 [(6)] (14) "Permanent structure", buildings and structures
7 with permanent foundations other than tents, mobile homes, and
8 trailers;

9 [(7)] (15) "Permit", the written authority of the state
10 fire marshal issued pursuant to sections 320.106 to 320.161 to
11 sell, possess, manufacture, discharge, or distribute fireworks;

12 [(8)] (16) "Person", any corporation, association,
13 partnership or individual or group thereof;

14 (17) "Proximate fireworks", a chemical mixture used in the
15 entertainment industry to produce visible or audible effects by
16 combustion, deflagration, or detonation, as defined by the most
17 current edition of the American Pyrotechnics Association (APA),
18 Standard 87-1, section 3.8, specific requirements for theatrical
19 pyrotechnics;

20 (18) "Pyrotechnic operator" or "special effects operator",
21 an individual who has responsibility for pyrotechnic safety and
22 who controls, initiates, or otherwise creates special effects for
23 proximate fireworks and who has met additional requirements
24 established by promulgated rules and has successfully completed a

1 proximate fireworks training course recognized and approved by
2 the state fire marshal;

3 [(9)] (19) "Sale", an exchange of articles of fireworks for
4 money, including barter, exchange, gift or offer thereof, and
5 each such transaction made by any person, whether as a principal
6 proprietor, salesman, agent, association, copartnership or one or
7 more individuals;

8 [(10)] (20) "Seasonal retailer", any person within the
9 state of Missouri engaged in the business of making sales of
10 consumer fireworks in Missouri only during a fireworks season as
11 defined by subdivision [(3)] (9) of this section;

12 [(11)] "Special fireworks", explosive devices designed
13 primarily to produce visible or audible effects by combustion,
14 deflagration or detonation. This term includes devices
15 containing more than two grains (130 mg) of explosive composition
16 intended for public display. These devices are classified as
17 fireworks, UN0335, 1.3G by regulation of the United States
18 Department of Transportation, as amended from time to time, and
19 which were formerly classified as class B display fireworks by
20 regulation of the United States Department of Transportation;

21 [(12)] (21) "Wholesaler", any person engaged in the business
22 of making sales of consumer fireworks to any other person engaged
23 in the business of making sales of consumer fireworks at retail
24 within the state of Missouri.

1 320.111. 1. It is unlawful for any person to manufacture,
2 sell, offer for sale, ship or cause to be shipped into or within
3 the state of Missouri except as herein provided, any item of
4 fireworks, without first having secured the required applicable
5 permit as a manufacturer, distributor, wholesaler, jobber or
6 seasonal retailer from the state fire marshal and applicable
7 federal permit or license. Possession of said permit is a
8 condition precedent to manufacturing, selling or offering for
9 sale, shipping or causing to be shipped any fireworks into the
10 state of Missouri, except as herein provided. This provision
11 applies to nonresidents as well as residents of the state of
12 Missouri.

13 2. The state fire marshal has the authority and is
14 authorized and directed to issue permits for the sale of
15 fireworks. No permit shall be issued to a person under the age
16 of eighteen years. All permits except for seasonal retailers
17 shall be for the calendar year or any fraction thereof and shall
18 expire on the thirty-first day of December of each year.

19 3. Permits issued must be displayed in the permit holder's
20 place of business. No permit provided for herein shall be
21 transferable nor shall a person operate under a permit issued to
22 another person or under a permit issued for another location.
23 Manufacturer, wholesaler, jobber, and distributor permit holders
24 operating out of multiple locations shall obtain a permit for

1 each location.

2 4. Failure to make application for a permit by May
3 thirty-first of the calendar year may result in the fire
4 marshal's refusal to issue a license to the licensee or applicant
5 for such calendar year.

6 5. Any false statement or declaration made on a permit
7 application may result in the state fire marshal's refusal to
8 issue such permit to the requesting person for a period of time
9 not to exceed three years.

10 6. The state fire marshal is authorized and directed to
11 charge the following fees for permits:

12 (1) Manufacturer, a fee of seven hundred [fifty] seventy-
13 five dollars per calendar year;

14 (2) Distributor, a fee of seven hundred [fifty] seventy-
15 five dollars per calendar year;

16 (3) Wholesaler, a fee of two hundred [fifty] seventy-five
17 dollars per calendar year;

18 (4) Jobber, a fee of five hundred twenty-five dollars per
19 calendar year per sales location;

20 (5) Seasonal retailer, a fee of [twenty-five] fifty dollars
21 per calendar year per sales location;

22 (6) [Special] Display fireworks [(displays)] permit, a fee
23 of [twenty-five] one hundred dollars per calendar year per
24 location;

1 (7) Proximate fireworks display permit, a fee of one
2 hundred dollars per calendar year per location;

3 (8) Licensed operator, a fee of one hundred dollars for a
4 three-year license;

5 (9) Pyrotechnic operator, a fee of one hundred dollars for
6 a three-year license.

7 [6.] 7. A holder of a manufacturer's permit shall not be
8 required to have any additional permits in order to sell to
9 distributors, wholesalers, jobbers or seasonal retailers, or to
10 sell [special] display, or proximate fireworks.

11 [7.] 8. A holder of a distributor's permit shall not be
12 required to have any additional permits in order to sell to
13 wholesalers, jobbers, seasonal retailers or to sell [special]
14 display, or proximate fireworks.

15 [8.] 9. A holder of a jobber's permit shall not be required
16 to have any additional permit in order to sell consumer fireworks
17 at retail during the fireworks season from such jobber's
18 permanent structure.

19 [9.] 10. All fees collected for permits issued pursuant to
20 this section shall be paid to the Missouri department of revenue
21 and deposited in the general revenue fund. Any person engaged in
22 more than one permit classification shall pay one permit fee
23 based upon the permit classification yielding the highest amount
24 of revenue.

1 [10.] 11. The state fire marshal is charged with the
2 enforcement of the provisions of sections 320.106 to 320.161 and
3 may call upon any state, county or city peace officer for
4 assistance in the enforcement of the provisions of sections
5 320.106 to 320.161. The state fire marshal may promulgate rules
6 pursuant to the requirements of this section and chapter 536,
7 RSMo, necessary to carry out his or her responsibilities under
8 this act including rules requiring training, examination, and
9 licensing of licensed operators and pyrotechnic operators
10 engaging in or responsible for the handling and use of display
11 and proximate fireworks. The test shall incorporate the rules of
12 the state fire marshal, which shall be based upon nationally
13 recognized standards. No rule or portion of a rule promulgated
14 pursuant to this chapter shall become effective unless it has
15 been promulgated pursuant to the provisions of chapter 536, RSMo.

16 [11.] 12. The state fire marshal, upon notification by the
17 department of revenue, may withhold permits from applicants upon
18 evidence that all state sales taxes for the preceding year or
19 years have not been paid; except, this subsection shall not apply
20 if an applicant is pursuing any proper remedy at law challenging
21 the amount, collection, or assessment of any sales tax.

22 [12.] 13. A holder of a distributor, wholesaler, or
23 jobber's permit shall be required to operate out of a permanent
24 structure in compliance with all applicable building and fire

1 regulations in the city or county in which said person is
2 [selling consumer] operating a fireworks business. Seasonal
3 retail permit locations shall be in compliance with all
4 applicable building and fire regulations in the city or county
5 where located. In the absence of city or county building or fire
6 regulations, the applicant may be subject to a fire safety
7 inspection by the state fire marshal based upon promulgated rules
8 and regulations adopted by the state fire marshal to include but
9 not limited to fire extinguishers, exiting and travel distance,
10 emergency lighting and exit signage, smoke detection, clearance
11 to combustibles, aisle width, and display height.

12 [13.] 14. It is unlawful for any manufacturer, distributor,
13 wholesaler, or jobber to sell consumer fireworks to a seasonal
14 retailer who has not acquired an appropriate permit from the
15 state fire marshal for the current permit period. A seasonal
16 retailer shall acquire and present the appropriate permit from
17 the state fire marshal before any manufacturer, distributor,
18 wholesaler or jobber is allowed to sell consumer fireworks to
19 such seasonal retailer, provided that such seasonal retailer is
20 purchasing the consumer fireworks for resale in this state.

21 [14.] 15. The state fire marshal and the marshal's deputies
22 may conduct inspections of any premises and all portions of
23 buildings where fireworks are stored, manufactured, kept or being
24 offered for sale. [Licensees] All persons selling, offering for

1 sale, barter, gift, exchange, or offer thereof any fireworks
2 shall cooperate fully with the state fire marshal and the
3 marshal's deputies during any such inspection. This inspection
4 shall be performed during normal business hours.

5 16. In addition to any other penalty, any person who
6 manufactures, sells, offers for sale, ships or causes to be
7 shipped into or caused to be shipped into the state of Missouri,
8 for use in Missouri, any items of fireworks without first having
9 the required applicable permit, shall be assessed a civil penalty
10 of up to a one thousand dollar fine for each day of operation up
11 to a maximum of ten thousand dollars.

12 320.116. 1. The state fire marshal may revoke any permit
13 issued pursuant to sections 320.106 to 320.161 upon evidence that
14 the holder has violated any of the provisions of sections 320.106
15 to 320.161.

16 2. The state fire marshal, in his or her discretion, may
17 refuse to issue a permit, for a period not to exceed three years,
18 to a person whose permit has been revoked [as the result of a
19 conviction] for the possession or sale of illegal fireworks, as
20 referred to in section 320.136.

21 3. The state fire marshal, the marshal's deputies, the
22 marshal's designees or any authorized police or peace officer
23 shall seize as contraband any illegal fireworks as defined
24 pursuant to sections 320.106 to 320.161. Such illegal fireworks

1 seized in the enforcement of sections 320.106 to 320.161 shall be
2 held in custody of the state fire marshal in proper storage
3 facilities. The person surrendering the fireworks may bring an
4 in rem proceeding in the circuit court of the county where the
5 fireworks were seized. Upon hearing, the circuit court may
6 authorize the return of all or part of the confiscated fireworks
7 or the court may authorize and direct that such contraband
8 fireworks be destroyed. If a proceeding is not brought within
9 thirty days, the fireworks shall be destroyed by the state fire
10 marshal. The state fire marshal shall seize, take, remove or
11 cause to be removed, at the expense of the owner, all stocks of
12 fireworks offered or exposed for sale, stored or held in
13 violation of the provisions of sections 320.106 to 320.161. All
14 costs, including any expenses incurred with the seizure, shall be
15 the responsibility of the adjudicated party if case disposition
16 is in the favor of the state fire marshal.

17 4. Any person aggrieved by any official action of the state
18 fire marshal affecting their [licensed] permit status including
19 revocation, suspension, failure to renew a [license] permit, or
20 refusal to grant a [license] permit may seek a determination
21 thereon by the administrative hearing commission pursuant to the
22 provisions of section 621.045, RSMo.

23 320.126. 1. Any person [possessing or], entity,
24 partnership, corporation, or association transporting [special]

1 display or proximate fireworks into the state of Missouri for the
2 purpose of resale or to conduct a [special firework] display
3 shall be [licensed] permitted by the state fire marshal as a
4 distributor or manufacturer and have obtained applicable federal
5 license or permit.

6 2. [Possession and] Sale of [special] display or proximate
7 fireworks shall be limited to a holder of a federal license or
8 permit and a distributor or manufacturer permit issued [for
9 special fireworks displays] by the state fire marshal.

10 3. Possession of [special] display or proximate fireworks
11 for resale to holders of a permit for [public] display or
12 proximate fireworks shall be confined to holders of a state
13 manufacturer or distributor permit and applicable federal license
14 or permit.

15 4. Permits for [public displays for special] display or
16 proximate fireworks may be granted to municipalities, fair
17 associations, amusement parks, organizations, persons, firms or
18 corporations. Such permits may be granted upon application and
19 approval by the state fire marshal or local fire service
20 authorities of the community where the display is proposed to be
21 held. All applications submitted for display or proximate
22 fireworks permits, must be submitted to the office of the state
23 fire marshal a minimum of ten working days prior to the date of
24 the event. The application shall be made on a form provided or

1 approved by the state fire marshal. Every such display shall be
2 supervised, managed, or directed by a Missouri licensed operator,
3 or pyrotechnic operator on site pursuant to subsections 11 and 18
4 of section 320.106 and shall be located, discharged, or fired so
5 as in the opinion of the [chief of the fire department, after
6 proper inspection] permitting authority, after proper inspection
7 based on the most current edition of the National Fire Protection
8 Association standards, NFPA 1123, 1124, and 1126, to not be
9 hazardous to any person or property. After a permit has been
10 granted, the sale, possession, use and distribution of fireworks
11 for such display shall be lawful for that purpose only. A copy
12 of all permits issued for [special] display or proximate
13 fireworks [displays] shall be forwarded by the permit holder to
14 the state fire marshal's office. No permit granted hereunder
15 shall be transferable and shall apply to only one location. No
16 holder of a manufacturer or distributor permit shall sell,
17 barter, or transfer display or proximate fireworks to anyone not
18 possessing an applicable permit or license.

19 5. Possession of display or proximate fireworks shall be
20 limited to a holder of a display or proximate fireworks permit
21 issued by the authority having jurisdiction where the display or
22 proximate fireworks is proposed to be held or the state fire
23 marshal or holder of a state manufacturer or distributor permit
24 and applicable federal license or permit.

1 [5.] 6. Before issuing any permit for a [special] display
2 or proximate fireworks [display shall be issued,] the
3 municipality, fair association, amusement park, organization,
4 firm, persons, or corporation making application therefor shall
5 furnish proof of financial responsibility in an amount
6 established by promulgated rule to the permitting authority in
7 order to satisfy claims for damages to property or personal
8 injuries arising out of any act or omission on the part of such
9 person, firm or corporation or any agent or employee thereof.

10 7. Any establishment where proximate fireworks are to be
11 discharged shall be inspected by the state fire marshal or local
12 fire department having jurisdiction for compliance with NFPA 101
13 Life Safety Code or equivalent nationally recognized code in
14 relation to means of egress, occupancy load, and automatic
15 sprinkler and fire alarm systems. All permits issued will be
16 forwarded to the state fire marshal by the permit holder.
17 Permits will be issued in the same manner as those required in
18 section 320.126.

19 320.131. 1. It is unlawful for any person to possess, sell
20 or use within the state of Missouri, or ship into the state of
21 Missouri, except as provided in section 320.126, any pyrotechnics
22 commonly known as "fireworks" and defined as consumer fireworks
23 in subdivision [(2)] (3) of section 320.106 other than items now
24 or hereafter classified as fireworks UN0336, 1.4G by the United

1 States Department of Transportation that comply with the
2 construction, chemical composition, labeling and other
3 regulations relative to consumer fireworks regulations
4 promulgated by the United States Consumer Product Safety
5 Commission and permitted for use by the general public pursuant
6 to such commission's regulations.

7 2. No [retailer, dealer] wholesaler, jobber, or seasonal
8 retailer, or any other person shall sell, offer for sale, store,
9 display, or have in their possession any consumer fireworks that
10 have not been approved as fireworks UN0336, 1.4G by the United
11 States Department of Transportation.

12 3. No jobber, wholesaler, manufacturer, or distributor
13 shall sell to seasonal retailer dealers, or any other person, in
14 this state for the purpose of resale, or use, in this state, any
15 consumer fireworks which do not have the numbers and letter
16 "1.4G" printed within an orange, diamond- shaped label printed on
17 or attached to the fireworks shipping carton.

18 4. This section does not prohibit a manufacturer,
19 distributor or any other person from storing, selling, shipping
20 or otherwise transporting [special] display or proximate
21 fireworks, defined as fireworks UN0335, 1.3G/UN0431, 1.4G or
22 UN0432, 1.4S by the United States Department of Transportation,
23 provided they possess the proper [licensing] permits as specified
24 by state and federal law.

1 5. Matches, toy pistols, toy canes, toy guns, party
2 poppers, or other devices in which paper caps containing
3 twenty-five hundredths grains or less of explosive compound,
4 provided that they are so constructed that the hand cannot come
5 into contact with the cap when in place for use, and toy pistol
6 paper caps which contain less than twenty-five hundredths grains
7 of explosive mixture shall be permitted for sale and use at all
8 times and shall not be regulated by the provisions of sections
9 320.106 to 320.161.

10 320.136. Ground salutes commonly known as "cherry bombs",
11 "M-80's", "M-100's", "M-1000's", and [various] any other tubular
12 salutes or any items described as prohibited chemical components
13 or forbidden devices as listed in the American Pyrotechnics
14 Association Standard 87-1 or which exceed the federal limits set
15 for fireworks UN0336, 1.4G formerly known as class C common
16 fireworks, display fireworks UN0335, 1.3F, and proximate
17 fireworks UN0431, 1.4F/UN 0432, 1.4S by the United States
18 Department of Transportation for explosive composition are
19 expressly prohibited from shipment into, manufacture, possession,
20 sale, [and] or use within the state of Missouri for [any purpose]
21 consumer use. Possession, sale, manufacture, or transport of
22 this type of illegal explosive shall be punished as provided by
23 the provisions of section 571.020, RSMo.

24 320.146. 1. It shall be unlawful to expose fireworks to

1 direct sunlight through glass to the merchandise displayed,
2 except where the fireworks are in the original package. All
3 fireworks which the public may examine shall be kept for sale in
4 original packages, except where an attendant is on duty at all
5 times where fireworks are offered for sale. Fireworks shall be
6 kept in showcases out of the reach of the public when an
7 attendant is not on duty. One or more signs reading,
8 "FIREWORKS--NO SMOKING" shall be displayed at all places where
9 fireworks are stored or sold in letters not less than four inches
10 in height.

11 2. Fireworks shall not be stored, kept or sold within fifty
12 feet of any gasoline pump, gasoline filling station, gasoline
13 bulk station, or any building in which gasoline or volatile
14 liquids are sold in quantities in excess of one gallon. The
15 provisions of this subsection shall not apply to stores where
16 cleaners, paints, and oils are sold in the original containers to
17 consumers.

18 3. It shall be unlawful to permit the presence of lighted
19 cigars, cigarettes, pipes, or any other open flame within [ten]
20 twenty-five feet of where fireworks are manufactured, stored,
21 kept, or offered for sale.

22 4. Fireworks shall not be manufactured, stored, kept or
23 sold within fifty feet of any [area in which] dispensing unit for
24 ignitable liquids or fuel gases [are stored above the surface of

1 the ground].

2 320.151. 1. It is unlawful to attempt to sell or to sell
3 at retail any fireworks to children under the age of fourteen
4 years except when such child is in the presence of a parent or
5 guardian.

6 2. It is unlawful for any person under the age of sixteen
7 to sell fireworks or work in a facility where fireworks are
8 stored, sold, or offered for sale unless supervised by an adult.

9 3. It is unlawful to explode or ignite consumer fireworks
10 within six hundred feet of any church, hospital, mental health
11 facility, school, or within one hundred feet of [a permanent
12 structure] any location where fireworks are stored, sold, or
13 offered for sale.

14 4. No person shall ignite or discharge any permissible
15 articles of fireworks within or throw the same from a [motor]
16 motorized vehicle including watercraft or any other means of
17 transportation, except where display permit has been issued for a
18 floating vessel or floating platform, nor shall any person place
19 or throw any ignited article of fireworks into or at a [motor]
20 motorized vehicle including watercraft or any other means of
21 transportation, or at or near any person or group of people.

22 5. No person shall ignite or discharge consumer fireworks
23 within three hundred feet of any permanent storage of ignitable
24 liquid, gases, gasoline pump, gasoline filling station, or any

1 nonpermanent structure where fireworks are stored, sold or
2 offered for sale.

3 6. No items of explosive or pyrotechnic composition other
4 than fireworks as defined by subsections (3), (6), and (17) of
5 section 320.106 shall be displayed, sold, or offered for sale
6 within the applicable permit location as identified on such
7 permit granted by the state fire marshal.

8 7. Proximate fireworks shall not be allowed to be stored
9 with consumer fireworks.

10 8. All storage and transportation of fireworks shall be in
11 accordance with all federal and state rules and regulations.

12 9. Nothing in sections 320.106 to 320.161 shall be
13 construed to prevent permittees from demonstrating or testing
14 fireworks. Any such demonstration or test shall require the
15 notification and approval of the local fire service or the state
16 fire marshal.

17 320.161. [1.] Any person violating any provision of
18 sections 320.106 to 320.161 [except section 320.136] is guilty of
19 a class [B] A misdemeanor, except that a person violating section
20 320.136 is guilty of a class C felony.

21 [2. Any person violating the provisions of section 320.136
22 is guilty of a class A misdemeanor.]

23 404.729. 1. A person commits the crime of misuse of a
24 power of attorney if such person misuses a power of attorney in

1 such a manner that it results in the unauthorized appropriation,
2 sale, or transfer of funds, assets, or property for the benefit
3 of someone other than the principal of the power of attorney.

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

9 488.5336. 1. A surcharge of [two] three dollars may be
10 assessed as costs in each criminal case involving violations of
11 any county ordinance or a violation of any criminal or traffic
12 laws of the state, including infractions, or violations of
13 municipal ordinances, provided that no such fee shall be
14 collected in any proceeding in any court when the proceeding or
15 defendant has been dismissed by the court or when costs are to be
16 paid by the state, county or municipality. For violations of the
17 general criminal laws of the state or county ordinances, no such
18 surcharge shall be collected unless it is authorized by the
19 county government where the violation occurred. For violations
20 of municipal ordinances, no such surcharge shall be collected
21 unless it is authorized by the municipal government where the
22 violation occurred. If imposed by a municipality, such
23 surcharges shall be collected by the clerk of the municipal court
24 responsible for collecting court costs and fines and shall be

1 transmitted monthly to the treasurer of the municipality where
2 the violation occurred in cases of violations of municipal
3 ordinances. If imposed by a county, such surcharges shall be
4 collected and disbursed as provided in sections 488.010 to
5 488.020. Such surcharges shall be payable to the treasurer of
6 the county where the violation occurred in the case of violations
7 of the general criminal laws of the state or county ordinances.
8 Without regard to whether the aforementioned surcharge is
9 assessed, a surcharge in the amount of [one dollar] two dollars
10 shall be assessed as provided in this section, and shall be
11 collected and disbursed as provided in sections 488.010 to
12 488.020 and payable to the state treasury to the credit of the
13 peace officer standards and training commission fund created in
14 section 590.178, RSMo. Such surcharges shall be in addition to
15 the court costs and fees and limits on such court costs and fees
16 established by section 66.110, RSMo, and section 479.260, RSMo.

17 2. Each county and municipality shall use all funds
18 received under this section only to pay for the training required
19 as provided in sections 590.100 to 590.180, RSMo, or for the
20 training of county coroners and their deputies provided that any
21 excess funds not allocated to pay for such training may be used
22 to pay for additional training of peace officers or for training
23 of other law enforcement personnel employed or appointed by the
24 county or municipality and deposit all funds in a special law

1 enforcement training account. No county or municipality shall
2 retain more than [one] three thousand five hundred dollars of
3 such funds for each certified law enforcement officer, candidate
4 for certification employed by that agency or a coroner and the
5 coroner's deputies. Any excess funds shall be transmitted
6 quarterly to the general revenue fund of the county or
7 municipality treasury which assessed the costs. If a
8 municipality or county supplants the funds identified in this
9 section in any way, or reduces the municipal funding due to the
10 existence of these funds, prohibits the lawful use of these
11 funds, or transfers the minimum retained balance per person to
12 the municipal or county general revenue the political subdivision
13 shall reinstate all funds declared supplanted after a finding by
14 the attorney general's office. The attorney general shall
15 investigate all alleged acts of supplanting of this fund.

16 488.5400. 1. In addition to any other surcharges
17 authorized by statute, the clerk of each court of this state
18 shall collect the surcharges provided for in subsection 2 of this
19 section.

20 2. A surcharge of thirty dollars shall be assessed as costs
21 in each circuit court proceeding filed within this state in all
22 criminal cases in which the defendant pleads guilty or nolo
23 contendere to or is convicted of a felony. A surcharge of
24 fifteen dollars shall be assessed as costs in each court

1 proceeding filed within this state in all criminal cases in which
2 the defendant pleads guilty or nolo contendere to or is convicted
3 of a misdemeanor. A surcharge of one dollar shall be assessed as
4 costs in each circuit court proceeding filed within this state in
5 all traffic-related cases in which the defendant pleads guilty or
6 nolo contendere to, or is convicted.

7 3. Notwithstanding any other provisions of law, the moneys
8 collected by clerks of the courts pursuant to the provisions of
9 subsection 1 of this section shall be collected and disbursed in
10 accordance with section 488.010 to 488.020, and shall be payable
11 to the state treasurer.

12 4. The state treasurer shall deposit such moneys on a
13 monthly basis into the DNA profiling analysis fund, which is
14 hereby created in the state treasury. The moneys deposited into
15 the DNA profiling analysis fund shall be used only for DNA
16 profiling analysis of convicted offenders performed to fulfill
17 the purposes of the DNA profiling system pursuant to section
18 650.052, RSMo. Notwithstanding the provisions of section 33.080,
19 RSMo, moneys in the fund shall not revert to general revenue.
20 The state treasurer shall invest the moneys from the fund in the
21 same manner as other state funds are invested. Interest accruing
22 to the fund shall be deposited in the fund and shall not be
23 transferred to the general revenue fund.

24 547.037. 1. If testing ordered pursuant to section 547.035

1 demonstrates a person's innocence of the crime for which the
2 person is in custody, a motion for release may be filed in the
3 sentencing court.

4 2. The court shall issue to the prosecutor an order to show
5 cause why the motion should not be granted. The prosecutor shall
6 file a response consenting to or opposing the motion.

7 3. If the prosecutor consents to the motion and if the
8 court finds that such testing demonstrates the movant's innocence
9 of the crime for which he or she is in custody, the court shall
10 order the movant's release from the sentence for the crime for
11 which testing occurred.

12 4. If the prosecutor files a response opposing the movant's
13 release, the court shall conduct a hearing. If a hearing is
14 ordered, the public defender shall be appointed to represent the
15 movant if the movant is indigent. The hearing shall be on the
16 record. The movant shall have the burden of proving the
17 allegations of the motion by a preponderance of the evidence.

18 5. If the court finds that the testing ordered pursuant to
19 section 547.035 demonstrates the movant's innocence of the crime
20 for which he or she is in custody, the court shall order the
21 movant's release from the sentence for the crime for which the
22 testing occurred. Otherwise, relief shall be denied the movant.

23 6. The court shall issue findings of fact and conclusions
24 of law whether or not a hearing is held. An appeal may be taken

1 from the court's findings and conclusions as in other civil
2 cases.

3 7. Any person who is adjudicated innocent, as provided in
4 subsection 8 of this section shall be entitled to compensation
5 from the state for his or her economic and noneconomic costs
6 incurred. Such claims must be filed by petition to a court of
7 competent jurisdiction within one year of the person's release
8 from the department of corrections. Nothing in this section
9 creates a new cause of action against the state or any other
10 governmental entity.

11 8. For the purposes of this section, a person is
12 adjudicated innocent if all of the following factors have been
13 met:

14 (1) Testing ordered pursuant to Section 547.035 demonstrates
15 a person's innocence of the crime for which the person is in
16 custody;

17 (2) An order of release has been entered by the court; and

18 (3) All appeals have been exhausted.

19 9. A person who is adjudicated innocent shall receive
20 compensation for both economic and noneconomic costs incurred.
21 For the purposes of this subsection, economic costs means the
22 loss of employment income caused by the person's imprisonment.
23 Economic costs shall be the aggregate of the person's
24 compensation for each year of incarceration based annually on the

1 federal poverty level as defined by section 215.345, RSMo, but in
2 no event shall such compensation exceed sixty thousand dollars.
3 For the purpose of this subsection, noneconomic costs means the
4 loss of civil rights and the emotional duress resulting from
5 incarceration. Such costs shall not be compensated monetarily
6 directly to the claimant. Noneconomic costs shall be compensated
7 by the state paying the costs of job-skills training, therapy or
8 similar treatment, or other social or educational programs as
9 desired by the person and approved by the court. Payment shall
10 be made only upon the receipt by the state department of
11 corrections of the bills for the job-skills training, therapy or
12 similar treatment, or other social or educational programs
13 attended by the person. Knowingly making a false statement in
14 the filing of the petition shall be considered perjury, pursuant
15 to section 575.040, RSMo.

16 10. If the results of the DNA testing confirm the person's
17 guilt, then the person filing for DNA testing under section
18 547.035 shall:

19 (1) Be liable for any reasonable costs incurred when
20 conducting the DNA test, including but not limited to the cost of
21 the test. Such costs shall be determined by the court and shall
22 be included in the findings of fact and conclusions of law made
23 by the court pursuant to subsection 6 of this section; and

24 (2) Be sanctioned according to section 217.262, RSMo.

1 556.036. 1. A prosecution for murder, forcible rape,
2 attempted forcible rape, forcible sodomy, attempted forcible
3 sodomy, or any class A felony may be commenced at any time.

4 2. Except as otherwise provided in this section,
5 prosecutions for other offenses must be commenced within the
6 following periods of limitation:

7 (1) For any felony, three years;

8 (2) For any misdemeanor, one year;

9 (3) For any infraction, six months.

10 3. If the period prescribed in subsection 2 of this section
11 has expired, a prosecution may nevertheless be commenced for:

12 (1) Any offense a material element of which is either fraud
13 or a breach of fiduciary obligation within one year after
14 discovery of the offense by an aggrieved party or by a person who
15 has a legal duty to represent an aggrieved party and who is
16 himself or herself not a party to the offense, but in no case
17 shall this provision extend the period of limitation by more than
18 three years. As used in this subdivision, the term "person who
19 has a legal duty to represent an aggrieved party" shall mean the
20 attorney general or the prosecuting or circuit attorney having
21 jurisdiction pursuant to section 407.553, RSMo, for purposes of
22 offenses committed pursuant to sections 407.511 to 407.556, RSMo;
23 and

24 (2) Any offense based upon misconduct in office by a public

1 officer or employee at any time when the defendant is in public
2 office or employment or within two years thereafter, but in no
3 case shall this provision extend the period of limitation by more
4 than three years; and

5 (3) Any offense based upon an intentional and willful
6 fraudulent claim of child support arrearage to a public servant
7 in the performance of his or her duties within one year after
8 discovery of the offense, but in no case shall this provision
9 extend the period of limitation by more than three years[.]i

10 (4) Any violation of sections 569.040 to 569.055, RSMo,
11 within five years.

12 4. An offense is committed either when every element
13 occurs, or, if a legislative purpose to prohibit a continuing
14 course of conduct plainly appears, at the time when the course of
15 conduct or the defendant's complicity therein is terminated.
16 Time starts to run on the day after the offense is committed.

17 5. A prosecution is commenced either when an indictment is
18 found or an information filed.

19 6. The period of limitation does not run:

20 (1) During any time when the accused is absent from the
21 state, but in no case shall this provision extend the period of
22 limitation otherwise applicable by more than three years; or

23 (2) During any time when the accused is concealing himself
24 from justice either within or without this state; or

1 (3) During any time when a prosecution against the accused
2 for the offense is pending in this state; or

3 (4) During any time when the accused is found to lack
4 mental fitness to proceed pursuant to section 552.020, RSMo.

5 557.036. 1. Subject to the limitation provided in
6 subsection 3 of this section, upon a finding of guilt upon
7 verdict or plea, the court shall decide the extent or duration of
8 sentence or other disposition to be imposed under all the
9 circumstances, having regard to the nature and circumstances of
10 the offense and the history and character of the defendant and
11 render judgment accordingly.

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

17 3. If the jury at the first stage of a trial finds the
18 defendant guilty of the submitted offense, the second stage of
19 the trial shall proceed. The issue at the second stage of the
20 trial shall be the punishment to be assessed and declared.
21 Evidence supporting or mitigating punishment may be presented.
22 Such evidence may include, within the discretion of the court,
23 evidence concerning the impact of the crime upon the victim, the
24 victim's family and others, the nature and circumstances of the

1 offense, and the history and character of the defendant.
2 Rebuttal and surrebuttal evidence may be presented. The state
3 shall be the first to proceed. The court shall instruct the jury
4 as to the range of punishment authorized by statute for each
5 submitted offense. The attorneys may argue the issue of
6 punishment to the jury, and the state shall have the right to
7 open and close the argument. The jury shall assess and declare
8 the punishment as authorized by statute.

9 4. A second stage of the trial shall not proceed and the
10 court, and not the jury, shall assess punishment if:] The court
11 shall instruct the jury as to the range of punishment authorized
12 by statute and upon a finding of guilt to assess and declare the
13 punishment as a part of their verdict, unless:

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

17 (2) The state pleads and proves the defendant is a prior
18 offender, persistent offender, dangerous offender, or persistent
19 misdemeanor offender as defined in section 558.016, RSMo, a
20 persistent sexual offender as defined in section 558.018, RSMo,
21 or a predatory sexual offender as defined in section 558.018,
22 RSMo.

23 If the jury finds the defendant guilty but cannot agree on the

1 punishment to be assessed, the court shall proceed as provided in
2 subsection 1 of this section. If there is a trial by jury and
3 the jury is to assess punishment and if, after due deliberation
4 by the jury, the court finds the jury cannot agree on punishment,
5 then the court may instruct the jury that if it cannot agree on
6 punishment that it may return its verdict without assessing
7 punishment and the court will assess punishment.

8 [5.] 3. If the jury returns a verdict of guilty [in the
9 first stage] and declares a term of imprisonment [in the second
10 stage] as provided in subsection 2 of this section, the court
11 shall proceed as provided in subsection 1 of this section except
12 that any term of imprisonment imposed cannot exceed the term
13 declared by the jury unless the term declared by the jury is less
14 than the authorized lowest term for the offense, in which event
15 the court cannot impose a term of imprisonment greater than the
16 lowest term provided for the offense.

17 [6.] 4. If the defendant is found to be a prior offender,
18 persistent offender, dangerous offender or persistent misdemeanor
19 offender as defined in section 558.016, RSMo:

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

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

24 [7.] 5. The court shall not seek an advisory verdict from

1 the jury in cases of prior offenders, persistent offenders,
2 dangerous offenders, persistent sexual offenders or predatory
3 sexual offenders; if an advisory verdict is rendered, the court
4 shall not deem it advisory, but shall consider it as mere
5 surplusage.

6 558.016. 1. The court may sentence a person who has
7 pleaded guilty to or has been found guilty of an offense to a
8 term of imprisonment as authorized by section 558.011 or to a
9 term of imprisonment authorized by a statute governing the
10 offense if it finds the defendant is a prior offender or a
11 persistent misdemeanor offender, or to an extended term of
12 imprisonment if it finds the defendant is a persistent offender
13 or a dangerous offender.

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

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

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

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

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

3 5. A "persistent misdemeanor offender" is one who has
4 pleaded guilty to or has been found guilty of two or more class A
5 or B misdemeanors, committed at different times, which are
6 defined as offenses under chapters 195, 565, 566, 567, 568, 569,
7 570, 571, 572, 573, 574, 575, and 576, RSMo.

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

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

12 (1) For a class A felony, any sentence authorized for a
13 class A felony;

14 (2) For a class B felony, any sentence authorized for a
15 class A felony;

16 (3) For a class C felony, any sentence authorized for a
17 class B felony;

18 (4) For a class D felony, any sentence authorized for a
19 class C felony.

20 8. An offender convicted of a nonviolent class C or class D
21 felony with no prior prison commitments, after serving one
22 hundred twenty days of his or her sentence, may, in writing,
23 petition the sentencing court to serve the remainder of his or
24 her sentence on probation, parole, or other court-approved

1 alternative sentence. The offender shall concurrently serve a
2 copy of the petition on the prosecuting attorney that prosecuted
3 the offense. No hearing shall be conducted unless the court
4 deems it necessary. If the court deems that a hearing is
5 necessary, the state shall be a party, represented by the
6 prosecuting attorney that prosecuted the offense. At such
7 hearing, any victim, as that term is defined in section 595.200,
8 RSMo, shall have the right to be heard as provided for in section
9 595.209, RSMo. Upon the offender petitioning the court, the
10 department of corrections shall submit a report to the sentencing
11 court which evaluates the conduct of the offender while in
12 custody, alternative custodial methods available to the offender,
13 the statement of any victim or witness as those terms are defined
14 in section 595.200, RSMo, concerning the release of the offender,
15 and shall recommend whether the offender be released or remain in
16 custody. The department of corrections shall provide the
17 sentencing court with the report within sixty days after the
18 offender petitions the court. If [the report issued by the
19 department is favorable and recommends probation, parole, or
20 other alternative sentence, the court shall follow the
21 recommendations of the department if] the court deems it
22 appropriate in light of all the information before the court, the
23 court may follow the recommendations of the department. Any
24 placement of an offender pursuant to section 559.115, RSMo, shall

1 be excluded from the provisions of this subsection.

2 558.019. 1. This section shall not be construed to affect
3 the powers of the governor under article IV, section 7, of the
4 Missouri Constitution. This statute shall not affect those
5 provisions of section 565.020, RSMo, section 558.018 or section
6 571.015, RSMo, which set minimum terms of sentences, or the
7 provisions of section 559.115, RSMo, relating to probation.

8 2. The provisions of subsections 2 to 5 of this section
9 shall be applicable to all classes of felonies except those set
10 forth in chapter 195, RSMo, and those otherwise excluded in
11 subsection 1 of this section. For the purposes of this section,
12 "prison commitment" means and is the receipt by the department of
13 corrections of an offender after sentencing. For purposes of
14 this section, prior prison commitments to the department of
15 corrections shall not include commitment to a regimented
16 discipline program established pursuant to section 217.378, RSMo.
17 Other provisions of the law to the contrary notwithstanding, any
18 offender who has pleaded guilty to or has been found guilty of a
19 felony other than a dangerous felony as defined in section
20 556.061, RSMo, and is committed to the department of corrections
21 shall be required to serve the following minimum prison terms:

22 (1) If the offender has one previous prison commitment to
23 the department of corrections for a felony offense, the minimum
24 prison term which the offender must serve shall be forty percent

1 of his or her sentence or until the offender attains seventy
2 years of age, and has served at least thirty percent of the
3 sentence imposed, whichever occurs first;

4 (2) If the offender has two previous prison commitments to
5 the department of corrections for felonies unrelated to the
6 present offense, the minimum prison term which the offender must
7 serve shall be fifty percent of his or her sentence or until the
8 offender attains seventy years of age, and has served at least
9 forty percent of the sentence imposed, whichever occurs first;

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

17 3. Other provisions of the law to the contrary
18 notwithstanding, any offender who has pleaded guilty to or has
19 been found guilty of a dangerous felony as defined in section
20 556.061, RSMo, and is committed to the department of corrections
21 shall be required to serve a minimum prison term of eighty-five
22 percent of the sentence imposed by the court or until the
23 offender attains seventy years of age, and has served at least
24 forty percent of the sentence imposed, whichever occurs first.

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

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

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

9 5. For purposes of this section, the term "minimum prison
10 term" shall mean time required to be served by the offender
11 before he or she is eligible for parole, conditional release or
12 other early release by the department of corrections. [Except
13 that the board of probation and parole, in the case of
14 consecutive sentences imposed at the same time pursuant to a
15 course of conduct constituting a common scheme or plan, shall be
16 authorized to convert consecutive sentences to concurrent
17 sentences, when the board finds, after hearing with notice to the
18 prosecuting or circuit attorney, that the sum of the terms
19 results in an unreasonably excessive total term, taking into
20 consideration all factors related to the crime or crimes
21 committed and the sentences received by others similarly
22 situated.]

23 6. (1) A sentencing advisory commission is hereby created
24 to consist of eleven members. One member shall be appointed by

1 the speaker of the house. One member shall be appointed by the
2 president pro tem of the senate. One member shall be the
3 director of the department of corrections. Six members shall be
4 appointed by and serve at the pleasure of the governor from among
5 the following: the public defender commission; private citizens;
6 a private member of the Missouri Bar; the board of probation and
7 parole; and a prosecutor. Two members shall be appointed by the
8 supreme court, one from a metropolitan area and one from a rural
9 area. All members shall be appointed to a four-year term. All
10 members of the sentencing commission appointed prior to August
11 28, 1994, shall continue to serve on the sentencing advisory
12 commission at the pleasure of the governor.

13 (2) The commission shall study sentencing practices in the
14 circuit courts throughout the state for the purpose of
15 determining whether and to what extent disparities exist among
16 the various circuit courts with respect to the length of
17 sentences imposed and the use of probation for offenders
18 convicted of the same or similar crimes and with similar criminal
19 histories. The commission shall also study and examine whether
20 and to what extent sentencing disparity among economic and social
21 classes exists in relation to the sentence of death and if so,
22 the reasons therefor sentences are comparable to other states, if
23 the length of the sentence is appropriate, and the rate of
24 rehabilitation based on sentence. It shall compile statistics,

1 examine cases, draw conclusions, and perform other duties
2 relevant to the research and investigation of disparities in
3 death penalty sentencing among economic and social classes.

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

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

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

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

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

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

21 (5) The commission shall publish and distribute its
22 recommendations on or before July 1, 2004. The commission shall
23 study the implementation and use of the recommendations until
24 July 1, 2005, and return a report to the governor, the speaker of

1 the house of representatives, and the president pro tem of the
2 senate. Following the July 1, 2005, report, the commission shall
3 revise the recommended sentences every two years.

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

7 (7) The members of the commission shall not receive
8 compensation for their duties on the commission, but shall be
9 reimbursed for actual and necessary expenses incurred in the
10 performance of these duties and for which they are not reimbursed
11 by reason of their other paid positions.

12 (8) The circuit and associate circuit courts of this state,
13 the office of the state courts administrator, the department of
14 public safety, and the department of corrections shall cooperate
15 with the commission by providing information or access to
16 information needed by the commission. The office of the state
17 courts administrator will provide needed staffing resources.

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

1 (1) Restitution to any victim for costs incurred as a
2 result of the offender's actions;

3 (2) Offender treatment programs;

4 (3) Mandatory community services;

5 (4) Work release programs in local facilities; and

6 (5) Community-based residential and nonresidential
7 programs.

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

13 (1) Restitution to any victim for costs incurred as a
14 result of the offender's actions;

15 (2) Offender treatment programs;

16 (3) Mandatory community service;

17 (4) Work release programs in local facilities; and

18 (5) Community-based residential and nonresidential
19 programs.] the assessment and payment of a designated amount of
20 money to a county law enforcement restitution fund established by
21 the county commission pursuant to section 50.565, RSMo. Such
22 contribution shall not exceed two hundred seventy-five dollars
23 for any charged offense. Any money deposited into the county law
24 enforcement restitution fund pursuant to this section shall only

1 be expended pursuant to the provisions of section 50.565, RSMo.
2 County law enforcement restitution funds shall be audited as are
3 all other county funds.

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

6 559.021. 1. The conditions of probation shall be such as
7 the court in its discretion deems reasonably necessary to ensure
8 that the defendant will not again violate the law. When a
9 defendant is placed on probation he shall be given a certificate
10 explicitly stating the conditions on which he is being released.

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

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

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

21 3. In addition to such other authority as exists to order
22 conditions of probation, in the case of a plea of guilty or a
23 finding of guilt, the court may order the assessment and payment
24 of a designated amount of money to a county law enforcement

1 restitution fund established by the county commission pursuant to
2 section 50.565, RSMo. Such contribution shall not exceed two
3 hundred seventy-five dollars for any charged offense. Any money
4 deposited into the county law enforcement restitution fund
5 pursuant to this section shall only be expended pursuant to the
6 provisions of section 50.565, RSMo. County law enforcement
7 restitution funds shall be audited as are all other county funds.

8 [3.] 4. The defendant may refuse probation conditioned on
9 the performance of free work. If he does so, the court shall
10 decide the extent or duration of sentence or other disposition to
11 be imposed and render judgment accordingly. Any county, city,
12 person, organization, or agency, or employee of a county, city,
13 organization or agency charged with the supervision of such free
14 work or who benefits from its performance shall be immune from
15 any suit by the defendant or any person deriving a cause of
16 action from him if such cause of action arises from such
17 supervision of performance, except for an intentional tort or
18 gross negligence. The services performed by the defendant shall
19 not be deemed employment within the meaning of the provisions of
20 chapter 288, RSMo. A defendant performing services pursuant to
21 this section shall not be deemed an employee within the meaning
22 of the provisions of chapter 287, RSMo.

23 [4.] 5. The court may modify or enlarge the conditions of
24 probation at any time prior to the expiration or termination of

1 the probation term.

2 6. The defendant may refuse probation conditioned on a
3 payment to a county law enforcement restitution fund. If he or
4 she does so, the court shall decide the extent or duration of
5 sentence or other disposition to be imposed and render judgment
6 accordingly. A judge may order payment to a law enforcement
7 restitution fund only if such fund had been created prior to
8 sentencing by ordinance or resolution of a county of the state of
9 Missouri. A judge shall not have any direct supervisory
10 authority or administrative control over any fund to which the
11 judge is ordering the probationers to make payments. A defendant
12 who fails to make a payment or payments to a county law
13 enforcement restitution fund may not have his or her probation
14 revoked solely for failing to make such payment unless the judge,
15 after evidentiary hearing, makes a finding supported by a
16 preponderance of the evidence that the defendant either willfully
17 refused to make the payment or that the defendant willfully,
18 intentionally, and purposefully failed to make sufficient bona
19 fide efforts to acquire the resources to pay.

20 565.087. 1. A person commits the crime of endangering a
21 corrections employee if such person is an offender or prisoner
22 and such person attempts to cause or knowingly causes a
23 corrections employee to come into contact with a substance,
24 including but not limited to blood, seminal fluid, urine, feces,

1 or saliva.

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

3 (1) "Offender", a person in the custody of the department
4 of corrections;

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

6 (3) "Corrections employee", a person who is an employee of
7 a department or agency responsible for operating a jail, prison,
8 or correctional facility, or a person who is assigned to work in
9 a jail, prison, or correctional facility.

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

17 565.092. 1. [An inmate,] A patient or respondent is guilty
18 of aggravated harassment of an employee when, with intent to
19 harass, annoy, threaten or alarm a person in a facility whom the
20 person knows or reasonably should know to be an employee of such
21 facility [or of the department of corrections] or the department
22 of mental health or to be an employee of any law enforcement
23 agency, the person causes or attempts to cause such employee to
24 come into contact with blood, seminal fluid, urine or feces, by

1 throwing, tossing or expelling such fluid or material.

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

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

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

19 569.157. 1. A person commits the crime of aggravated
20 trespass in a movie theater if such person knowingly operates an
21 audiovisual recording function of a video camera, camcorder, or
22 any other device capable of recording or transmitting images by
23 means of any technology now known or later developed, within a
24 movie theater where a motion picture is being exhibited, without

1 the consent of the theater owner.

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

3 (1) "Audiovisual recording function", means the capability
4 of a device to record or transmit a motion picture or any part
5 thereof by means of any technology now known or later developed;

6 (2) "Motion picture", an audiovisual work consisting of a
7 series of related images which, when shown in succession, impart
8 an impression of motion, together with accompanying sounds, if
9 any;

10 (3) "Movie theater", a premises used for the exhibition of
11 motion pictures to the general public;

12 (4) "Theater owner", an owner or operator and the agent,
13 employee, consignee, lessee, or officer of an owner or operator
14 of any movie theater.

15 3. Aggravated trespass in a movie theater for a first
16 offense is a class A misdemeanor. A second or subsequent offense
17 is a class D felony.

18 4. Any theater owner who alerts law enforcement authorities
19 of an alleged aggravated trespass in a movie theater shall not be
20 liable in any civil action arising out of measures taken by such
21 theater owner in the course of detaining a person that the owner
22 in good faith believed to be committing aggravated trespass in a
23 movie theater while awaiting the arrival of law enforcement
24 authorities, unless the plaintiff can show by clear and

1 convincing evidence that such measures were manifestly
2 unreasonable or the period of detention was unreasonably long.

3 570.300. 1. A person commits the crime of theft of cable
4 television service if he:

5 (1) Knowingly obtains or attempts to obtain cable
6 television service without paying all lawful compensation to the
7 operator of such service, by means of artifice, trick, deception
8 or device; or

9 (2) Knowingly assists another person in obtaining or
10 attempting to obtain cable television service without paying all
11 lawful compensation to the operator of such service; or

12 (3) Knowingly connects to, tampers with or otherwise
13 interferes with any cables, wires or other devices used for the
14 distribution of cable television if the effect of such action is
15 to obtain cable television without paying all lawful compensation
16 therefor; or

17 (4) Knowingly sells, uses, manufactures, rents or offers
18 for sale, rental or use any device, plan or kit designed and
19 intended to obtain cable television service in violation of this
20 section; or

21 (5) Knowingly attempts to connect to, tamper with, or
22 otherwise interfere with any cable television signal, cables,
23 wires, devices, or equipment used for the distribution of cable
24 television which results in the unauthorized use of a cable

1 television system or the disruption of the cable television
2 service.

3 2. Theft of cable television service is a class C felony if
4 the value of the service appropriated is five hundred dollars or
5 more or if the theft is a violation of subdivision (5) of
6 subsection 1 of this section; otherwise theft of cable television
7 services is a class A misdemeanor.

8 3. Any cable television operator may bring an action to
9 enjoin and restrain any violation of the provisions of this
10 section or bring an action for conversion. In addition to any
11 actual damages, an operator may be entitled to punitive damages
12 and reasonable attorney fees in any case in which the court finds
13 that the violation was committed willfully and for purposes of
14 commercial advantage. In the event of a defendant's verdict the
15 defendant may be entitled to reasonable attorney fees.

16 4. The existence on the property and in the actual
17 possession of the accused of any connection wire, or conductor,
18 which is connected in such a manner as to permit the use of cable
19 television service without the same being reported for payment to
20 and specifically authorized by the operator of the cable
21 television service shall be sufficient to support an inference
22 which the trial court may submit to the trier of fact, from which
23 the trier of fact may conclude that the accused has committed the
24 crime of theft of cable television service.

1 5. If a cable television company either:

2 (1) Provides unsolicited cable television service; or

3 (2) Fails to change or disconnect cable television service
4 within ten days after receiving written notice to do so by the
5 customer, the customer may deem such service to be a gift without
6 any obligation to the cable television company from ten days
7 after such written notice is received until the service is
8 changed or disconnected.

9 6. Nothing in this section shall be construed to render
10 unlawful or prohibit an individual or other legal entity from
11 owning or operating a video cassette recorder or devices commonly
12 known as a "satellite receiving dish" for the purpose of
13 receiving and utilizing satellite-relayed television signals for
14 his own use.

15 7. As used in this section, the term "cable television
16 service" includes microwave television transmission from a
17 multipoint distribution service not capable of reception by
18 conventional television receivers without the use of special
19 equipment.

20 575.150. 1. A person commits the crime of resisting or
21 interfering with arrest, detention, or stop if, knowing that a
22 law enforcement officer is making an arrest, or attempting to
23 lawfully detain or stop an individual or vehicle, or the person
24 reasonably should know that a law enforcement officer is making

1 an arrest or attempting to lawfully detain or lawfully stop an
2 individual or vehicle, for the purpose of preventing the officer
3 from effecting the arrest, stop or detention, the person:

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

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

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

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

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

22 4. It is no defense to a prosecution pursuant to subsection
23 1 of this section that the law enforcement officer was acting
24 unlawfully in making the arrest. However, nothing in this

1 section shall be construed to bar civil suits for unlawful
2 arrest.

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

13 575.195. 1. A person commits the crime of escape from
14 commitment or detention if he or she has been committed to a
15 state mental hospital under the provisions of [sections 202.700
16 to 202.770 or of] sections 552.010 to 552.080, RSMo, or of
17 sections 632.480 to 632.513, RSMo, or has been ordered to be
18 taken into custody, detained, or held pursuant to sections
19 632.480 to 632.513, RSMo, and he or she escapes from such
20 commitment or detention.

21 2. Escape from commitment or detention is a class D felony.

22 577.041. 1. Except as provided in subsection 9 of this
23 section, if a person under arrest, or who has been stopped
24 pursuant to subdivision (2) or (3) of subsection 1 of section

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

24 2. The officer shall make a sworn report to the director of

1 revenue, which shall include the following:

2 (1) That the officer has:

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

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

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

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

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

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

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

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

3 3. Upon receipt of the officer's report, the director shall
4 revoke the license of the person refusing to take the test for a
5 period of one year; or if the person is a nonresident, such
6 person's operating permit or privilege shall be revoked for one
7 year; or if the person is a resident without a license or permit
8 to operate a motor vehicle in this state, an order shall be
9 issued denying the person the issuance of a license or permit for
10 a period of one year.

11 4. If a person's license has been revoked because of the
12 person's refusal to submit to a chemical test, such person may
13 petition for a hearing before a circuit or associate circuit
14 court in the county in which the arrest or stop occurred. The
15 person may request such court to issue an order staying the
16 revocation until such time as the petition for review can be
17 heard. If the court, in its discretion, grants such stay, it
18 shall enter the order upon a form prescribed by the director of
19 revenue and shall send a copy of such order to the director.
20 Such order shall serve as proof of the privilege to operate a
21 motor vehicle in this state and the director shall maintain
22 possession of the person's license to operate a motor vehicle
23 until termination of any revocation pursuant to this section.
24 Upon the person's request the clerk of the court shall notify the

1 prosecuting attorney of the county and the prosecutor shall
2 appear at the hearing on behalf of the director of revenue. At
3 the hearing the court shall determine only:

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

5 (2) Whether or not the officer had:

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

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

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

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

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

24 6. Requests for review as provided in this section shall go

1 to the head of the docket of the court wherein filed.

2 7. No person who has had a license to operate a motor
3 vehicle suspended or revoked pursuant to the provisions of this
4 section shall have that license reinstated until such person has
5 participated in and successfully completed a substance abuse
6 traffic offender program defined in section 577.001, or a program
7 determined to be comparable by the department of mental health or
8 the court. Assignment recommendations, based upon the needs
9 assessment as described in subdivision (22) of section 302.010,
10 RSMo, shall be delivered in writing to the person with written
11 notice that the person is entitled to have such assignment
12 recommendations reviewed by the court if the person objects to
13 the recommendations. The person may file a motion in the
14 associate division of the circuit court of the county in which
15 such assignment was given, on a printed form provided by the
16 state courts administrator, to have the court hear and determine
17 such motion pursuant to the provisions of chapter 517, RSMo. The
18 motion shall name the person or entity making the needs
19 assessment as the respondent and a copy of the motion shall be
20 served upon the respondent in any manner allowed by law. Upon
21 hearing the motion, the court may modify or waive any assignment
22 recommendation that the court determines to be unwarranted based
23 upon a review of the needs assessment, the person's driving
24 record, the circumstances surrounding the offense, and the

1 likelihood of the person committing a like offense in the future,
2 except that the court may modify but may not waive the assignment
3 to an education or rehabilitation program of a person determined
4 to be a prior or persistent offender as defined in section
5 577.023, or of a person determined to have operated a motor
6 vehicle with fifteen-hundredths of one percent or more by weight
7 in such person's blood. Compliance with the court determination
8 of the motion shall satisfy the provisions of this section for
9 the purpose of reinstating such person's license to operate a
10 motor vehicle. The respondent's personal appearance at any
11 hearing conducted pursuant to this subsection shall not be
12 necessary unless directed by the court.

13 8. The fees for the substance abuse traffic offender
14 program, or a portion thereof to be determined by the division of
15 alcohol and drug abuse of the department of mental health, shall
16 be paid by the person enrolled in the program. Any person who is
17 enrolled in the program shall pay, in addition to any fee charged
18 for the program, a supplemental fee to be determined by the
19 department of mental health for the purposes of funding the
20 substance abuse traffic offender program defined in section
21 302.010, RSMo, and section 577.001. The administrator of the
22 program shall remit to the division of alcohol and drug abuse of
23 the department of mental health on or before the fifteenth day of
24 each month the supplemental fee for all persons enrolled in the

1 program, less two percent for administrative costs. Interest
2 shall be charged on any unpaid balance of the supplemental fees
3 due the division of alcohol and drug abuse pursuant to this
4 section and shall accrue at a rate not to exceed the annual rates
5 established pursuant to the provisions of section 32.065, RSMo,
6 plus three percentage points. The supplemental fees and any
7 interest received by the department of mental health pursuant to
8 this section shall be deposited in the mental health earnings
9 fund which is created in section 630.053, RSMo.

10 9. Any administrator who fails to remit to the division of
11 alcohol and drug abuse of the department of mental health the
12 supplemental fees and interest for all persons enrolled in the
13 program pursuant to this section shall be subject to a penalty
14 equal to the amount of interest accrued on the supplemental fees
15 due the division pursuant to this section. If the supplemental
16 fees, interest, and penalties are not remitted to the division of
17 alcohol and drug abuse of the department of mental health within
18 six months of the due date, the attorney general of the state of
19 Missouri shall initiate appropriate action of the collection of
20 said fees and interest accrued. The court shall assess attorney
21 fees and court costs against any delinquent program.

22 10. Even though a person has refused to submit to any test
23 allowed pursuant to subdivision (2) or (3) of subsection 1 of
24 section 577.020, blood, saliva, or urine may still be collected

1 from such person if the officer has a valid search warrant for
2 such blood, saliva, or urine. The fact that such evidence was
3 obtained through the use of a search warrant does not negate the
4 person's refusal to submit to any test and such person shall
5 still have his or her license revoked pursuant to subsection 3 of
6 this section for refusal to submit to any test.

7 577.500. 1. A court of competent jurisdiction shall, upon
8 a plea of guilty, conviction or finding of guilt, or, if the
9 court is a juvenile court, upon a finding of fact that the
10 offense was committed by a juvenile, enter an order suspending or
11 revoking the driving privileges of any person determined to have
12 committed one of the following offenses and who, at the time said
13 offense was committed, was under twenty-one years of age:

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

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

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

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

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

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

22 3. The court, if other than a juvenile court, shall forward
23 to the director of revenue the order of suspension or revocation
24 of driving privileges and any licenses acquired under subsection

1 2 of this section.

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

7 (2) The court, if a juvenile court, shall hold the order of
8 suspension or revocation of driving privileges for any person
9 less than sixteen years of age until thirty days before the
10 person's sixteenth birthday, at which time the juvenile court
11 shall forward to the director of revenue the order of suspension
12 or revocation of driving privileges, the provision of chapter
13 211, RSMo, to the contrary notwithstanding.

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

18 578.421. As used in sections 578.421 to 578.437, the
19 following terms mean:

20 (1) "Criminal street gang", any ongoing organization,
21 association, or group of three or more persons, whether formal or
22 informal, having as one of its primary activities the commission
23 of one or more of the criminal acts enumerated in subdivision (2)
24 of this section, which has a common name or common identifying

1 sign or symbol, whose members individually or collectively engage
2 in or have engaged in a pattern of criminal gang activity;

3 (2) "Pattern of criminal street gang activity", the
4 commission, attempted commission, or solicitation of two or more
5 of the following offenses, provided at least one of those
6 offenses occurred after August 28, 1993, and the last of those
7 offenses occurred within three years after a prior offense, and
8 the offenses are committed on separate occasions, or by two or
9 more persons:

10 (a) Assault with a deadly weapon or by means of force
11 likely to cause serious physical injury, as provided in sections
12 565.050 and 565.060, RSMo;

13 (b) [Robbery, arson and those] All offenses under chapter
14 569, RSMo[, which are related to robbery and arson];

15 (c) Murder or manslaughter, as provided in sections 565.020
16 to 565.024, RSMo;

17 (d) Any violation of the provisions of chapter 195, RSMo,
18 which involves the distribution, delivery [or], manufacture, or
19 trafficking of a substance prohibited by chapter 195, RSMo;

20 (e) Unlawful use of a weapon which is a felony pursuant to
21 section 571.030, RSMo;

22 (f) Tampering with witnesses and victims, as provided in
23 section 575.270, RSMo;

24 (g) All felony stealing offenses as provided under section

1 570.030, RSMo.

2 595.209. 1. The following rights shall automatically be
3 afforded to victims of dangerous felonies, as defined in section
4 556.061, RSMo, victims of murder in the first degree, as defined
5 in section 565.020, RSMo, victims of voluntary manslaughter, as
6 defined in section 565.023, RSMo, and victims of an attempt to
7 commit one of the preceding crimes, as defined in section
8 564.011, RSMo; and, upon written request, the following rights
9 shall be afforded to victims of all other crimes and witnesses of
10 crimes:

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

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

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

23 (4) For victims, the right to confer with and to be
24 informed by the prosecutor regarding bail hearings, guilty pleas,

1 pleas under chapter 552, RSMo, or its successors, hearings,
2 sentencing and probation revocation hearings and the right to be
3 heard at such hearings, including juvenile proceedings, unless in
4 the determination of the court the interests of justice require
5 otherwise;

6 (5) The right to be informed by local law enforcement
7 agencies, the appropriate juvenile authorities or the custodial
8 authority of the following:

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

11 (b) The right to be informed by local law enforcement
12 agencies or the appropriate juvenile authorities, of the
13 availability of victim compensation assistance, assistance in
14 obtaining documentation of the victim's losses, including, but
15 not limited to and subject to existing law concerning protected
16 information or closed records, access to copies of complete,
17 unaltered, unedited investigation reports of motor vehicle,
18 pedestrian, and other similar accidents upon request to the
19 appropriate law enforcement agency by the victim or the victim's
20 representative, and emergency crisis intervention services
21 available in the community;

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

24 (d) Within twenty-four hours, any escape by such person

1 from a municipal detention facility, county jail, a correctional
2 facility operated by the department of corrections, mental health
3 facility, or the division of youth services or any agency
4 thereof, and any subsequent recapture of such person;

5 (6) For victims, the right to be informed by appropriate
6 juvenile authorities of probation revocation hearings initiated
7 by the juvenile authority and the right to be heard at such
8 hearings or to offer a written statement, video or audio tape in
9 lieu of a personal appearance, the right to be informed by the
10 board of probation and parole of probation revocation hearings
11 initiated by the board and of parole hearings, the right to be
12 present at each and every phase of parole hearings and the right
13 to be heard at probation revocation and parole hearings or to
14 offer a written statement, video or audio tape in lieu of a
15 personal appearance, and the right to be informed by the
16 custodial mental health facility or agency thereof of any
17 hearings for the release of a person committed pursuant to the
18 provisions of chapter 552, RSMo, the right to be present at such
19 hearings, the right to be heard at such hearings or to offer a
20 written statement, video or audio tape in lieu of personal
21 appearance;

22 (7) For victims and witnesses, upon their written request,
23 the right to be informed by the appropriate custodial authority,
24 including any municipal detention facility, juvenile detention

1 facility, county jail, correctional facility operated by the
2 department of corrections, mental health facility, division of
3 youth services or agency thereof if the offense would have been a
4 felony if committed by an adult, postconviction or commitment
5 pursuant to the provisions of chapter 552, RSMo, of the
6 following:

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

9 (b) Any release of such person on bond;

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

14 (d) Any scheduled parole or release hearings regarding such
15 person and any changes in the scheduling of such hearings. No
16 such hearing shall be conducted without thirty days' advance
17 notice;

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

23 (f) Any decision by a parole board, by a juvenile releasing
24 authority or by a circuit court presiding over releases pursuant

1 to the provisions of chapter 552, RSMo, or by a circuit court
2 presiding over releases pursuant to section 558.016, RSMo, or
3 section 217.362, RSMo, to release such person or any decision by
4 the governor to commute the sentence of such person or pardon
5 such person;

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

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

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

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

24 (11) For victims, to be informed by the prosecuting

1 attorney of the right to restitution which shall be enforceable
2 in the same manner as any other cause of action as otherwise
3 provided by law;

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

8 (13) When a victim's property is no longer needed for
9 evidentiary reasons or needs to be retained pending an appeal,
10 the prosecuting attorney or any law enforcement agency having
11 possession of the property shall, upon request of the victim,
12 return such property to the victim within five working days
13 unless the property is contraband or subject to forfeiture
14 proceedings, or provide written explanation of the reason why
15 such property shall not be returned;

16 (14) An employer may not discharge or discipline any
17 witness, victim or member of a victim's immediate family for
18 honoring a subpoena to testify in a criminal proceeding or for
19 participating in the preparation of a criminal proceeding;

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

23 (16) For victims and witnesses, the right to speedy
24 disposition of their cases, and for victims, the right to speedy

1 appellate review of their cases, provided that nothing in this
2 subdivision shall prevent the defendant from having sufficient
3 time to prepare such defendant's defense. The attorney general
4 shall provide victims, upon their written request, case status
5 information throughout the appellate process of their cases. The
6 provisions of this subdivision shall apply only to proceedings
7 involving the particular case to which the person is a victim or
8 witness;

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

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

21 3. Those persons entitled to notice of events pursuant to
22 the provisions of subsection 1 of this section shall provide the
23 appropriate person or agency with their current addresses and
24 telephone numbers or the addresses or telephone numbers at which

1 they wish notification to be given.

2 4. Notification by the appropriate person or agency by
3 certified mail to the most current address provided by the victim
4 shall constitute compliance with the victim notification
5 requirement of this section.

6 5. Victims' rights as established in section 32 of article
7 I of the Missouri Constitution or the laws of this state
8 pertaining to the rights of victims of crime shall be granted and
9 enforced regardless of the desires of a defendant and no
10 privileges of confidentiality shall exist in favor of the
11 defendant to exclude victims or prevent their full participation
12 in each and every phase of parole hearings or probation
13 revocation hearings. The rights of the victims granted in this
14 section are absolute and the policy of this state is that the
15 victim's rights are paramount to the defendant's rights. The
16 victim has an absolute right to be present at any hearing in
17 which the defendant is present before a probation and parole
18 hearing officer.

19 650.050. 1. In any criminal trial or proceeding, the
20 results of forensic DNA analysis shall be admissible in evidence
21 to prove or disprove any relevant fact. The Missouri department
22 of public safety shall develop and establish a "DNA Profiling
23 System", referred to in sections 650.050 to 650.057 as the system
24 to [support criminal justice services in the local communities

1 throughout this state in DNA identification] assist federal,
2 state, and local criminal justice and law enforcement agencies in
3 the identification, investigation, and prosecution of individuals
4 as well as the identification of missing and unidentified
5 persons. This [establishment] DNA profiling system shall [be
6 accomplished through consultation with the Kansas City, Missouri
7 regional crime laboratory, Missouri state highway patrol crime
8 laboratory, St. Louis, Missouri metropolitan crime laboratory,
9 St. Louis county crime laboratory, southeast Missouri regional
10 crime laboratory, Springfield regional crime laboratory, and the
11 Missouri Southern State College police academy regional crime
12 lab.] consist of qualified Missouri forensic laboratories
13 approved by the Federal Bureau of Investigation. The Missouri
14 state highway patrol crime laboratory shall be the administrator
15 of the state DNA index system.

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

22 650.052. 1. The state's DNA profiling system shall:

23 (1) Assist federal, state and local criminal justice and
24 law enforcement agencies in the [putative] identification,

1 detection or exclusion of individuals who are subjects of the
2 investigation or prosecution of [violent or sex-related crime]
3 criminal offenses in which biological evidence is recovered [from
4 the crime scene] or obtained; and

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

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

13 (4) For quality control purposes; or

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

17 2. The Missouri state highway patrol shall act as the
18 central repository for the DNA profiling system and shall
19 [coordinate with the Federal Bureau of Investigation on the
20 national database program] collaborate with the Federal Bureau of
21 Investigation and other criminal justice agencies relating to the
22 state's participation in CODIS and the national DNA index system
23 or in any DNA database.

24 3. The Missouri state highway patrol crime laboratory may

1 promulgate rules and regulations to implement the provisions of
2 sections 650.050 to 650.100 in accordance with Federal Bureau of
3 Investigation recommendations for the form and manner of
4 collection of blood or other scientifically accepted biological
5 samples and other procedures for the operation of sections
6 650.050 to 650.100. No rule or portion of a rule promulgated
7 pursuant to the authority of this section shall become effective
8 unless it has been promulgated pursuant to the provisions of
9 section 536.024, RSMo.

10 4. The Missouri state highway patrol shall provide the
11 necessary components for collection of the convicted offender's
12 biological samples.] For qualified offenders as defined by
13 section 650.055 who are under custody and control of the
14 department of corrections, the DNA sample collection shall be
15 performed by the department of corrections and the division of
16 probation and parole, or their authorized designee or contracted
17 third party. For qualified offenders as defined by section
18 650.055 who are under custody and control of a county jail, the
19 DNA sample collections shall be performed by the county jail or
20 its authorized designee or contracted third party. The specimens
21 shall thereafter be forwarded to the Missouri state highway
22 patrol crime laboratory. Any DNA profiling analysis or
23 collection of DNA samples by the state or any county performed
24 pursuant to sections 650.050 to 650.100 shall be subject to

1 appropriations.

2 5. The state's participating forensic DNA laboratories
3 shall meet quality assurance standards specified by the Missouri
4 state highway patrol crime laboratory and the Federal Bureau of
5 Investigation to ensure quality DNA identification records
6 submitted to the central repository.

7 6. The state's participating forensic DNA laboratories may
8 provide the system for identification purposes to criminal
9 justice, law enforcement officials and prosecutors in the
10 preparation and utilization of DNA evidence for presentation in
11 court and provide expert testimony in court on DNA evidentiary
12 issues.

13 650.055. 1. Every individual who pleads guilty or nolo
14 contendere to or is convicted in a Missouri circuit court, of a
15 felony[, defined as a violent offense under chapter 565, RSMo,]
16 or [as a sex] any offense under chapter 566, RSMo, [excluding
17 sections 566.010 and 566.020, RSMo,] shall have a blood or
18 scientifically accepted biological sample collected for purposes
19 of DNA profiling analysis:

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

22 (2) Before release from a county jail or detention
23 facility, state correctional facility, or any other detention
24 facility or institution, or any mental health facility if

1 committed as a sexually violent predator pursuant to sections
2 632.480 to 632.513, RSMo; or

3 (3) When the state accepts a person from another state
4 under any interstate compact, or under any other reciprocal
5 agreement with any county, state, or federal agency, or any other
6 provision of law, whether the person is confined or released, the
7 acceptance is conditional on the person providing a DNA sample if
8 the person was convicted of, pleaded guilty to, or pleaded nolo
9 contendere to an offense in any other jurisdiction which would be
10 considered a qualifying offense as defined in this section if
11 committed in this state, or if the person was convicted of,
12 pleaded guilty to, or pleaded nolo contendere to any equivalent
13 offense in any other jurisdiction;

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

22 2. The Missouri state highway patrol and department of
23 corrections shall be responsible for ensuring adherence to the
24 law. Any person required to provide a DNA sample pursuant to

1 this section shall be required to provide such sample, without
2 the right of refusal, at a collection site designated by the
3 Missouri state highway patrol and the department of corrections.
4 Authorized personnel collecting or assisting in the collection of
5 samples shall not be liable in any civil or criminal action when
6 the act is performed in a reasonable manner. Such force may be
7 used as necessary to the effectual carrying out and application
8 of such processes and operations. The enforcement of these
9 provisions by the authorities in charge of state correctional
10 institutions and others having custody [of] or jurisdiction over
11 those who have been convicted of [the], pleaded guilty to, or
12 pleaded nolo contendere to a felony offense or any offense under
13 chapter 566, RSMo, which shall not be set aside or reversed, is
14 hereby made mandatory. The board of probation and parole shall
15 recommend that an individual who refuses to provide a DNA sample
16 have his or her probation or parole revoked. In the event that a
17 person's DNA sample is not adequate for any reason, the person
18 shall provide another sample for analysis.

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

24 4. Database information or evidence of a DNA match shall

1 neither be excluded from evidence in the trial of any case, nor
2 shall any identification, detention, arrest, or warrant be
3 invalidated, suppressed, excluded, or conviction or plea of a
4 person, based in whole or in part upon databasing information, or
5 a database match, be reversed or set aside if it is determined
6 that an offender's DNA sample was obtained or placed in the
7 database by mistake.

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

12 [5.] 6. Implementation of section 650.050 and this section
13 shall be subject to future appropriations to keep Missouri's DNA
14 system compatible with the Federal Bureau of Investigation's DNA
15 data bank system.

16 7. All DNA records and biological materials retained in the
17 DNA profiling system are considered closed records pursuant to
18 chapter 610, RSMo. All records containing any information held
19 or maintained by any person or by any agency, department, or
20 political subdivision of the state concerning an individual's DNA
21 profile shall be strictly confidential and shall not be
22 disclosed, except to:

23 (1) Peace officers, as defined in section 590.010, RSMo,
24 and other employees of law enforcement agencies who need to

1 obtain such records to perform their public duties;

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

4 (3) Prosecuting attorneys or circuit attorneys as defined
5 in chapter 56, RSMo, and their employees who need to obtain such
6 records to perform their public duties; or

7 (4) Associate circuit judges, circuit judges, judges of the
8 courts of appeals, supreme court judges, and their employees who
9 need to obtain such records to perform their public duties.

10 8. Any person who obtains records pursuant to the
11 provisions of this section shall use such records only for
12 investigative and prosecutorial purposes, including but not
13 limited to, use at any criminal trial, hearing, or proceeding; or
14 for law enforcement identification purposes, including
15 identification of human remains. Such records shall be
16 considered strictly confidential and shall only be released as
17 authorized by this section.

18 9. A person whose DNA record or DNA profile has been
19 included in the state DNA database in accordance with the
20 provisions of sections 650.050 to 650.100 may request expungement
21 on the grounds that the conviction has been reversed, or the
22 guilty plea or plea of nolo contendere on which the authority for
23 including that person's DNA record or DNA profile was based has
24 been set aside. Such a request for expungement shall be made

1 through the court issuing the reversal or dismissal. A certified
2 copy of the court order establishing that such conviction has
3 been reversed or the guilty plea, or plea of nolo contendere has
4 been set aside shall be sent to the Missouri state highway patrol
5 crime laboratory. Upon receipt of the court order, the
6 laboratory shall determine that the requesting individual has no
7 other qualifying offense as a result of any separate plea or
8 conviction prior to expungement.

9 10. Upon receipt of a written request for expungement, a
10 certified copy of the final court order reversing the conviction
11 or setting aside the plea, and any other information necessary to
12 ascertain the validity of the request, the Missouri state highway
13 patrol crime laboratory shall expunge all DNA records and
14 identifiable information in the database pertaining to the person
15 and destroy the DNA sample of the person, unless the Missouri
16 state highway patrol determines that the person is otherwise
17 obligated to submit a DNA sample.

18 11. The Missouri state highway patrol is not required to
19 destroy any item of physical evidence obtained from a DNA sample
20 if evidence relating to another person would thereby be
21 destroyed.

22 12. Any identification, warrant, arrest, or evidentiary use
23 of a DNA match derived from the database shall not be excluded or
24 suppressed from evidence, nor shall any conviction be invalidated

1 or reversed or plea set aside due to the failure to expunge or a
2 delay in expunging DNA records.

3 650.100. The following words shall have the following
4 meanings unless a different meaning clearly appears from the
5 context:

6 (1) "CODIS", the Federal Bureau of Investigation's combined
7 DNA index system that allows the storage and exchange of DNA
8 records submitted by federal, state, and local DNA crime
9 laboratories. The term CODIS includes the national DNA index
10 system administered and operated by the Federal Bureau of
11 Investigation;

12 (2) "Crime laboratories", [means] those crime laboratories
13 existing on September 28, 1979, in certain cities in this state
14 and which have at least once prior to September 28, 1979,
15 received funding through the Missouri council on criminal
16 justice, and such other crime laboratories that may be created to
17 serve specified regions of the state as determined by the
18 director of the department of public safety;

19 [(2)] (3) "Department", [means] the Missouri department of
20 public safety;

21 (4) "DNA", deoxyribonucleic acid. DNA is located in the
22 cells and provides an individual's personal genetic blueprint.
23 DNA encodes genetic information that is the basis of human
24 heredity and forensic identification;

1 (5) "DNA record", the DNA identification information stored
2 in the state DNA database or CODIS. The DNA record is the result
3 obtained from the DNA analysis. The DNA record is comprised of
4 the characteristics of a DNA sample, which are of value in
5 establishing the identity of individuals;

6 (6) "DNA profile", the collective results of all DNA
7 identification analyses on an individual's DNA sample;

8 (7) "DNA sample", a biological sample provided by any
9 person with respect to offenses covered by section 650.055 or
10 submitted to the Missouri state highway patrol crime laboratory
11 pursuant to the provisions of sections 650.050 to 650.057 for
12 analysis or storage or both;

13 [(3)] (8) "Local funds", [means] any funds not provided by
14 the federal government.

15 Section B. Because of the immediate danger posed to the
16 public from sexual predators escaping from mental institutions
17 without penalty, and the premature release of felons from prison,
18 the repeal and reenactment of sections 558.016 and 575.195 of
19 section A of this act is deemed necessary for the immediate
20 preservation of the public health, welfare, peace, and safety,
21 and is hereby declared to be an emergency act within the meaning
22 of the constitution, and the repeal and reenactment of sections
23 558.016 and 575.195 of section A of this act shall be in full
24 force and effect upon its passage and approval.