

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 972

93RD GENERAL ASSEMBLY

2161S.10T

2005

AN ACT

To repeal sections 311.310, 565.024, 566.083, 568.050, 577.001, and 577.023, RSMo, and to enact in lieu thereof thirteen new sections relating to crime, with penalty provisions and an emergency clause for a certain section.

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

Section A. Sections 311.310, 565.024, 566.083, 568.050, 577.001, and 577.023, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 67.2540, 67.2546, 67.2552, 217.735, 311.310, 559.106, 565.024, 566.083, 568.050, 575.205, 575.206, 577.001, and 577.023, to read as follows:

67.2540. As used in sections 67.2540 to 67.2556, the following terms mean:

(1) "Adult cabaret", a nightclub, bar, restaurant, or similar establishment in which persons regularly appear in a state of nudity, as defined in section 573.500, RSMo, or semi-nudity in the performance of their duties;

(2) "Employee", a person who is at least twenty-one years of age and who performs any service on the premises of a sexually-oriented business on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not said person is paid a salary, wage, or other compensation by the operator of said business. The term employee does not include

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 **bold-face** type in the above bill is proposed language.

10 a person exclusively on the premises for repair or maintenance of the premises or
11 equipment on the premises, or for the delivery of goods to the premises;

12 (3) "Nudity" or a "state of nudity", the showing of the human male or female
13 genitals, pubic area, vulva, anus, anal cleft or anal cleavage with less than a fully opaque
14 covering, the showing of the female breast with less than a fully opaque covering of any
15 part of the nipple, or the showing of the covered male genitals in a discernibly turgid state;

16 (4) "Nuisance", any place in or upon which lewdness, assignation, or prostitution
17 is conducted, permitted, continued, or exists, or any place, in or upon which lewd, indecent,
18 lascivious, or obscene films, or films designed to be projected for exhibition, are
19 photographed, manufactured, developed, screened, exhibited, or otherwise prepared or
20 shown, and the personal property and contents used in conducting and maintaining any
21 such place for any such purpose. The provisions of this section shall not affect any
22 newspaper, magazine, or other publication entered as second class matter by the post office
23 department;

24 (5) "Person", an individual, proprietorship, partnership, corporation, association,
25 or other legal entity;

26 (6) "Semi-nude" or in a "semi-nude condition", a state of dress in which opaque
27 clothing fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva, nipple
28 and areola of the female breast below a horizontal line across the top of the areola at its
29 highest point. Semi-nudity shall include the entire lower portion of the female breast, but
30 shall not include any portion of the cleavage of the human female breast exhibited by
31 wearing apparel provided the areola is not exposed in whole or part;

32 (7) "Sexually-oriented business", an adult cabaret or any business which offers its
33 patrons goods of which a substantial or significant portion are sexually-oriented material.
34 It shall be presumed that a business that derives thirty percent or less of its revenue from
35 sexually oriented materials is presumed not to be a sexually-oriented business. No
36 building, premises, structure, or other facility that contains any sexually-oriented business
37 shall contain any other kind of sexually-oriented business;

38 (8) "Sexually-oriented materials", any pictorial or three dimensional material, or
39 film, motion picture, DVD, video cassette, or similar photographic reproduction, that
40 depicts nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, as defined in
41 section 573.010, RSMo;

42 (9) "Specified criminal activity", includes the following offenses:

43 (a) Prostitution or promotion of prostitution; dissemination of obscenity; sale,
44 distribution, or display of harmful material to a minor; sexual performance by a child;
45 possession or distribution of child pornography; public lewdness; indecent exposure;

46 **indecent with a child; engaging in organized criminal activity; sexual assault; molestation**
47 **of a child; gambling prohibited under Missouri law; or distribution of a controlled**
48 **substance; or any similar offenses described in this subdivision under the criminal or penal**
49 **code of other states or countries;**

50 **(b) For which:**

51 **a. Less than two years have elapsed since the date of conviction or the date of**
52 **release from confinement imposed for the conviction, whichever is the later date, if the**
53 **conviction is of a misdemeanor offense;**

54 **b. Less than five years have elapsed since the date of conviction or the date of**
55 **release from confinement for the conviction, whichever is the later date, if the conviction**
56 **is of a felony offense; or**

57 **c. Less than five years have elapsed since the date of the last conviction or the date**
58 **of release from confinement for the last conviction, whichever is the later date, if the**
59 **convictions are of two or more misdemeanor offenses or combination of misdemeanor**
60 **offenses occurring within any twenty-four month period;**

61 **(c) The fact that a conviction is being appealed shall not prevent a sexually-oriented**
62 **business from being considered a nuisance and closed under section 67.2546;**

63 **(10) "Specified sexual activities", includes the following acts:**

64 **(a) The fondling or other erotic touching of human genitals, pubic region, buttocks,**
65 **anus, or female breasts;**

66 **(b) Sex acts, actual or simulated, including intercourse, oral copulation,**
67 **masturbation, or sodomy; or**

68 **(c) Excretory functions as part of or in connection with any of the activities set**
69 **forth in this subdivision.**

67.2546. 1. A person who operates or causes to be operated a sexually-oriented
2 **business shall be prohibited from exhibiting in a viewing room on the premises a film,**
3 **video cassette, DVD, or other video reproduction that depicts specified sexual activities**
4 **unless the viewing room is visible from a continuous main aisle in the sexually-oriented**
5 **business and such viewing room is not obscured by any curtain, door, wall, or other**
6 **enclosure. No viewing room shall be occupied by more than one individual at a time and**
7 **there shall be no aperture between viewing rooms which is designed or constructed to**
8 **facilitate sexual activity between persons in different rooms.**

9 **2. If a sexually-oriented business allows specified criminal activity or specified**
10 **sexual activity on its premises or otherwise fails to comply with the provisions of subsection**
11 **1 of this section, it shall be considered a nuisance as defined by section 67.2540, and shall**
12 **be closed pursuant to section 567.080, RSMo.**

13 **3. A person violating the provisions of subsection 1 of this section is guilty of a class**
14 **A misdemeanor.**

67.2552. 1. It shall be a class A misdemeanor for a person, in a sexually-oriented
2 **business, to knowingly and intentionally appear in a state of nudity or depict, simulate, or**
3 **perform specified sexual activities.**

4 **2. It shall be a class A misdemeanor for a person to appear knowingly or**
5 **intentionally in a sexually-oriented business in a semi-nude condition unless the person is**
6 **an employee who, while semi-nude, shall be at least ten feet from any patron or customer**
7 **and on a stage at least two feet from the floor and behind a railing no less than twenty-four**
8 **inches in height.**

9 **3. It shall be a class A misdemeanor for an employee, while semi-nude, to touch a**
10 **customer or the clothing of a customer.**

11 **4. It shall be a class A misdemeanor if a person knowingly allows on the premises**
12 **of a sexually-oriented business a person under the age of twenty-one years, except for a**
13 **person exclusively on the premises for repair or maintenance of the premises or equipment**
14 **on the premises, or for the delivery of goods to the premises.**

15 **5. The provisions of sections 67.2540 to 67.2552 are designed to protect the**
16 **following public policy interest of this state, including but not limited to: to mitigate the**
17 **adverse secondary effects of sexually-oriented businesses, to limit harm to minors, and to**
18 **reduce prostitution, crime, juvenile delinquency, deterioration in property values and**
19 **lethargy in neighborhood improvement efforts.**

217.735. 1. Notwithstanding any other provision of law to the contrary, the board
2 **shall supervise an offender for the duration of his or her natural life when the offender has**
3 **pleaded guilty to or been found guilty of an offense under sections 566.030, 566.032,**
4 **566.060, 566.062, 566.067, 566.083, 566.100, 566.151, 566.212, 568.020, 568.080, or 568.090,**
5 **RSMo, based on an act committed on or after August 28, 2005, against a victim who was**
6 **less than fourteen years old and the offender is a prior sex offender as defined in subsection**
7 **2 of this section.**

8 **2. For the purpose of this section, a prior sex offender is a person who has**
9 **previously been found guilty of an offense contained in chapter 566, RSMo.**

10 **3. Subsection 1 of this section applies to offenders who have been granted**
11 **probation, and to offenders who have been released on parole, conditional release, or upon**
12 **-serving their full sentence without early release. Supervision of an offender who was**
13 **released after serving his or her full sentence will be considered as supervision on parole.**

14 **4. A mandatory condition of lifetime supervision of an offender under this section**
15 **is that the offender be electronically monitored. Electronic monitoring shall be based on**

16 a global positioning system or other technology that identifies and records the offender's
17 location at all times.

18 **5. In appropriate cases as determined by a risk assessment, the board may**
19 **terminate the supervision of an offender who is being supervised under this section when**
20 **the offender is sixty-five years of age or older.**

21 **6. In accordance with section 217.040, the board may adopt rules relating to**
22 **supervision and electronic monitoring of offenders under this section.**

311.310. **1.** Any licensee under this chapter, or his employee, who shall sell, vend, give
2 away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under
3 the age of twenty-one years, or to any person intoxicated or appearing to be in a state of
4 intoxication, or to a habitual drunkard, and any person whomsoever except his parent or guardian
5 who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under
6 the age of twenty-one years, or to any intoxicated person or any person appearing to be in a state
7 of intoxication, or to a habitual drunkard, shall be deemed guilty of a misdemeanor, except that
8 this section shall not apply to the supplying of intoxicating liquor to a person under the age of
9 twenty-one years for medical purposes only, or to the administering of such intoxicating liquor
10 to any person by a duly licensed physician. No person shall be denied a license or renewal of a
11 license issued under this chapter solely due to a conviction for unlawful sale or supply to a minor
12 when serving in the capacity as an employee of a licensed establishment.

13 **2. Any owner, occupant, or other person or legal entity with a lawful right to the**
14 **use and enjoyment of any property is prohibited from knowingly allowing a person under**
15 **the age of twenty-one to drink or possess intoxicating liquor or knowingly failing to stop**
16 **a person under the age of twenty-one from drinking or possessing intoxicating liquor on**
17 **such property, unless such person allowing the person under the age of twenty-one to drink**
18 **or possess intoxicating liquor is his or her parent or guardian. A person who violates the**
19 **provisions of this subsection is guilty of a class A misdemeanor.**

559.106. 1. Notwithstanding any statutory provision to the contrary, when a court
2 **grants probation to an offender who has pleaded guilty to or has been found guilty of an**
3 **offense in sections 566.030, 566.032, 566.060, 566.062, 566.067, 566.083, 566.100, 566.151,**
4 **566.212, 568.020, 568.080, or 568.090, RSMo, based on an act committed on or after August**
5 **28, 2005, against a victim who was less than fourteen years old and the offender is a prior**
6 **sex offender as defined in subsection 2 of this section, the court shall order that the**
7 **offender be supervised by the board of probation and parole for the duration of his or her**
8 **natural life.**

9 **2. For the purpose of this section, a prior sex offender is a person who has**
10 **previously pleaded guilty to or has been found guilty of an offense contained in chapter**
11 **566, RSMo.**

12 **3. When probation for the duration of the offender's natural life has been ordered,**
13 **a mandatory condition of such probation is that the offender be electronically monitored.**
14 **Electronic monitoring shall be based on a global positioning system or other technology**
15 **that identifies and records the offender's location at all times.**

16 **4. In appropriate cases as determined by a risk assessment, the court may terminate**
17 **the probation of an offender who is being supervised under this section when the offender**
18 **is sixty-five years of age or older.**

565.024. 1. A person commits the crime of involuntary manslaughter in the first degree
2 if he:

3 (1) Recklessly causes the death of another person; or

4 (2) While in an intoxicated condition operates a motor vehicle in this state and, when so
5 operating, acts with criminal negligence to cause the death of any person.

6 **2. Except as provided in subsections 3 and 4 of this section, involuntary manslaughter**
7 **in the first degree is a class C felony.**

8 **3. A person commits the crime of involuntary manslaughter in the first degree if**
9 **he or she, while in an intoxicated condition operates a motor vehicle in this state, and, when**
10 **so operating, acts with criminal negligence to:**

11 (1) **Cause the death of any person not a passenger in the vehicle operated by the**
12 **defendant, including the death of an individual that results from the defendant's vehicle**
13 **leaving a highway, as defined by section 301.010, RSMo, or the highway's right-of-way; or**

14 (2) **Cause the death of two or more persons; or**

15 (3) **Cause the death of any person while he or she has a blood alcohol content of at**
16 **least eighteen-hundredths by weight of alcohol in such person's blood.**

17 **4. Involuntary manslaughter in the first degree under subdivisions (1), (2), or (3)**
18 **of subsection 3 of this section is a class B felony. A second or subsequent violation of**
19 **subdivision (3) of subsection 3 of this section is a class A felony. For any violation of**
20 **subsection 3 of this section, the minimum prison term which the defendant must serve shall**
21 **be eighty-five percent of his or her sentence.**

22 **5. A person commits the crime of involuntary manslaughter in the second degree if he**
23 **acts with criminal negligence to cause the death of any person.**

24 [4.] **6. Involuntary manslaughter in the second degree is a class D felony.**

566.083. 1. A person commits the crime of sexual misconduct involving a child if the
2 person:

3 (1) Knowingly exposes [the person's] **his or her** genitals to a child less than fourteen
4 years of age [in a manner that would cause a reasonable adult to believe that the conduct is likely
5 to cause affront or alarm to a child less than fourteen years of age] **under circumstances in**
6 **which he or she knows that his or her conduct is likely to cause affront or alarm to the**
7 **child;**

8 (2) Knowingly exposes [the person's] **his or her** genitals to a child less than fourteen
9 years of age for the purpose of arousing or gratifying the sexual desire of any person, including
10 the child; or

11 (3) **Knowingly** coerces or induces a child less than fourteen years of age to expose the
12 child's genitals for the purpose of arousing or gratifying the sexual desire of any person,
13 including the child.

14 2. As used in this section, the term "sexual act" means any of the following, whether
15 performed or engaged in either with any other person or alone: sexual or anal intercourse,
16 masturbation, bestiality, sadism, masochism, fetishism, fellatio, cunnilingus, any other sexual
17 activity or nudity, if such nudity is to be depicted for the purpose of sexual stimulation or
18 gratification of any individual who may view such depiction.

19 3. Violation of this section is a class D felony unless the actor has previously pleaded
20 guilty to or been convicted of an offense pursuant to this chapter or the actor has previously
21 pleaded guilty to or has been convicted of an offense against the laws of another state or
22 jurisdiction which would constitute an offense under this chapter, in which case it is a class C
23 felony.

568.050. 1. A person commits the crime of endangering the welfare of a child in the
2 second degree if:

3 (1) **He or she** with criminal negligence acts in a manner that creates a substantial risk
4 to the life, body or health of a child less than seventeen years old; or

5 (2) **He or she** knowingly encourages, aids or causes a child less than seventeen years old
6 to engage in any conduct which causes or tends to cause the child to come within the provisions
7 of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section
8 211.031, RSMo; or

9 (3) Being a parent, guardian or other person legally charged with the care or custody of
10 a child less than seventeen years old, **he or she** recklessly fails or refuses to exercise reasonable
11 diligence in the care or control of such child to prevent him from coming within the provisions
12 of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of
13 subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

14 (4) He **or she** knowingly encourages, aids or causes a child less than seventeen years of
15 age to enter into any room, building or other structure which is a public nuisance as defined in
16 section 195.130, RSMo; or

17 (5) **The person operates a vehicle in violation of sections 565.024, RSMo, 565.060,**
18 **RSMo, 577.010, RSMo, or 577.012, RSMo, while a child less than seventeen years of age**
19 **is present in the vehicle.**

20 2. Nothing in this section shall be construed to mean the welfare of a child is endangered
21 for the sole reason that he **or she** is being provided nonmedical remedial treatment recognized
22 and permitted under the laws of this state.

23 3. Endangering the welfare of a child in the second degree is a class A misdemeanor
24 unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class
25 D felony.

575.205. 1. A person commits the crime of tampering with electronic monitoring
2 **equipment if the person intentionally removes, alters, tampers with, damages, or destroys**
3 **electronic monitoring equipment which a court or the board of probation and parole has**
4 **required such person to wear.**

5 **2. This section does not apply to the owner of the equipment or an agent of the**
6 **owner who is performing ordinary maintenance or repairs on the equipment.**

7 **3. The crime of tampering with electronic monitoring equipment is a class C felony.**

575.206. 1. A person commits the crime of violating a condition of lifetime
2 **supervision if the person knowingly violates a condition of probation, parole, or conditional**
3 **release when such condition was imposed by an order of a court under section 559.106,**
4 **RSMo, or an order of the board of probation and parole under section 217.735, RSMo.**

5 **2. The crime of violating a condition of lifetime supervision is a class C felony.**

577.001. 1. As used in this chapter, the term "court" means any circuit, associate
2 **circuit, or municipal court, including traffic court, but not any juvenile court or drug**
3 **court.**

4 **2. As used in this chapter, the term "drive", "driving", "operates" or "operating" means**
5 **physically driving or operating a motor vehicle.**

6 [2.] **3. As used in this chapter, a person is in an "intoxicated condition" when he is under**
7 **the influence of alcohol, a controlled substance, or drug, or any combination thereof.**

8 [3.] **4. As used in this chapter, the term "law enforcement officer" or "arresting officer"**
9 **includes the definition of law enforcement officer in subdivision (17) of section 556.061, RSMo,**
10 **and military policemen conducting traffic enforcement operations on a federal military**
11 **installation under military jurisdiction in the state of Missouri.**

12 [4.] 5. As used in this chapter, "substance abuse traffic offender program" means a
13 program certified by the division of alcohol and drug abuse of the department of mental health
14 to provide education or rehabilitation services pursuant to a professional assessment screening
15 to identify the individual needs of the person who has been referred to the program as the result
16 of an alcohol or drug related traffic offense. Successful completion of such a program includes
17 participation in any education or rehabilitation program required to meet the needs identified in
18 the assessment screening. The assignment recommendations based upon such assessment shall
19 be subject to judicial review as provided in subsection 7 of section 577.041.

577.023. 1. For purposes of this section, unless the context clearly indicates otherwise:

2 (1) An **"aggravated offender"** is a person who has pleaded guilty to or has been
3 **found guilty of three or more intoxication-related traffic offenses or a person who has**
4 **pleaded to or has been found guilty of involuntary manslaughter under subdivision (2) of**
5 **subsection 1 or subsections 3 and 4 of section 565.024, RSMo, assault in the second degree**
6 **under subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law**
7 **enforcement officer in the second degree under subdivision (3) of subsection 1 of section**
8 **565.082, RSMo, and in addition, one other intoxicated-related traffic offense;**

9 (2) A **"chronic offender"** is:

10 (a) A person who has pleaded guilty to or has been found guilty of four or more
11 **intoxication-related traffic offenses;**

12 (b) A person who has pleaded guilty to or been found guilty of, on two or more
13 **separate occasions, involuntary manslaughter under subdivision (2) of subsection 1 or**
14 **subsections 3 and 4 of section 565.024, RSMo, assault in the second degree under**
15 **subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement**
16 **officer in the second degree under subdivision (3) of subsection 1 of section 565.082, RSMo;**

17 (c) A person who has pleaded guilty to or been found guilty of involuntary
18 **manslaughter under subdivision (2) of subsection 1 or subsections 3 and 4 of section**
19 **565.024, RSMo, assault in the second degree under subdivision (4) of subsection 1 of section**
20 **565.060, RSMo, assault of a law enforcement officer in the second degree under subdivision**
21 **(3) of subsection 1 of section 565.082, RSMo, and in addition, two or more intoxication-**
22 **related traffic offenses;**

23 (3) An **"intoxication-related traffic offense"** is driving while intoxicated, driving with
24 excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) of
25 **subsection 1 or subsections 3 and 4 of section 565.024, RSMo, assault in the second degree**
26 **pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law**
27 **enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section**
28 **565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or**

29 a county or municipal ordinance, where the judge in such case was an attorney and the defendant
30 was represented by or waived the right to an attorney in writing;

31 [(2)] (4) A "persistent offender" is one of the following:

32 (a) A person who has pleaded guilty to or has been found guilty of two or more
33 intoxication-related traffic offenses[, where such two or more offenses occurred within ten years
34 of the occurrence of the intoxication-related traffic offense for which the person is charged];

35 (b) A person who has pleaded guilty to or has been found guilty of involuntary
36 manslaughter pursuant to subsection 1 of section 565.024, RSMo, assault in the second degree
37 pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law
38 enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section
39 565.082, RSMo; and

40 [(3)] (5) A "prior offender" is a person who has pleaded guilty to or has been found
41 guilty of one intoxication-related traffic offense, where such prior offense occurred within five
42 years of the occurrence of the intoxication-related traffic offense for which the person is charged.

43 2. Any person who pleads guilty to or is found guilty of a violation of section 577.010
44 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A
45 misdemeanor.

46 3. Any person who pleads guilty to or is found guilty of a violation of section 577.010
47 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D
48 felony.

49 4. **Any person who pleads guilty to or is found guilty of a violation of section**
50 **577.010 or section 577.012 who is alleged and proved to be an aggravated offender shall be**
51 **guilty of a class C felony.**

52 5. **Any person who pleads guilty to or is found guilty of a violation of section**
53 **577.010 or section 577.012 who is alleged and proved to be a chronic offender shall be**
54 **guilty of a class B felony.**

55 6. **No state, county, or municipal court shall suspend the imposition of sentence as to**
56 **a prior offender, [or] persistent offender, aggravated offender, or chronic offender under this**
57 **section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011,**
58 **RSMo, to the contrary notwithstanding. No prior offender shall be eligible for parole or**
59 **probation until he has served a minimum of five days imprisonment, unless as a condition of**
60 **such parole or probation such person performs at least thirty days of community service under**
61 **the supervision of the court in those jurisdictions which have a recognized program for**
62 **community service. No persistent offender shall be eligible for parole or probation until he or**
63 **she has served a minimum of ten days imprisonment, unless as a condition of such parole or**
64 **probation such person performs at least sixty days of community service under the supervision**

65 of the court. **No aggravated offender shall be eligible for parole or probation until he or she**
66 **has served a minimum of sixty days imprisonment. No chronic offender shall be eligible**
67 **for parole or probation until he or she has served a minimum of two years imprisonment.**

68 [5.] 7. The **state, county, or municipal** court shall find the defendant to be a prior
69 offender [or], persistent offender, **aggravated offender, or chronic offender** if:

70 (1) The indictment or information, original or amended, or the information in lieu of an
71 indictment pleads all essential facts warranting a finding that the defendant is a prior offender
72 or persistent offender; and

73 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding
74 beyond a reasonable doubt the defendant is a prior offender [or], persistent offender, **aggravated**
75 **offender, or chronic offender**; and

76 (3) The court makes findings of fact that warrant a finding beyond a reasonable doubt
77 by the court that the defendant is a prior offender [or], persistent offender, **aggravated offender,**
78 **or chronic offender.**

79 [6.] 8. In a jury trial, the facts shall be pleaded, established and found prior to
80 submission to the jury outside of its hearing.

81 [7.] 9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in
82 findings of such facts to a later time, but prior to sentencing.

83 [8.] 10. The defendant shall be accorded full rights of confrontation and
84 cross-examination, with the opportunity to present evidence, at such hearings.

85 [9.] 11. The defendant may waive proof of the facts alleged.

86 [10.] 12. Nothing in this section shall prevent the use of presentence investigations or
87 commitments.

88 [11.] 13. At the sentencing hearing both the **state, county, or municipality** and the
89 defendant shall be permitted to present additional information bearing on the issue of sentence.

90 [12.] 14. The pleas or findings of guilty shall be prior to the date of commission of the
91 present offense.

92 [13.] 15. The court shall not instruct the jury as to the range of punishment or allow the
93 jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases
94 of prior offenders [or], persistent offenders, **aggravated offenders, or chronic offenders.**

95 [14.] 16. Evidence of prior convictions shall be heard and determined by the trial court
96 out of the hearing of the jury prior to the submission of the case to the jury, and shall include but
97 not be limited to evidence of convictions received by a search of the records of the Missouri
98 uniform law enforcement system maintained by the Missouri state highway patrol. After hearing
99 the evidence, the court shall enter its findings thereon. A conviction of a violation of a municipal
100 or county ordinance in a county or municipal court for driving while intoxicated or a conviction

101 or a plea of guilty or a finding of guilty followed by a suspended imposition of sentence,
102 suspended execution of sentence, probation or parole or any combination thereof in a state court
103 shall be treated as a prior conviction.

Section B. Because of the need to protect the health, well-being and dignity of the
2 children of this state, the repeal and reenactment of section 566.083 of this act is deemed
3 necessary for the immediate preservation of the public health, welfare, peace and safety, and is
4 hereby declared to be an emergency act within the meaning of the constitution, and the repeal
5 and reenactment of section 566.083 of this act shall be in full force and effect upon its passage
6 and approval.