

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 353
93RD GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 28, 2005, with recommendation that the Senate Committee Substitute do pass.

0830S.07C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 1.160, 8.177, 43.010, 43.120, 43.509, 43.532, 43.543, 195.017, 211.031, 217.105, 217.705, 217.750, 302.321, 302.541, 306.112, 306.114, 306.116, 306.117, 306.119, 306.140, 306.147, 479.230, 540.031, 542.276, 544.170, 545.550, 556.036, 558.016, 558.019, 559.016, 559.036, 559.115, 559.607, 565.081, 565.082, 565.083, 565.092, 566.083, 566.140, 567.080, 568.045, 568.050, 569.080, 569.090, 557.036, 570.040, 570.080, 570.120, 570.255, 570.300, 573.503, 575.270, 576.050, 577.023, 577.041, 577.500, 589.417, 595.209, and 650.055, RSMo, and to enact in lieu thereof seventy-nine new sections relating to crime, with penalty provisions, an emergency clause for a certain section, and a severability clause.

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

Section A. Sections 1.160, 8.177, 43.010, 43.120, 43.509, 43.532, 43.543, 195.017, 211.031, 217.105, 217.705, 217.750, 302.321, 302.541, 306.112, 306.114, 306.116, 306.117, 306.119, 306.140, 306.147, 479.230, 540.031, 542.276, 544.170, 545.550, 556.036, 558.016, 558.019, 559.016, 559.036, 559.115, 559.607, 565.081, 565.082, 565.083, 565.092, 566.083, 566.140, 567.080, 568.045, 568.050, 569.080, 569.090, 557.036, 570.040, 570.080, 570.120, 570.255, 570.300, 573.503, 575.270, 576.050, 577.023, 577.041, 577.500, 589.417, 595.209, and 650.055, RSMo, are repealed and seventy-nine new sections enacted in lieu thereof, to be known as sections 1.160, 8.177, 43.010, 43.120, 43.300, 43.310, 43.320, 43.330, 43.509, 43.532, 43.535, 43.543, 67.2540, 67.2546, 67.2548, 67.2552, 115.348, 195.017, 195.216, 211.031, 217.105, 217.705, 217.735, 217.750, 302.321, 302.541, 306.112, 306.114, 306.116, 306.117, 306.119, 306.140, 306.147, 311.488, 479.230, 540.031, 542.276, 544.170, 545.550, 556.036, 557.036, 558.016, 558.019, 559.016, 559.036, 559.105, 559.115, 559.607,

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

13 565.081, 565.082, 565.083, 565.085, 565.092, 566.083, 566.086, 566.140, 567.080, 568.045,
14 568.050, 569.080, 569.090, 570.040, 570.080, 570.120, 570.255, 570.300, 573.503, 575.185,
15 575.270, 576.050, 577.023, 577.041, 577.500, 577.625, 577.628, 578.500, 589.417, 595.209,
16 and 650.055, to read as follows:

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

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

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

8.177. 1. The director of the department of public safety shall employ Missouri
2 capitol police officers for public safety at the seat of state government. Each Missouri
3 capitol police officer, upon appointment, shall take and subscribe an oath of office to
4 support the constitution and laws of the United States and the state of Missouri and
5 shall receive a certificate of appointment, a copy of which shall be filed with the
6 secretary of state, granting such police officers all the same powers of arrest held by
7 other police officers to maintain order and preserve the peace in all state-owned or
8 leased buildings, and the grounds thereof, at the seat of government and such buildings
9 and grounds within the county which contains the seat of government.

10 2. The director of the department of public safety shall appoint a sufficient
11 number of Missouri capitol police officers, with available appropriations, as appropriated
12 specifically for the purpose designated in this subsection, so that the capitol grounds may
13 be patrolled at all times, and that traffic and parking upon the capitol grounds and the
14 grounds of other state buildings owned or leased within the capital city and the county
15 which contains the seat of government may be properly controlled. Missouri capitol
16 police officers may make arrests for the violation of parking and traffic regulations
17 promulgated by the office of administration.

18 **3. Missouri capitol police officers shall be authorized to arrest a person**
19 **anywhere in the county that contains the seat of state government, when**
20 **there is probable cause to believe the person committed a crime within**
21 **capitol police jurisdiction or when a person commits a crime within capitol**

22 **police jurisdiction or when a person commits a crime in the presence of an**
23 **on-duty capitol police officer.**

43.010. As used in this chapter, the following terms shall have the meanings
2 indicated:

3 (1) "Commission", the Missouri state highways and transportation commission;

4 (2) "Members of the patrol", the superintendent, lieutenant colonel, majors,
5 captains, director of radio, lieutenants, sergeants, corporals, and patrolmen of the
6 Missouri state highway patrol;

7 **(3) "Mules", Missouri uniform law enforcement system, a statewide-**
8 **computerized communications system provided by the patrol designed to**
9 **provide services, information, and capabilities to the law enforcement and**
10 **criminal justice community in the state of Missouri;**

11 [(3)] (4) "Patrol", the Missouri state highway patrol;

12 [(4)] (5) "Peace officers", sheriffs, police officers and other peace officers of this
13 state;

14 [(5)] (6) "Radio personnel", those employees of the patrol engaged in the
15 construction, operation, and maintenance of the patrol radio system.

43.120. 1. The superintendent shall prescribe rules for instruction and discipline
2 and make all administrative rules and regulations and fix the hours of duty for the
3 members of the patrol. The superintendent shall divide the state into districts and
4 assign members of the patrol to such districts in the manner as deemed proper to carry
5 out the purposes of this chapter. The superintendent may call members of the patrol
6 from one district to another.

7 2. The superintendent shall appoint the lieutenant colonel and five majors from
8 within the membership. Such individuals shall serve at the superintendent's pleasure
9 and shall return to their previously held rank after being relieved of their position duties
10 by the present or incoming superintendent. The superintendent shall classify and rank
11 through promotions the majors, the director of radio, captains, lieutenants, sergeants,
12 corporals, patrolmen, and radio personnel from the next lower grade after not less than
13 one year of service satisfactorily performed therein.

14 3. In case of the absence of the superintendent, or at the time the superintendent
15 designates, the lieutenant colonel shall assume the duties of the superintendent. In the
16 absence of both the superintendent and the lieutenant colonel, a major shall be
17 designated by the superintendent or by the lieutenant colonel. In case of the disability
18 of the superintendent and the lieutenant colonel, the governor may designate a major as
19 acting superintendent and when so designated, the acting superintendent shall have all

20 the powers and duties of the superintendent.

21 4. The superintendent shall collect, compile and keep available for the use of
22 peace officers of the state the information as is deemed necessary for the detection of
23 crime and identification of criminals.

24 **5. The superintendent is responsible for establishing policy,**
25 **procedures, and regulations in cooperation with the law enforcement and**
26 **criminal justice community in protecting the integrity of the MULES**
27 **system. The superintendent shall be responsible for the administration and**
28 **enforcement of all MULES policies and regulations consistent with state and**
29 **federal rules, policy, and law by which the MULES system operates.**

30 [5.] 6. Within ninety days after the close of each fiscal year, the superintendent
31 shall make to the governor and the commission a report of the activities of the patrol and
32 the cost thereof for the fiscal period.

43.300. Notwithstanding the provisions of subsection 1 of section 43.025,
2 **there is hereby created within the Missouri state highway patrol a**
3 **"Governor's Security Division".**

43.310. The superintendent of the Missouri state highway patrol shall
2 **appoint from the membership of the patrol, a director of the governor's**
3 **security division who shall be responsible for the operation of the division.**

43.320. 1. The superintendent of the Missouri state highway patrol may
2 **assign highway patrol members under the superintendent's command to serve**
3 **in the governor's security division on a permanent or temporary basis.**

4 **2. All salaries, expenses and other costs relating to the assignment of**
5 **Missouri state highway patrol members to the governor's security division**
6 **shall be paid within the limits of appropriations from general revenue, or**
7 **from such other funding as may be authorized by the general assembly.**

43.330. 1. The director of the governor's security division shall provide
2 **transportation, security, and protection for the governor and the governor's**
3 **immediate family.**

4 **2. At the discretion of the superintendent, the director of the**
5 **governor's security division may also provide transportation, security, and**
6 **protection for other public officials.**

43.509. The director of the department of public safety shall, in accordance with
2 **the provisions of chapter 536, RSMo, establish such rules and regulations as are**
3 **necessary to implement the provisions of sections 43.500 to [43.530] 43.543. All**
4 **collection and dissemination of criminal history information shall be in compliance with**
5 **chapter 610, RSMo, and applicable federal laws or regulations. Such rules shall relate**

6 to the collection of criminal history information from or dissemination of such
7 information to criminal justice, noncriminal justice, and private agencies or citizens both
8 in this and other states. No rule or portion of a rule promulgated under the authority of
9 sections 43.500 to [43.530] **43.543** shall become effective unless it has been promulgated
10 pursuant to the provisions of section 536.024, RSMo.

43.532. 1. Criminal history and identification records obtained from the central
2 repository **shall not be altered in any way and** shall be used solely for the purpose
3 for which they were obtained. **Except as permitted in this section, any person**
4 **wishing to disseminate or to rely on the accuracy and completeness of the**
5 **criminal history record information more than thirty days from receipt from**
6 **the central repository should initiate a new request to the patrol for current**
7 **information.** The subject of the record shall be afforded the opportunity to challenge
8 the correctness, accuracy, or completeness of a criminal history record.

9 2. The central records repository shall have authority to engage in the practice
10 of collecting, assembling, or disseminating criminal history record information for the
11 purpose of retaining manually or electronically stored criminal history information. Any
12 person obtaining criminal history record information from the central repository under
13 false pretense, or who advertises or engages in the practice of collecting, assembling, and
14 disseminating as a business enterprise, other than for the purpose of furnishing criminal
15 history information to the authorized requester for its intended purpose, is guilty of a
16 class A misdemeanor.

43.535. 1. Law enforcement agencies within the state of Missouri may
2 perform a Missouri criminal record review for only open records through the
3 MULES system for the purpose of hiring of municipal or county governmental
4 employees. For each request, other than those related to the administration
5 of criminal justice, the requesting entity shall pay a fee to the central
6 repository, pursuant to section 43.530.

7 2. Municipalities and counties may, by local or county ordinance,
8 require the fingerprinting of applicants or licensees in specified occupations
9 for the purpose of receiving criminal history record information by local or
10 county officials. A copy of the ordinance must be forwarded for approval to
11 the Missouri state highway patrol prior to the submission of fingerprints to
12 the central repository. The local or county law enforcement agency shall
13 submit a set of fingerprints of the applicant or licensee, accompanied with the
14 appropriate fees, to the central repository for the purpose of checking the
15 person's criminal history. The set of fingerprints shall be used to search the

16 **Missouri criminal records repository and shall be submitted to the Federal**
17 **Bureau of Investigation to be used for searching the federal criminal history**
18 **files if necessary. The fingerprints shall be submitted on forms and in the**
19 **manner prescribed by the Missouri state highway patrol. Notwithstanding**
20 **the provisions of section 610.120, RSMo, all records related to any criminal**
21 **history information discovered shall be accessible and available to the**
22 **municipal or county officials making the record request.**

23 **3. All criminal record check information shall be confidential and any**
24 **person who discloses the information beyond the scope allowed is guilty of a**
25 **class A misdemeanor.**

43.543. Any state agency listed in section 621.045, RSMo, the division of
2 professional registration of the department of economic development, the department of
3 social services, the supreme court of Missouri, **the state court administrator**, the
4 department of elementary and secondary education, the Missouri lottery, [and] the
5 Missouri gaming commission, **or any state, municipal, or county agency** which
6 screen persons seeking employment with such agencies or issuance or renewal of a
7 license, permit, certificate, or registration of authority from such agencies; or any state,
8 **municipal, or county** agency or committee, **or state school of higher education**
9 which is authorized by state statute or executive order, **or local or county ordinance**
10 to screen applicants or candidates seeking or considered for employment, assignment,
11 **contracting**, or appointment to a position within state, **municipal, or county**
12 government; or the Missouri peace officers standards and training, POST, commission
13 which screens persons, not employed by a criminal justice agency, who seek enrollment
14 or access into a certified POST training academy police school, or persons seeking a
15 permit to purchase or possess a firearm for employment as a watchman, security
16 personnel, or private investigator; or law enforcement agencies which screen persons
17 seeking issuance or renewal of a license, permit, certificate, or registration to purchase
18 or possess a firearm shall submit two sets of fingerprints to the Missouri state highway
19 patrol, Missouri criminal records repository, for the purpose of checking the person's
20 criminal history. The first set of fingerprints shall be used to search the Missouri
21 criminal records repository and the second set shall be submitted to the Federal Bureau
22 of Investigation to be used for searching the federal criminal history files if
23 necessary. The fingerprints shall be submitted on forms and in the manner prescribed
24 by the Missouri state highway patrol. Fees assessed for the searches shall be paid by
25 the applicant or in the manner prescribed by the Missouri state highway
26 patrol. Notwithstanding the provisions of section 610.120, RSMo, all records related to

27 any criminal history information discovered shall be accessible and available to the state,
28 **municipal, or county agency making the record request.**

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

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

7 **(2) "Employee", a person who is at least twenty-one years of age and
8 who performs any service on the premises of a sexually-oriented business on
9 a full-time, part-time, or contract basis, whether or not the person is
10 denominated an employee, independent contractor, agent, or otherwise, and
11 whether or not said person is paid a salary, wage, or other compensation by
12 the operator of said business. The term employee does not include a person
13 exclusively on the premises for repair or maintenance of the premises or
14 equipment on the premises, or for the delivery of goods to the premises;**

15 **(3) "Licensee", a person in whose name a license to operate a sexually-
16 oriented business has been issued, as well as the individual listed as an
17 applicant on the application for a license; and in the case of an employee, a
18 person in whose name a license has been issued authorizing employment in
19 a sexually-oriented business;**

20 **(4) "Nudity" or a "state of nudity", the showing of the human male or
21 female genitals, pubic area, vulva, anus, anal cleft or anal cleavage with less
22 than a fully opaque covering, the showing of the female breast with less than
23 a fully opaque covering of any part of the nipple, or the showing of the
24 covered male genitals in a discernibly turgid state;**

25 **(5) "Nuisance", any place in or upon which lewdness, assignation, or
26 prostitution is conducted, permitted, continued, or exists, or any place, in or
27 upon which lewd, indecent, lascivious, or obscene films, or films designed to
28 be projected for exhibition, are photographed, manufactured, developed,
29 screened, exhibited, or otherwise prepared or shown, and the personal
30 property and contents used in conducting and maintaining any such place for
31 any such purpose. The provisions of this section shall not affect any
32 newspaper, magazine, or other publication entered as second class matter by
33 the post office department;**

34 **(6) "Person", an individual, proprietorship, partnership, corporation,
35 association, or other legal entity;**

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

43 (8) "Sexually-oriented business", an adult cabaret or any business which
44 offers its patrons goods of which a substantial portion are sexually-oriented
45 material. No building, premises, structure, or other facility that contains any
46 sexually-oriented businesses shall contain any other kind of sexually-oriented
47 businesses;

48 (9) "Sexually-oriented materials", any pictorial or three dimensional
49 material, or film, motion picture, DVD, video cassette, or similar photographic
50 reproduction, that depicts nudity, sexual conduct, sexual excitement, or
51 sadomasochistic abuse in a way which is patently offensive to the average
52 person applying contemporary adult community standards with respect to
53 what is suitable for minors;

54 (10) "Specified criminal activity", includes the following offenses:

55 (a) Prostitution or promotion of prostitution; dissemination of
56 obscenity; sale, distribution, or display of harmful material to a minor; sexual
57 performance by a child; possession or distribution of child pornography;
58 public lewdness; indecent exposure; indecency with a child; engaging in
59 organized criminal activity; sexual assault; molestation of a child; gambling
60 prohibited under Missouri law; or distribution of a controlled substance; or
61 any similar offenses described in this subdivision under the criminal or penal
62 code of other states or countries;

63 (b) For which:

64 a. Less than two years have elapsed since the date of conviction or the
65 date of release from confinement imposed for the conviction, whichever is the
66 later date, if the conviction is of a misdemeanor offense;

67 b. Less than five years have elapsed since the date of conviction or the
68 date of release from confinement for the conviction, whichever is the later
69 date, if the conviction is of a felony offense; or

70 c. Less than five years have elapsed since the date of the last
71 conviction or the date of release from confinement for the last conviction,
72 whichever is the later date, if the convictions are of two or more

73 **misdemeanor offenses or combination of misdemeanor offenses occurring**
74 **within any twenty-four month period;**

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

78 **(11) "Specified sexual activities", includes the following acts:**

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

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

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

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

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

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

67.2548. 1. A sexually-oriented business shall not employ any person
2 **who is not yet twenty-one years of age.**

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

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

4 **2. It shall be a class A misdemeanor for a person to appear knowingly**
5 **or intentionally in a sexually-oriented business in a semi-nude condition**

6 unless the person is an employee who, while semi-nude, shall be at least ten
7 feet from any patron or customer and on a stage at least two feet from the
8 floor and behind a railing no less than twenty-four inches in height.

9 3. It shall be a class A misdemeanor for an employee, while semi-nude
10 in a sexually-oriented business, to solicit any pay or gratuity from any patron
11 or customer or for any patron or customer to pay or give any gratuity to any
12 employee, while said employee is semi-nude in a sexually-oriented business.

13 4. It shall be a class A misdemeanor for an employee, while semi-nude,
14 to touch a customer or the clothing of a customer.

15 5. It shall be a class A misdemeanor if a person knowingly allows on
16 the premises of a sexually-oriented business a person under the age of twenty-
17 one years, except for a person exclusively on the premises for repair or
18 maintenance of the premises or equipment on the premises, or for the
19 delivery of goods to the premises.

20 6. No sexually-oriented business may remain open at any time between
21 the hours of midnight and ten a.m. on weekdays and Saturdays. Such
22 businesses shall be closed on all official state or federal holidays and
23 Sundays.

115.348. No person shall qualify as a candidate for elective public office
2 in the state of Missouri who has been convicted of or pled guilty to a felony
3 or misdemeanor under the federal laws of the United States of America.

195.017. 1. The department of health and senior services shall place a substance
2 in Schedule I if it finds that the substance:

3 (1) Has high potential for abuse; and

4 (2) Has no accepted medical use in treatment in the United States or lacks
5 accepted safety for use in treatment under medical supervision.

6 2. Schedule I:

7 (1) The controlled substances listed in this subsection are included in Schedule
8 I;

9 (2) Any of the following opiates, including their isomers, esters, ethers, salts, and
10 salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence
11 of these isomers, esters, ethers and salts is possible within the specific chemical
12 designation:

13 (a) Acetyl-alpha-methylfentanyl;

14 (b) Acetylmethadol;

15 (c) Allylprodine;

- 16 (d) Alphacetylmethadol;
- 17 (e) Alphameprodine;
- 18 (f) Alphamethadol;
- 19 (g) Alpha-methylfentanyl;
- 20 (h) Alpha-methylthiofentanyl;
- 21 (i) Benzethidine;
- 22 (j) Betacetylmethadol;
- 23 (k) Beta-hydroxyfentanyl;
- 24 (l) Beta-hydroxy-3-methylfentanyl;
- 25 (m) Betameprodine;
- 26 (n) Betamethadol;
- 27 (o) Betaprodine;
- 28 (p) Clonitazene;
- 29 (q) Dextromoramide;
- 30 (r) Diampromide;
- 31 (s) Diethylthiambutene;
- 32 (t) Difenoxin;
- 33 (u) Dimenoxadol;
- 34 (v) Dimepheptanol;
- 35 (w) Dimethylthiambutene;
- 36 (x) Dioxaphetyl butyrate;
- 37 (y) Dipipanone;
- 38 (z) Ethylmethylthiambutene;
- 39 (aa) Etonitazene;
- 40 (bb) Etoxidine;
- 41 (cc) Furethidine;
- 42 (dd) Hydroxypethidine;
- 43 (ee) Ketobemidone;
- 44 (ff) Levomoramide;
- 45 (gg) Levophenacetylmorphan;
- 46 (hh) 3-Methylfentanyl;
- 47 (ii) 3-Methylthiofentanyl;
- 48 (jj) Morpheridine;
- 49 (kk) MPPP;
- 50 (ll) Noracetylmethadol;
- 51 (mm) Norlevorphanol;

- 52 (nn) Normethadone;
- 53 (oo) Norpipanone;
- 54 (pp) Para-fluorofentanyl;
- 55 (qq) PEPAP;
- 56 (rr) Phenadoxone;
- 57 (ss) Phenampromide;
- 58 (tt) Phenomorphan;
- 59 (uu) Phenoperidine;
- 60 (vv) Piritramide;
- 61 (ww) Proheptazine;
- 62 (xx) Properidine;
- 63 (yy) Propiram;
- 64 (zz) Racemoramide;
- 65 (aaa) Thiofentanyl;
- 66 (bbb) Tilidine;
- 67 (ccc) Trimeperidine;
- 68 (3) Any of the following opium derivatives, their salts, isomers and salts of
- 69 isomers unless specifically excepted, whenever the existence of these salts, isomers and
- 70 salts of isomers is possible within the specific chemical designation:
- 71 (a) Acetorphine;
- 72 (b) Acetyldihydrocodeine;
- 73 (c) Benzylmorphine;
- 74 (d) Codeine methylbromide;
- 75 (e) Codeine-N-Oxide;
- 76 (f) Cyprenorphine;
- 77 (g) Desomorphine;
- 78 (h) Dihydromorphine;
- 79 (i) Drotebanol;
- 80 (j) Etorphine; (except Hydrochloride Salt);
- 81 (k) Heroin;
- 82 (l) Hydromorphanol;
- 83 (m) Methyldesorphine;
- 84 (n) Methyldihydromorphine;
- 85 (o) Morphine methylbromide;
- 86 (p) Morphine methyl sulfonate;
- 87 (q) Morphine-N-Oxide;

- 88 (r) Morphine;
- 89 (s) Nicocodeine;
- 90 (t) Nicomorphine;
- 91 (u) Normorphine;
- 92 (v) Pholcodine;
- 93 (w) Thebacon;
- 94 (4) Any material, compound, mixture or preparation which contains any quantity
- 95 of the following hallucinogenic substances, their salts, isomers and salts of isomers,
- 96 unless specifically excepted, whenever the existence of these salts, isomers, and salts of
- 97 isomers is possible within the specific chemical designation:
- 98 (a) 4-bromo-2,5-dimethoxyamphetamine;
- 99 (b) 4-bromo-2, 5-dimethoxyphenethylamine;
- 100 (c) 2,5-dimethoxyamphetamine;
- 101 (d) 2,5-dimethoxy-4-ethylamphetamine;
- 102 (e) **2,5-dimethoxy-4-(n)-propylthiophenethylamine;**
- 103 (f) 4-methoxyamphetamine;
- 104 [(f)] (g) 5-methoxy-3,4-methylenedioxyamphetamine;
- 105 [(g)] (h) 4-methyl-2,5-dimethoxy amphetamine;
- 106 [(h)] (i) 3,4-methylenedioxyamphetamine;
- 107 [(i)] (j) 3,4-methylenedioxymethamphetamine;
- 108 [(j)] (k) 3,4-methylenedioxy-N-ethylamphetamine;
- 109 [(k)] (l) N-nydroxy-3, 4-methylenedioxyamphetamine;
- 110 [(l)] (m) 3,4,5-trimethoxyamphetamine;
- 111 [(m)] (n) Alpha-ethyltryptamine;
- 112 (o) **Benzylpiperazine or B.P.;**
- 113 [(n)] (p) Bufotenine;
- 114 [(o)] (q) Diethyltryptamine;
- 115 [(p)] (r) Dimethyltryptamine;
- 116 [(q)] (s) Ibogaine;
- 117 [(r)] (t) Lysergic acid diethylamide;
- 118 [(s)] (u) Marijuana; (Marihuana);
- 119 [(t)] (v) Mescaline;
- 120 [(u)] (w) Parahexyl;
- 121 [(v)] (x) Peyote, to include all parts of the plant presently classified botanically
- 122 as Lophophora Williamsil Lemaire, whether growing or not; the seeds thereof; any
- 123 extract from any part of such plant; and every compound, manufacture, salt, derivative,

- 124 mixture or preparation of the plant, its seed or extracts;
- 125 [(w)] (y) N-ethyl-3-piperidyl benzilate;
- 126 [(x)] (z) N-methyl-3-piperidyl benzilate;
- 127 [(y)] (aa) Psilocybin;
- 128 [(z)] (bb) Psilocyn;
- 129 [(aa)] (cc) Tetrahydrocannabinols;
- 130 [(bb)] (dd) Ethylamine analog of phencyclidine;
- 131 [(cc)] (ee) Pyrrolidine analog of phencyclidine;
- 132 [(dd)] (ff) Thiophene analog of phencyclidine;
- 133 **(gg) 1-(3-Trifluoromethylphenyl)piperazine or TFMPP;**
- 134 [(ee)] (hh) 1-(1-(2-thienyl)cyclohexyl) pyrrolidine;
- 135 **(ii) Salvia divinorum;**
- 136 **(jj) Salvinorin A;**
- 137 (5) Any material, compound, mixture or preparation containing any quantity of
- 138 the following substances having a depressant effect on the central nervous system,
- 139 including their salts, isomers and salts of isomers whenever the existence of these salts,
- 140 isomers and salts of isomers is possible within the specific chemical designation:
- 141 (a) Gamma hydroxybutyric acid;
- 142 (b) Mecloqualone;
- 143 (c) Methaqualone;
- 144 (6) Any material, compound, mixture or preparation containing any quantity of
- 145 the following substances having a stimulant effect on the central nervous system,
- 146 including their salts, isomers and salts of isomers:
- 147 (a) Aminorex;
- 148 (b) Cathinone;
- 149 (c) Fenethylline;
- 150 (d) Methcathinone;
- 151 (e) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
- 152 (f) N-ethylamphetamine;
- 153 (g) N,N-dimethylamphetamine;
- 154 (7) A temporary listing of substances subject to emergency scheduling under
- 155 federal law shall include any material, compound, mixture or preparation which contains
- 156 any quantity of the following substances:
- 157 (a) N-(1-benzyl-4-piperidyl)-N-phenyl-propanamide (benzylfentanyl), its optical
- 158 isomers, salts and salts of isomers;
- 159 (b) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl),

160 its optical isomers, salts and salts of isomers;

161 **(c) Alpha-Methyltryptamine, or (AMT);**

162 **(d) 5-Methoxy-N,N-Diisopropyltryptamine, or(5-MeO-DIPT);**

163 **(8) Khat, to include all parts of the plant presently classified**
164 **botanically as catha edulis, whether growing or not; the seeds thereof; any**
165 **extract from any part of such plant; and every compound, manufacture, salt,**
166 **derivative, mixture, or preparation of the plant, its seed or extracts.**

167 3. The department of health and senior services shall place a substance in
168 Schedule II if it finds that:

169 (1) The substance has high potential for abuse;

170 (2) The substance has currently accepted medical use in treatment in the United
171 States, or currently accepted medical use with severe restrictions; and

172 (3) The abuse of the substance may lead to severe psychic or physical
173 dependence.

174 4. The controlled substances listed in this subsection are included in Schedule
175 II:

176 (1) Any of the following substances whether produced directly or indirectly by
177 extraction from substances of vegetable origin, or independently by means of chemical
178 synthesis, or by combination of extraction and chemical synthesis:

179 (a) Opium and opiate and any salt, compound, derivative or preparation of opium
180 or opiate, excluding apomorphine, thebaine-derived butorphanol, dextroprhan,
181 nalbuphine, nalmefene, naloxone and naltrexone, and their respective salts but including
182 the following:

183 a. Raw opium;

184 b. Opium extracts;

185 c. Opium fluid;

186 d. Powdered opium;

187 e. Granulated opium;

188 f. Tincture of opium;

189 g. Codeine;

190 h. Ethylmorphine;

191 i. Etorphine hydrochloride;

192 j. Hydrocodone;

193 k. Hydromorphone;

194 l. Metopon;

195 m. Morphine;

- 196 n. Oxycodone;
- 197 o. Oxymorphone;
- 198 p. Thebaine;
- 199 (b) Any salt, compound, derivative, or preparation thereof which is chemically
200 equivalent or identical with any of the substances referred to in this subdivision, but not
201 including the isoquinoline alkaloids of opium;
- 202 (c) Opium poppy and poppy straw;
- 203 (d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves,
204 and any salt, compound, derivative, or preparation thereof which is chemically
205 equivalent or identical with any of these substances, but not including decocainized coca
206 leaves or extractions which do not contain cocaine or ecgonine;
- 207 (e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid,
208 solid or powder form which contains the phenanthrene alkaloids of the opium poppy);
- 209 (2) Any of the following opiates, including their isomers, esters, ethers, salts, and
210 salts of isomers, whenever the existence of these isomers, esters, ethers and salts is
211 possible within the specific chemical designation, dextrorphan and levopropoxyphene
212 excepted:
- 213 (a) Alfentanil;
- 214 (b) Alphaprodine;
- 215 (c) Anileridine;
- 216 (d) Bezitramide;
- 217 (e) Bulk Dextropropoxyphene;
- 218 (f) Carfentanil;
- 219 (g) Butyl nitrite;
- 220 (h) Dihydrocodeine;
- 221 (i) Diphenoxylate;
- 222 (j) Fentanyl;
- 223 (k) Isomethadone;
- 224 (l) Levo-alphacetylmethadol;
- 225 (m) Levomethorphan;
- 226 (n) Levorphanol;
- 227 (o) Metazocine;
- 228 (p) Methadone;
- 229 (q) Meperidine;
- 230 (r) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;
- 231 (s) Moramide-Intermediate, 2-methyl-3-morpholino-1,

- 232 1-diphenylpropane--carboxylic acid;
- 233 (t) Pethidine;
- 234 (u) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- 235 (v) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- 236 (w) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 237 (x) Phenazocine;
- 238 (y) Piminodine;
- 239 (z) Racemethorphan;
- 240 (aa) Racemorphan;
- 241 (bb) [Sulfentanil] **Sufentanil**;
- 242 (3) Any material, compound, mixture, or preparation which contains any quantity
- 243 of the following substances having a stimulant effect on the central nervous system:
- 244 (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- 245 (b) Methamphetamine, its salts, isomers, and salts of its isomers;
- 246 (c) Phenmetrazine and its salts;
- 247 (d) Methylphenidate;
- 248 (4) Any material, compound, mixture, or preparation which contains any quantity
- 249 of the following substances having a depressant effect on the central nervous system,
- 250 including its salts, isomers, and salts of isomers whenever the existence of those salts,
- 251 isomers, and salts of isomers is possible within the specific chemical designation:
- 252 (a) Amobarbital;
- 253 (b) Glutethimide;
- 254 (c) Pentobarbital;
- 255 (d) Phencyclidine;
- 256 (e) Secobarbital;
- 257 (5) Any material, compound or compound which contains any quantity of [the
- 258 following substances:
- 259 (a) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin
- 260 capsule in a United States Food and Drug Administration approved drug product;
- 261 (b)] Nabilone;
- 262 (6) Any material, compound, mixture, or preparation which contains any quantity
- 263 of the following substances:
- 264 (a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;
- 265 (b) Immediate precursors to phencyclidine (PCP):
- 266 a. 1-phenylcyclohexylamine;
- 267 b. 1-piperidinocyclohexanecarbonitrile (PCC).

268 5. The department of health and senior services shall place a substance in
269 Schedule III if it finds that:

270 (1) The substance has a potential for abuse less than the substances listed in
271 Schedules I and II;

272 (2) The substance has currently accepted medical use in treatment in the United
273 States; and

274 (3) Abuse of the substance may lead to moderate or low physical dependence or
275 high psychological dependence.

276 6. The controlled substances listed in this subsection are included in Schedule
277 III:

278 (1) Any material, compound, mixture, or preparation which contains any quantity
279 of the following substances having a potential for abuse associated with a stimulant
280 effect on the central nervous system:

281 (a) Benzphetamine;

282 (b) Chlorphentermine;

283 (c) Clortermine;

284 (d) Phendimetrazine;

285 (2) Any material, compound, mixture or preparation which contains any quantity
286 or salt of the following substances or salts having a depressant effect on the central
287 nervous system:

288 (a) Any material, compound, mixture or preparation which contains any quantity
289 or salt of the following substances combined with one or more active medicinal
290 ingredients:

291 a. Amobarbital;

292 b. Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers
293 contained in a drug product for which an application has been approved under Section
294 505 of the Federal Food, Drug, and Cosmetic Act;

295 c. Secobarbital;

296 d. Pentobarbital;

297 (b) Any suppository dosage form containing any quantity or salt of the following:

298 a. Amobarbital;

299 b. Secobarbital;

300 c. Pentobarbital;

301 (c) Any substance which contains any quantity of a derivative of barbituric acid
302 or its salt;

303 (d) Chlorhexadol;

- 304 (e) Ketamine, its salts, isomers, and salts of isomers;
- 305 (f) Lysergic acid;
- 306 (g) Lysergic acid amide;
- 307 (h) Methyprylon;
- 308 (i) Sulfondiethylmethane;
- 309 (j) Sulfonethylmethane;
- 310 (k) Sulfonmethane;
- 311 (l) Tiletamine and zolazepam or any salt thereof;
- 312 (3) Nalorphine;
- 313 (4) Any material, compound, mixture, or preparation containing limited
- 314 quantities of any of the following narcotic drugs or their salts:
- 315 (a) Not more than 1.8 grams of codeine per one hundred milliliters or not more
- 316 than ninety milligrams per dosage unit, with an equal or greater quantity of an
- 317 isoquinoline alkaloid of opium;
- 318 (b) Not more than 1.8 grams of codeine per one hundred milliliters or not more
- 319 than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients
- 320 in recognized therapeutic amounts;
- 321 (c) Not more than three hundred milligrams of hydrocodone per one hundred
- 322 milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater
- 323 quantity of an isoquinoline alkaloid of opium;
- 324 (d) Not more than three hundred milligrams of hydrocodone per one hundred
- 325 milliliters or not more than fifteen milligrams per dosage unit, with one or more active
- 326 nonnarcotic ingredients in recognized therapeutic amounts;
- 327 (e) Not more than 1.8 grams of dihydrocodeine per one hundred milliliters or
- 328 more than ninety milligrams per dosage unit, with one or more active nonnarcotic
- 329 ingredients in recognized therapeutic amounts;
- 330 (f) Not more than three hundred milligrams of ethylmorphine per one hundred
- 331 milliliters or not more than fifteen milligrams per dosage unit, with one or more active,
- 332 nonnarcotic ingredients in recognized therapeutic amounts;
- 333 (g) Not more than five hundred milligrams of opium per one hundred milliliters
- 334 or per one hundred grams or not more than twenty-five milligrams per dosage unit, with
- 335 one or more active nonnarcotic ingredients in recognized therapeutic amounts;
- 336 (h) Not more than fifty milligrams of morphine per one hundred milliliters or per
- 337 one hundred grams, with one or more active, nonnarcotic ingredients in recognized
- 338 therapeutic amounts;
- 339 (5) **Any material, compound, mixture, or preparation containing any of**

340 **the following narcotic drugs or their salts, as set forth in subdivision (6) of**
341 **this subsection; buprenorphine.**

342 **(6) Anabolic steroids. Any drug or hormonal substance, chemically and**
343 **pharmacologically related to testosterone (other than estrogens, progestins,**
344 **and corticosteroids) that promotes muscle growth, except an anabolic steroid**
345 **which is expressly intended for administration through implants to cattle or**
346 **other nonhuman species and which has been approved by the secretary of**
347 **Health and Human Services for that administration. If any person prescribes,**
348 **dispenses, or distributes such steroid for human use, such person shall be**
349 **considered to have prescribed, dispensed, or distributed an anabolic steroid**
350 **within the meaning of this paragraph. Unless [specially] specifically excepted**
351 **or unless listed in another schedule, any material, compound, mixture or preparation**
352 **containing any quantity of the following substances, including its salts, isomers and salts**
353 **of isomers whenever the existence of such salts of isomers is possible within the specific**
354 **chemical designation:**

- 355 (a) Boldenone;
- 356 (b) Chlorotestosterone (4-Chlortestosterone);
- 357 (c) Clostebol;
- 358 (d) Dehydrochlormethyltestosterone;
- 359 (e) Dihydrotestosterone (4-Dihydro-testosterone);
- 360 (f) Drostanolone;
- 361 (g) Ethylestrenol;
- 362 (h) Fluoxymesterone;
- 363 (i) Formebolone (Formebolone);
- 364 (j) Mesterolone;
- 365 (k) Methandienone;
- 366 (l) Methandranone;
- 367 (m) Methandriol;
- 368 (n) Methandrostenolone;
- 369 (o) Methenolone;
- 370 (p) Methyltestosterone;
- 371 (q) Mibolerone;
- 372 (r) Nandrolone;
- 373 (s) Norethandrolone;
- 374 (t) Oxandrolone;
- 375 (u) Oxymesterone;

376 (v) Oxymetholone;

377 (w) Stanolone;

378 (x) Stanozolol;

379 (y) Testolactone;

380 (z) Testosterone;

381 (aa) Trenbolone;

382 (bb) Any salt, ester, or isomer of a drug or substance described or listed in this
383 subdivision, if that salt, ester or isomer promotes muscle growth except an anabolic
384 steroid which is expressly intended for administration through implants to cattle or
385 other nonhuman species and which has been approved by the secretary of health and
386 human services for that administration.

387 **(7) Dronabinol (synthetic) in sesame oil and encapsulated in a soft**
388 **gelatin capsule in a United States Food and Drug Administration approved**
389 **drug product. Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-**
390 **tetrahydro-6.6.9-trimethyl-3-pentyl-6H-dibenzo (b,d) pyran-1-ol, or (-)-delta-9-**
391 **(trans)-tetrahydracannabinol).**

392 [(6)] (8) The department of health and senior services may except by rule any
393 compound, mixture, or preparation containing any stimulant or depressant substance
394 listed in subdivisions (1) and (2) of this subsection from the application of all or any part
395 of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or
396 more active medicinal ingredients not having a stimulant or depressant effect on the
397 central nervous system, and if the admixtures are included therein in combinations,
398 quantity, proportion, or concentration that vitiate the potential for abuse of the
399 substances which have a stimulant or depressant effect on the central nervous system.

400 7. The department of health and senior services shall place a substance in
401 Schedule IV if it finds that:

402 (1) The substance has a low potential for abuse relative to substances in Schedule
403 III;

404 (2) The substance has currently accepted medical use in treatment in the United
405 States; and

406 (3) Abuse of the substance may lead to limited physical dependence or
407 psychological dependence relative to the substances in Schedule III.

408 8. The controlled substances listed in this subsection are included in Schedule
409 IV:

410 (1) Any material, compound, mixture, or preparation containing any of the
411 following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid,

412 in limited quantities as set forth below:

413 (a) Not more than one milligram of difenoxin and not less than twenty-five
414 micrograms of atropine sulfate per dosage unit;

415 (b) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-
416 propionoxybutane);

417 (c) Any of the following limited quantities of narcotic drugs or their salts, which
418 shall include one or more nonnarcotic active medicinal ingredients in sufficient
419 proportion to confer upon the compound, mixture or preparation valuable medicinal
420 qualities other than those possessed by the narcotic drug alone:

421 a. Not more than two hundred milligrams of codeine per one hundred milliliters
422 or per one hundred grams;

423 b. Not more than one hundred milligrams of dihydrocodeine per one hundred
424 milliliters or per one hundred grams;

425 c. Not more than one hundred milligrams of ethylmorphine per one hundred
426 milliliters or per one hundred grams;

427 (2) Any material, compound, mixture or preparation containing any quantity of
428 the following substances, including their salts, isomers, and salts of isomers whenever
429 the existence of those salts, isomers, and salts of isomers is possible within the specific
430 chemical designation:

431 (a) Alprazolam;

432 (b) Barbitol;

433 (c) Bromazepam;

434 (d) Camazepam;

435 (e) Chloral betaine;

436 (f) Chloral hydrate;

437 (g) Chlordiazepoxide;

438 (h) Clobazam;

439 (i) Clonazepam;

440 (j) Clorazepate;

441 (k) Clotiazepam;

442 (l) Cloxazolam;

443 (m) Delorazepam;

444 (n) Diazepam;

445 (o) **Dichloralphenazone;**

446 (p) Estazolam;

447 [(p)] (q) Ethchlorvynol;

- 448 [(q)] (r) Ethinamate;
449 [(r)] (s) Ethyl loflazepate;
450 [(s)] (t) Fludiazepam;
451 [(t)] (u) Flunitrazepam;
452 [(u)] (v) Flurazepam;
453 [(v)] (w) Halazepam;
454 [(w)] (x) Haloxazolam;
455 [(x)] (y) Ketazolam;
456 [(y)] (z) Loprazolam;
457 [(z)] (aa) Lorazepam;
458 [(aa)] (bb) Lormetazepam;
459 [(bb)] (cc) Mebutamate;
460 [(cc)] (dd) Medazepam;
461 [(dd)] (ee) Meprobamate;
462 [(ee)] (ff) Methohexital;
463 [(ff)] (gg) Methylphenobarbital;
464 [(gg)] (hh) Midazolam;
465 [(hh)] (ii) Nimetazepam;
466 [(ii)] (jj) Nitrazepam;
467 [(jj)] (kk) Nordiazepam;
468 [(kk)] (ll) Oxazepam;
469 [(ll)] (mm) Oxazolam;
470 [(mm)] (nn) Paraldehyde;
471 [(nn)] (oo) Petrichloral;
472 [(oo)] (pp) Phenobarbital;
473 [(pp)] (qq) Pinazepam;
474 [(qq)] (rr) Prazepam;
475 [(rr)] (ss) Quazepam;
476 [(ss)] (tt) Temazepam;
477 [(tt)] (uu) Tetrazepam;
478 [(uu)] (vv) Triazolam;
479 (ww) **Zaleplon**;
480 [(vv)] (xx) Zolpidem;
481 (3) Any material, compound, mixture, or preparation which contains any quantity
482 of the following substance including its salts, isomers and salts of isomers whenever the
483 existence of such salts, isomers and salts of isomers is possible: fenfluramine;

484 (4) Any material, compound, mixture or preparation containing any quantity of
485 the following substances having a stimulant effect on the central nervous system,
486 including their salts, isomers and salts of isomers:

487 (a) Cathine ((+)-norpseudoephedrine);

488 (b) Diethylpropion;

489 (c) Fencamfamin;

490 (d) Fenproporex;

491 (e) Mazindol;

492 (f) Mefenorex;

493 (g) **Modafinil**;

494 (h) Pemoline, including organometallic complexes and chelates thereof;

495 [(h)] (i) Phentermine;

496 [(i)] (j) Pipradrol;

497 (k) **Sibutramine**;

498 [(j)] (l) SPA ((-)-1-dimethylamino-1,2-diphenylethane);

499 (5) Any material, compound, mixture or preparation containing any quantity of
500 the following substance, including its salts:

501 (a) **butorphanol**;

502 (b) pentazocine;

503 (6) Any material, compound, mixture or preparation which contains any quantity
504 of the following substances having a stimulant effect on the central nervous system
505 including their salts, isomers and salts of isomers: ephedrine or its salts, optical isomers,
506 or salts of optical isomers as the only active medicinal ingredient or contains ephedrine
507 or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant
508 quantities of another active medicinal ingredient;

509 (7) The department of health and senior services may except by rule any
510 compound, mixture, or preparation containing any depressant substance listed in
511 subdivision (1) of this subsection from the application of all or any part of sections
512 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active
513 medicinal ingredients not having a depressant effect on the central nervous system, and
514 if the admixtures are included therein in combinations, quantity, proportion, or
515 concentration that vitiate the potential for abuse of the substances which have a
516 depressant effect on the central nervous system.

517 9. The department of health and senior services shall place a substance in
518 Schedule V if it finds that:

519 (1) The substance has low potential for abuse relative to the controlled

520 substances listed in Schedule IV;

521 (2) The substance has currently accepted medical use in treatment in the United
522 States; and

523 (3) The substance has limited physical dependence or psychological dependence
524 liability relative to the controlled substances listed in Schedule IV.

525 10. The controlled substances listed in this subsection are included in Schedule
526 V:

527 (1) [Any material, compound, mixture or preparation containing any of the
528 following narcotic drug and its salts: buprenorphine;

529 (2)] Any compound, mixture or preparation containing any of the following
530 narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited
531 quantities as set forth below, which also contains one or more nonnarcotic active
532 medicinal ingredients in sufficient proportion to confer upon the compound, mixture or
533 preparation valuable medicinal qualities other than those possessed by the narcotic drug
534 alone:

535 (a) Not more than two and five-tenths milligrams of diphenoxylate and not less
536 than twenty-five micrograms of atropine sulfate per dosage unit;

537 (b) Not more than one hundred milligrams of opium per one hundred milliliters
538 or per one hundred grams;

539 (c) Not more than five-tenths milligram of difenoxin and not less than twenty-five
540 micrograms of atropine sulfate per dosage unit;

541 [(3)] (2) Any material, compound, mixture or preparation which contains any
542 quantity of the following substance having a stimulant effect on the central nervous
543 system including its salts, isomers and salts of isomers: pyrovalerone.

544 11. The department of health and senior services shall revise and republish the
545 schedules annually.

**195.216. 1. A person commits the offense of distribution of a controlled
2 substance near a park if such person violates section 195.211 by unlawfully
3 distributing or delivering any controlled substance to a person in or on, or
4 within two thousand feet of, the real property comprising a public or private
5 park, state park, county park, or municipal park.**

**6 2. Distribution of a controlled substance near a park is a class A felony
7 which term shall be served without probation or parole if the court finds the
8 defendant is a persistent drug offender.**

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or
2 the family court in circuits that have a family court as provided in sections 487.010 to

3 487.190, RSMo, shall have exclusive original jurisdiction in proceedings:

4 (1) Involving any child or person seventeen years of age who may be a resident
5 of or found within the county and who is alleged to be in need of care and treatment
6 because:

7 (a) The parents, or other persons legally responsible for the care and support of
8 the child or person seventeen years of age, neglect or refuse to provide proper support,
9 education which is required by law, medical, surgical or other care necessary for his or
10 her well-being; except that reliance by a parent, guardian or custodian upon remedial
11 treatment other than medical or surgical treatment for a child or person seventeen years
12 of age shall not be construed as neglect when the treatment is recognized or permitted
13 pursuant to the laws of this state;

14 (b) The child or person seventeen years of age is otherwise without proper care,
15 custody or support; or

16 (c) The child or person seventeen years of age was living in a room, building or
17 other structure at the time such dwelling was found by a court of competent jurisdiction
18 to be a public nuisance pursuant to section 195.130, RSMo;

19 (d) The child or person seventeen years of age is a child in need of mental health
20 services and the parent, guardian or custodian is unable to afford or access appropriate
21 mental health treatment or care for the child;

22 (2) Involving any child who may be a resident of or found within the county and
23 who is alleged to be in need of care and treatment because:

24 (a) The child while subject to compulsory school attendance is repeatedly and
25 without justification absent from school; or

26 (b) The child disobeys the reasonable and lawful directions of his or her parents
27 or other custodian and is beyond their control; or

28 (c) The child is habitually absent from his or her home without sufficient cause,
29 permission, or justification; or

30 (d) The behavior or associations of the child are otherwise injurious to his or her
31 welfare or to the welfare of others; or

32 (e) The child is charged with an offense not classified as criminal, or with an
33 offense applicable only to children; except that, the juvenile court shall not have
34 jurisdiction over any child fifteen and one-half years of age who is alleged to have
35 violated a state or municipal traffic ordinance or regulation, the violation of which does
36 not constitute a felony, or any child who is alleged to have violated a state or municipal
37 ordinance or regulation prohibiting possession or use of any tobacco product;

38 (3) Involving any child who is alleged to have violated a state law or municipal

39 ordinance, or any person who is alleged to have violated a state law or municipal
40 ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may
41 be taken by the court of the circuit in which the child or person resides or may be found
42 or in which the violation is alleged to have occurred; except that, the juvenile court shall
43 not have jurisdiction over any child fifteen and one-half years of age who is alleged to
44 have violated a state or municipal traffic ordinance or regulation, the violation of which
45 does not constitute a felony[, or any child who is alleged to have violated a state or
46 municipal ordinance or regulation prohibiting possession or use of any tobacco product],
47 and except that the juvenile court shall have concurrent jurisdiction with the municipal
48 court over any child who is alleged to have violated a municipal curfew ordinance;

49 (4) For the adoption of a person;

50 (5) For the commitment of a child or person seventeen years of age to the
51 guardianship of the department of social services as provided by law.

52 2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or
53 person seventeen years of age who resides in a county of this state shall be made as
54 follows:

55 (1) Prior to the filing of a petition and upon request of any party or at the
56 discretion of the juvenile officer, the matter in the interest of a child or person seventeen
57 years of age may be transferred by the juvenile officer, with the prior consent of the
58 juvenile officer of the receiving court, to the county of the child's residence or the
59 residence of the person seventeen years of age for future action;

60 (2) Upon the motion of any party or on its own motion prior to final disposition
61 on the pending matter, the court in which a proceeding is commenced may transfer the
62 proceeding of a child or person seventeen years of age to the court located in the county
63 of the child's residence or the residence of the person seventeen years of age, or the
64 county in which the offense pursuant to subdivision (3) of subsection 1 of this section is
65 alleged to have occurred for further action;

66 (3) Upon motion of any party or on its own motion, the court in which jurisdiction
67 has been taken pursuant to subsection 1 of this section may at any time thereafter
68 transfer jurisdiction of a child or person seventeen years of age to the court located in
69 the county of the child's residence or the residence of the person seventeen years of age
70 for further action with the prior consent of the receiving court;

71 (4) Upon motion of any party or upon its own motion at any time following a
72 judgment of disposition or treatment pursuant to section 211.181, the court having
73 jurisdiction of the cause may place the child or person seventeen years of age under the
74 supervision of another juvenile court within or without the state pursuant to section

75 210.570, RSMo, with the consent of the receiving court;

76 (5) Upon motion of any child or person seventeen years of age or his or her
77 parent, the court having jurisdiction shall grant one change of judge pursuant to
78 Missouri Supreme Court Rules;

79 (6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a
80 child or person seventeen years of age, certified copies of all legal and social documents
81 and records pertaining to the case on file with the clerk of the transferring juvenile court
82 shall accompany the transfer.

83 3. In any proceeding involving any child or person seventeen years of age taken
84 into custody in a county other than the county of the child's residence or the residence
85 of a person seventeen years of age, the juvenile court of the county of the child's
86 residence or the residence of a person seventeen years of age shall be notified of such
87 taking into custody within seventy-two hours.

88 4. When an investigation by a juvenile officer pursuant to this section reveals
89 that the only basis for action involves an alleged violation of section 167.031, RSMo,
90 involving a child who alleges to be home schooled, the juvenile officer shall contact a
91 parent or parents of such child to verify that the child is being home schooled and not
92 in violation of section 167.031, RSMo, before making a report of such a violation. Any
93 report of a violation of section 167.031, RSMo, made by a juvenile officer regarding a
94 child who is being home schooled shall be made to the prosecuting attorney of the county
95 where the child legally resides.

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

2 (1) "COCC", corrections officer certification commission;

3 (2) "Corrections officer", a corrections officer of the state or any political
4 subdivision of the state;

5 (3) "Director", the director of the Missouri department of corrections or his or her
6 designated agent or representative.

7 2. There is hereby established within the department of corrections a
8 "Corrections Officer Certification Commission" which shall be composed of nine members
9 nominated by the director and appointed by the governor with the advice and consent
10 of the senate:

11 (1) Three members shall be department of corrections officers below the rank of
12 lieutenant; of which, at least two will be members of a statewide association of
13 corrections officers with more than one thousand members;

14 (2) Three members shall be corrections officers or supervisors above the rank of
15 sergeant; two of which must be the rank of lieutenant or captain. Of these three, at least

16 one will be a member of a statewide association of corrections officers with more than
17 one thousand members;

18 (3) Two members shall be county sheriffs, at least one of whom shall be from a
19 third class county; and

20 (4) One member shall represent the general public.

21 3. Each member shall be at the time of appointment a citizen of the United
22 States and a resident of this state for a period of at least one year.

23 4. The original members of the commission shall be appointed as follows:

24 (1) Three for terms of one year;

25 (2) Three for terms of two years; and

26 (3) Three for terms of three years.

27 Thereafter, all terms of membership on the commission shall be for three years or until
28 a successor is appointed.

29 5. The director may remove any member of the commission for misconduct or
30 neglect of office. Any member of the commission may be removed for cause by the
31 director but such member shall first be presented with a written statement of the
32 reasons thereof.

33 6. Any vacancy in the membership of the commission shall be filled by
34 appointment for the unexpired term.

35 7. Annually the director shall appoint one of the members as chairperson. The
36 commission shall meet to perform its duties at least once each year as determined by the
37 director or a majority of the members. A majority of the members of the commission
38 shall constitute a quorum.

39 8. No member of the commission shall receive any compensation for the
40 performance of official duties but the members shall be reimbursed for their necessary
41 expenses.

42 9. The commission may:

43 (1) Cause a job task analysis to be made of the jobs of corrections officers
44 pursuant to this chapter; [jailers pursuant to chapter 221, RSMo; jailers in charter
45 counties and private jail custody staff];

46 (2) Make recommendations to the department of corrections, the legislature, or
47 the governor concerning the qualifications, training, testing, and certification of
48 corrections officers[, jailers and private jail custody staff];

49 (3) Recommend qualifications and training standards for corrections officers
50 pursuant to this chapter[, jailers pursuant to chapter 221, RSMo, and jailers in charter
51 counties].

52 10. The director may establish various classes of corrections officers certification.

53 11. The name, certification status, and employing corrections agency of any of the
54 applicants or individuals certified pursuant to this chapter shall be open record. All
55 other records retained by the director pertaining to any applicant or certified officer shall
56 be confidential and shall not be disclosed to the public or any member of the public,
57 except with the written consent of the person or entity whose records are involved,
58 provided, however, that the director may disclose such information in the course of
59 interstate exchange of information, during the course of litigation involving the director
60 or to other state agencies. No closed record conveyed to the director pursuant to this
61 chapter shall lose its status as a closed record solely because it is retained by the
62 director. Nothing in this chapter shall be used to compel the director to disclose any
63 record subject to attorney-client privilege or work-product privilege.

 217.705. 1. The chairman shall appoint probation and parole officers and
2 institutional parole officers as deemed necessary to carry out the purposes of the board.

3 2. Probation and parole officers shall investigate all persons referred to them for
4 investigation by the board or by any court as provided by sections 217.750 and
5 217.760. They shall furnish to each offender released under their supervision a written
6 statement of the conditions of probation, parole or conditional release and shall instruct
7 the offender regarding these conditions. They shall keep informed of the offender's
8 conduct and condition and use all suitable methods to aid and encourage the offender to
9 bring about improvement in the offender's conduct and conditions.

10 3. The probation and parole officer may recommend and, by order duly entered,
11 the court may impose and may at any time modify any conditions of probation. The
12 court shall cause a copy of any such order to be delivered to the probation and parole
13 officer and the offender.

14 4. Probation and parole officers shall keep detailed records of their work and
15 shall make such reports in writing and perform such other duties as may be incidental
16 to those enumerated that the board may require. **In the event a parolee is**
17 **transferred to another probation and parole officer, the written record of the**
18 **former probation and parole officer shall be given to the new probation and**
19 **parole officer.**

20 5. Institutional parole officers shall investigate all offenders referred to them for
21 investigation by the board and shall provide the board such other reports the board may
22 require. They shall furnish the offender prior to release on parole or conditional release
23 a written statement of the conditions of parole or conditional release and shall instruct
24 the offender regarding these conditions.

25 6. The department shall furnish probation and parole officers and institutional
26 parole officers, including supervisors, with credentials and a special badge which such
27 officers and supervisors shall carry on their person at all times while on duty.

**217.735. The board of probation and parole shall require any
2 individual, who has pleaded guilty to or is found guilty of two or more sexual
3 offenses against a minor under chapter 566, RSMo, that are classified as a
4 felony or an unclassified offense with a sentence of one year or longer, to
5 wear a remote electronic surveillance device as a condition of his or her
6 parole. The board shall require the parolee to wear the device for the entire
7 duration of the parole period. The department of public safety shall
8 promulgate rules and regulations to effectuate the provisions of this section,
9 including, but not limited to, procedures for the placement of electronic
10 surveillance devices on parolees and monitoring of parolees.**

217.750. 1. At the request of a judge of any circuit court, the board shall provide
2 probation services for such court as provided in subsection 2 of this section.

3 2. The board shall provide probation services for any person convicted of any
4 class of felony. The board shall not provide probation services for any class of
5 misdemeanor except those class A misdemeanors the basis of which is contained in
6 chapters 565 and 566, RSMo, or in section 568.050, RSMo, 455.085, RSMo, **589.425,**
7 **RSMo,** or section 455.538, RSMo.

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

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

17 was an attorney and] the defendant was represented by or waived the right to an
18 attorney in writing, and where the prior two driving-while-revoked offenses occurred
19 within ten years of the date of occurrence of the present offense and where the person
20 received and served a sentence of ten days or more on such previous offenses is guilty
21 of a class D felony. No court shall suspend the imposition of sentence as to such a
22 person nor sentence such person to pay a fine in lieu of a term of imprisonment, nor
23 shall such person be eligible for parole or probation until [he] **such person** has served
24 a minimum of forty-eight consecutive hours of imprisonment, unless as a condition of
25 such parole or probation, such person performs at least ten days involving at least forty
26 hours of community service under the supervision of the court in those jurisdictions
27 which have a recognized program for community service. Driving while revoked is a
28 class D felony on the second or subsequent conviction pursuant to section 577.010, RSMo,
29 or a fourth or subsequent conviction for any other offense.

302.541. 1. In addition to other fees required by law, any person who has had
2 a license to operate a motor vehicle suspended or revoked following a determination,
3 pursuant to section 302.505, or section 577.010, 577.012, 577.041 or 577.510, RSMo, or
4 any county or municipal ordinance, where [the judge in such case was an attorney and]
5 the defendant was represented by or waived the right to an attorney, that such person
6 was driving while intoxicated or with a blood alcohol content of eight- hundredths of one
7 percent or more by weight or, where such person was at the time of the arrest less than
8 twenty-one years of age and was driving with a blood alcohol content of two-hundredths
9 of one percent or more by weight, shall pay an additional fee of twenty-five dollars prior
10 to the reinstatement or reissuance of the license.

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

306.112. 1. A person commits the crime of operating a vessel with excessive
2 blood alcohol content if [he] **such person** operates a vessel on the Mississippi River,
3 Missouri River or the lakes of this state with ten-hundredths of one percent or more by
4 weight of alcohol in [his] **such person's** blood.

5 2. As used in this section, percent by weight of alcohol in the blood shall be based
6 upon grams of alcohol per one hundred milliliters of blood and may be shown by chemical

7 analysis of the person's blood, breath, **urine**, or saliva.

8 3. Any person convicted of operating a vessel with excessive blood alcohol content
9 is guilty of a class B misdemeanor upon conviction for the first violation, guilty of a class
10 A misdemeanor upon conviction for the second violation, and guilty of a class D felony
11 for conviction for the third and subsequent violations.

 306.114. 1. No person convicted of or pleading guilty to a violation of section
2 306.111 or 306.112 shall be granted a suspended imposition of sentence, unless such
3 person is placed on probation for a minimum of two years and a record of the conviction
4 or plea of guilty is entered into the records of the Missouri uniform law enforcement
5 system maintained by the Missouri state highway patrol.

6 2. Chemical tests of a person's blood, breath, **urine**, or saliva to be considered
7 valid under the provisions of sections 306.111 to 306.119 shall be performed according
8 to methods and devices approved by the department of health and senior services by
9 licensed medical personnel or by a person possessing a valid permit issued by the
10 department of health and senior services for this purpose. In addition, any state, county,
11 or municipal law enforcement officer who is certified pursuant to chapter 590, RSMo,
12 may, prior to arrest, administer a portable chemical test to any person suspected of
13 operating any vessel in violation of section 306.111 or 306.112. A portable chemical test
14 shall be admissible as evidence of probable cause to arrest and as exculpatory evidence,
15 but shall not be admissible as evidence of blood alcohol content. The provisions of
16 section 306.116 shall not apply to a test administered prior to arrest pursuant to this
17 section.

18 3. The department of health and senior services shall approve satisfactory
19 techniques, devices, equipment, or methods to conduct tests required by sections 306.111
20 to 306.119, and shall establish standards as to the qualifications and competence of
21 individuals to conduct analyses and to issue permits which shall be subject to
22 termination, suspension or revocation by the department of health and senior services.

23 4. A licensed physician, registered nurse, or trained medical technician, acting
24 at the request and direction of a law enforcement officer, shall withdraw blood for the
25 purpose of determining the alcohol content of the blood, unless the medical personnel,
26 in the exercise of good faith medical judgment, believes such procedure would endanger
27 the life or health of the person in custody. Blood may be withdrawn only by such
28 medical personnel, but such restriction shall not apply to the taking of a breath test or
29 a **urine or** saliva specimen. In withdrawing blood for the purpose of determining the
30 alcohol content in the blood, only a previously unused and sterile needle and sterile
31 vessel shall be used and the withdrawal shall otherwise be in strict accord with accepted

32 medical practices. A nonalcoholic antiseptic shall be used for cleansing the skin prior to
33 a venapuncture. Upon the request of the person who is tested, full information
34 concerning the test taken at the direction of the law enforcement officer shall be made
35 available to [him] **such person**.

36 5. No person who administers any test pursuant to the provisions of sections
37 306.111 to 306.119 upon the request of a law enforcement officer, no hospital in or with
38 which such person is employed or is otherwise associated or in which such test is
39 administered, and no other person, firm, or corporation by whom or with which such
40 person is employed or is in any way associated shall be civilly liable for damages to the
41 person tested, except for negligence in administering of the test or for willful and wanton
42 acts or omissions.

43 6. Any person who is dead, unconscious or who is otherwise in a condition
44 rendering [him] **such person** incapable of refusing to take a test as provided in sections
45 306.111 to 306.119 shall be deemed not to have withdrawn the consent provided by
46 section 306.116 and the test or tests may be administered.

306.116. 1. Any person who operates a vessel upon the Mississippi River,
2 Missouri River or the lakes of this state shall be deemed to have given consent to,
3 subject to the provisions of sections 306.111 to 306.119, a chemical test or tests of [his]
4 **such person's** breath, blood, **urine**, or saliva for the purpose of determining the alcohol
5 or drug content of [his] **such person's** blood if arrested for any offense arising out of
6 acts which the arresting law enforcement officer had reasonable grounds to believe were
7 committed while the person was operating a vessel upon the Mississippi River, Missouri
8 River or lakes of this state in violation of section 306.111 or 306.112. The test shall be
9 administered at the direction of the arresting law enforcement officer whenever the
10 person has been arrested for the offense.

11 2. The implied consent to submit to the chemical tests listed in subsection 1 of
12 this section shall be limited to not more than two such tests arising from the same
13 arrest, incident, or charge.

14 3. The person tested may have a physician, or a qualified technician, chemist,
15 registered nurse, or other qualified person of [his own] **such person's** choosing and at
16 [his] **such person's** expense administer a test in addition to any administered at the
17 direction of a law enforcement officer. The failure or inability to obtain an additional
18 test by a person shall not preclude the admission of evidence relating to the test taken
19 at the direction of a law enforcement officer.

20 4. Upon the request of the person who is tested, full information concerning the
21 test shall be made available to [him] **such person**.

306.117. 1. Upon the trial of any person for violation of any of the provisions of section 306.111 or 306.112 the amount of alcohol or drugs in the person's blood at the time of the act alleged as shown by any chemical analysis of the person's blood, breath, **urine**, or saliva is admissible in evidence and the provisions of subdivision (5) of section 491.060, RSMo, shall not prevent the admissibility or introduction of such evidence if otherwise admissible. Evidence of alcohol in a person's blood shall be given the following effect:

(1) If there was five-hundredths of one percent or less by weight of alcohol in **[his] such person's** blood, it shall be presumed that the person was not intoxicated at the time the specimen was obtained;

(2) If there was in excess of five-hundredths of one percent but less than ten-hundredths of one percent by weight of alcohol in **[his] such person's** blood, the fact shall not give rise to any presumption that the person was or was not intoxicated, but the fact may be considered with other competent evidence in determining whether the person was intoxicated;

(3) If there was ten-hundredths of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.

2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood.

3. A chemical analysis of a person's breath, blood, **urine**, or saliva, in order to give rise to the presumption or to have the effect provided for in subsection 1 of this section, shall have been performed as provided in sections 306.111 to 306.119 and in accordance with methods and standards approved by the department of health and senior services.

4. The provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was intoxicated or under the influence of a controlled substance, or drug, or a combination of either or both with or without alcohol.

306.119. 1. If an arresting officer requests a person under arrest to submit to a chemical test, such request shall include the reasons of the officer for requesting the person to submit to a test and shall inform the person that he **or she** may refuse such request but that **[his] such person's** refusal may be used as evidence against him **or her**. If a person refuses a test as provided in this subsection, no test shall be given.

2. If a person refuses to submit to a chemical test of **[his] such person's** breath, blood, **urine**, or saliva and that person stands trial for the crimes provided in section

8 306.111 or 306.112, such refusal may be admissible into evidence at the trial.

306.140. 1. It shall be the duty of the operator of a watercraft involved in a
2 collision, accident, or other casualty, so far as [he] **the operator** can do so without
3 serious danger to [his own] **the operator's** watercraft, crew and passengers, to render
4 to other persons affected by the collision, accident, or other casualty, assistance as may
5 be practicable and as may be necessary in order to save them from or minimize any
6 danger caused by the collision, accident, or other casualty, and also to give his **or her**
7 name, address, and identification of his **or her** watercraft in writing to any person
8 injured and to the owner of any property damaged in the collision, accident, or other
9 casualty.

10 2. In the case of collision, accident, or other casualty involving a watercraft, the
11 operator thereof, if the collision, accident, or other casualty results in death or injury to
12 a person or damage to property in excess of [two] **five** hundred dollars, shall file with
13 the Missouri state water patrol a full description of the collision, accident, or other
14 casualty, including such information as the patrol may, by regulation, require.

306.147. 1. As used in this section, the term "muffler" means a sound
2 suppression device or system designed and installed to abate the sound of exhaust gases
3 emitted from an internal combustion engine and which prevents excessive or unusual
4 noise.

5 2. Effective January 1, 1996, a person shall not manufacture, sell or offer for sale
6 or operate in this state any motorboat manufactured after that date that exceeds the
7 noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by
8 SAE J2005. All motorboats manufactured prior to January 1, 1996, shall not exceed
9 eighty-six decibels on an A-weighted scale when subjected to a sound level test as
10 prescribed by SAE J34 when measured from a distance of fifty or more feet from the
11 motorboat.

12 3. No person shall remove, alter or otherwise modify in any way a muffler or
13 muffler system in a manner which will prevent it from being operated in accordance with
14 this section. Nothing in this section shall preclude a person from removing, altering or
15 modifying a muffler or muffler system so long as the muffler or muffler system continues
16 to comply with subsection 2 of this section. This section shall not be construed so as to
17 prohibit the use of any exhaust system or device, including but not limited to those not
18 discharging water with exhaust gases, so long as the device or system is in compliance
19 with subsection 2 of this section.

20 4. **No motorboat shall be equipped with any electrical or mechanical**
21 **device or switch that when manipulated in any manner would allow the**

22 **muffler or exhaust system to emit a noise level that exceeds the maximums**
23 **in subsection 2 of this section.**

24 5. Effective January 1, 1996, a person shall not manufacture, nor shall any
25 person sell or offer for sale any motorboat which is manufactured after January 1, 1996,
26 which is equipped with a muffler or muffler system which does not comply with this
27 section. The subsection shall not apply to power vessels designed, manufactured and
28 sold for the sole purpose of competing in racing events and for no other purpose. Any
29 such exemption or exception shall be documented in every sale agreement and shall be
30 formally acknowledged by signature on the part of both the buyer and the seller. Copies
31 of such agreement shall be maintained by both parties. A copy of such agreement shall
32 be kept on board whenever the motorboat is operated. Any motorboat sold under this
33 exemption may only be operated on the waters of this state in accordance with
34 subsection 6 of this section.

35 [5.] 6. As of January 1, 1996, every manufacturer which delivers a new
36 motorboat for sale in this state shall certify, if the purchaser or dealer makes a request
37 in writing, that the decibel level of the motorboat engine, muffler and exhaust system,
38 as delivered to any licensed dealer in this state, does not exceed the noise level of
39 90dB(A) when subjected to a stationary sound level test as prescribed by SAE
40 J2005. Such certificate of decibel level from the manufacturer shall be given by the
41 dealer to the purchaser of the new motorboat if the motorboat is sold for use upon the
42 waters of this state. The purchaser shall sign a statement acknowledging receipt of the
43 certificate of decibel level which shall be supplied by the dealer. The dealer shall
44 represent by affidavit whether or not the engine or muffler system of the new motorboat
45 being sold has been altered or modified in any way.

46 [6.] 7. The provisions of this section shall not apply to motorboats registered and
47 actually participating in a racing event or tune-up periods for such racing events or to
48 a motorboat being operated by a boat or engine manufacturer for the purpose of testing
49 or development. The operator of any motorboat operated upon the waters of this state
50 for the purpose of a tune-up for a sanctioned race or for testing or development by a boat
51 or engine manufacturer shall at all times have in such operator's possession and produce
52 on demand by a law enforcement officer a test permit issued by the state water
53 patrol. For the purpose of races or racing events, such race shall only be sanctioned
54 when conducted in accordance with and approved by the United States Coast Guard or
55 this state.

56 [7.] 8. Any officer authorized to enforce the provisions of this section who has
57 probable cause to believe that a motorboat is not in compliance with the noise levels

58 established in this section may direct the operator of such motorboat to submit the
59 motorboat to an on-site test to measure noise levels, with the officer on board if such
60 officer chooses, and the operator shall comply with such request. The owner of any
61 motorboat which violates any provision of this section shall have sixty days from the date
62 of the violation to bring the motorboat into compliance with the provisions of this
63 section. Thereafter, it shall be the owner's responsibility to have the motorboat tested
64 by the state water patrol. If the motorboat fails the state water patrol test, the owner
65 shall immediately moor the motorboat and shall keep the motorboat moored until the
66 state water patrol certifies that the motorboat is in compliance with the provisions of
67 this section. Any person who fails to comply with a request or direction of an officer
68 made pursuant to this subsection is guilty of a class C misdemeanor. Nothing in this
69 subsection shall be construed to limit the officer's ability to enforce this section and to
70 issue citations to the owner or operator of any motorboat during the sixty-day compliance
71 period.

72 [8.] 9. Any officer who conducts motorboat sound level tests as provided in this
73 section shall be qualified in motorboat noise testing by the department of public
74 safety. Such qualifications shall include but may not be limited to the selection of the
75 measurement site, and the calibration and use of noise testing equipment in accordance
76 with the testing procedure prescribed by SAE J2005 and SAE J34.

77 [9.] 10. Unless otherwise indicated, any person who knowingly violates this
78 section is guilty of an infraction for a first offense with a penalty not to exceed one
79 hundred dollars, is guilty of an infraction for a second offense with a penalty not to
80 exceed two hundred dollars, and is guilty of an infraction for a third or subsequent
81 offense with a penalty not to exceed three hundred dollars.

82 [10.] 11. This section shall only apply to the waters of the Mississippi River, the
83 waters of the Missouri River, and lakes with an aggregate shoreline in excess of one
84 hundred sixty miles. This section shall not apply to motorboats not intended for use in
85 this state.

**311.488. The supervisor of the division of alcohol and tobacco control
2 shall not issue a license to sell intoxicating liquor or nonintoxicating beer to
3 a sexually-oriented business as defined by section 67.2540, RSMo.**

479.230. 1. If a municipal judge be absent, sick or disqualified from acting
2 pursuant to the general administrative authority of the presiding judge of the
3 circuit court over the municipal divisions within the circuit contained in
4 section 478.240, RSMo:

5 (1) In municipal court divisions having more than one judge, the

6 **presiding judge of the municipal division, if any, or if there is not a**
7 **designated presiding judge of the municipal division, any other municipal**
8 **judge in said municipal division may request the presiding judge of the**
9 **circuit court to designate a special municipal judge as provided in subsection**
10 **2 of this section until such absence or disqualification shall cease, subject to**
11 **subdivision (4) of this subsection;**

12 **(2) The presiding judge of the municipal division may, by written**
13 **directive, designate a written procedure delegating authority by which the**
14 **municipal court administrator, if any, or the municipal court clerk, is**
15 **authorized to notify and request the presiding judge of the circuit court to**
16 **designate a special municipal judge as provided in subsection 2 of this**
17 **section;**

18 **(3) In the absence of multiple judges in a municipal division, and in the**
19 **absence of a written directive and policy authorizing the procedure, the mayor**
20 **or chairman of the board of trustees may request the presiding judge of the circuit court**
21 **to designate a special municipal judge as provided in subsection 2 of this section or in**
22 **cases of circumstances making it impossible to reach the presiding judge of**
23 **the circuit court in a timely manner, the mayor or chairman of the board of**
24 **trustees may designate some competent, eligible person to act as municipal judge until**
25 **[such absence or disqualification shall cease; provided, however, that] the presiding**
26 **judge of the circuit court can designate a special municipal judge as provided**
27 **for under subsection 2 of this section;**

28 **(4) Notwithstanding the provisions of subdivisions (1) to (3) of this**
29 **subsection, should a vacancy occur in the office of an elected municipal judge more**
30 **than six months before a general municipal election, then a special election shall be held**
31 **to fill such vacancy; and in case of vacancy in the office of an elected municipal judge**
32 **within less than six months of a general municipal election, the office may be filled by**
33 **a competent, eligible person [designated by the mayor or chairman of the board of**
34 **trustees or as provided in subsection 2 of this section.] under the procedures set**
35 **forth in subdivisions (1), (2), and (3) of this subsection.**

36 **2. The presiding judge of the circuit court may appoint any other municipal judge**
37 **within the circuit to act as a special interim municipal judge for a municipal judge of**
38 **the circuit who is absent, sick or disqualified from acting. The presiding judge shall act**
39 **[only upon request of the mayor or chairman of the board of trustees for a special**
40 **municipal judge] upon the request of those with authority to make such request**
41 **under subsection 1 of this section.**

42 3. The governing body of the municipality shall provide by ordinance for the
43 compensation of any person designated to act as municipal judge under the provisions
44 of this section.

 540.031. A grand jury may make inquiry into and return indictments for all
2 grades of crimes and shall make inquiry into all possible violations of the criminal laws
3 as the court may direct. The grand jury [shall] **may** examine public buildings and
4 report on their conditions.

 542.276. 1. Any peace officer or prosecuting attorney may make application
2 under section 542.271 for the issuance of a search warrant.

3 2. The application shall:

4 (1) Be in writing;

5 (2) State the time and date of the making of the application;

6 (3) Identify the property, article, material, substance or person which is to be
7 searched for and seized, in sufficient detail and particularity that the officer executing
8 the warrant can readily ascertain it;

9 (4) Identify the person, place, or thing which is to be searched, in sufficient detail
10 and particularity that the officer executing the warrant can readily ascertain whom or
11 what he or she is to search;

12 (5) State facts sufficient to show probable cause for the issuance of a search
13 warrant;

14 (6) Be verified by the oath or affirmation of the applicant;

15 (7) Be filed in the proper court;

16 (8) Be signed by the prosecuting attorney of the county where the search is to
17 take place, or his or her designated assistant.

18 3. The application may be supplemented by a written affidavit verified by oath
19 or affirmation. Such affidavit shall be considered in determining whether there is
20 probable cause for the issuance of a search warrant and in filling out any deficiencies in
21 the description of the person, place, or thing to be searched or of the property, article,
22 material, substance, or person to be seized. Oral testimony shall not be considered. The
23 application may be submitted by facsimile or other electronic means.

24 4. The judge shall determine whether sufficient facts have been stated to justify
25 the issuance of a search warrant. If it appears from the application and any supporting
26 affidavit that there is probable cause to believe that property, article, material,
27 substance, or person subject to seizure is on the person or at the place or in the thing
28 described, a search warrant shall immediately be issued. The warrant shall be issued
29 in the form of an original and two copies.

30 5. The application and any supporting affidavit and a copy of the warrant shall
31 be retained in the records of the court from which the warrant was issued.

32 6. The search warrant shall:

33 (1) Be in writing and in the name of the state of Missouri;

34 (2) Be directed to any peace officer in the state;

35 (3) State the time and date the warrant is issued;

36 (4) Identify the property, article, material, substance or person which is to be
37 searched for and seized, in sufficient detail and particularity that the officer executing
38 the warrant can readily ascertain it;

39 (5) Identify the person, place, or thing which is to be searched, in sufficient detail
40 and particularity that the officer executing the warrant can readily ascertain whom or
41 what he or she is to search;

42 (6) Command that the described person, place, or thing be searched and that any
43 of the described property, article, material, substance, or person found thereon or therein
44 be seized **[and] or** photographed or copied **and** within ten days after filing of the
45 application, **any** **[all photographs and copies or]** photographs or copies of the items
46 **[shall] may** be filed with the **[circuit clerk] issuing court**;

47 (7) Be signed by the judge, with his or her title of office indicated.

48 7. A search warrant issued under this section may be executed only by a peace
49 officer. The warrant shall be executed by conducting the search and seizure
50 commanded. The search warrant issued under this section may be issued by facsimile
51 or other electronic means.

52 8. A search warrant shall be executed as soon as practicable and shall expire if
53 it is not executed and the return made within ten days after the date of the making of
54 the application.

55 9. After execution of the search warrant, the warrant with a return thereon,
56 signed by the officer making the search, shall be delivered to the judge who issued the
57 warrant. The return shall show the date and manner of execution, what was seized, and
58 the name of the possessor and of the owner, when he or she is not the same person, if
59 known. The return shall be accompanied by a copy of the itemized receipt required by
60 subsection 6 of section 542.291. The judge or clerk shall, upon request, deliver a copy
61 of such receipt to the person from whose possession the property was taken and to the
62 applicant for the warrant.

63 10. A search warrant shall be deemed invalid:

64 (1) If it was not issued by a judge; or

65 (2) If it was issued without a written application having been filed and verified;

66 or

67 (3) If it was issued without probable cause; or

68 (4) If it was not issued in the proper county; or

69 (5) If it does not describe the person, place, or thing to be searched or the
70 property, article, material, substance, or person to be seized with sufficient certainty; or

71 (6) If it is not signed by the judge who issued it; or

72 (7) If it was not executed within the time prescribed by subsection 8 of this
73 section.

544.170. 1. [Except as provided in subsection 2 of this section,] All persons
2 arrested and confined in any jail or other place of confinement by any peace officer,
3 without warrant or other process, for any alleged breach of the peace or other criminal
4 offense, or on suspicion thereof, shall be discharged from said custody within [twenty]
5 **twenty-four** hours from the time of such arrest, unless they shall be charged with a
6 criminal offense by the oath of some credible person, and be held by warrant to answer
7 to such offense.

8 2. [Upon a determination by the commanding officer, or the delegate thereof, of
9 the law enforcement agency making such an arrest, a person arrested for any of the
10 following offenses without warrant or other process of law shall be released from custody
11 within twenty-four hours of arrest, unless the person is charged and held pursuant to
12 a warrant to answer for such offense:

13 (1) First degree murder pursuant to section 565.020, RSMo;

14 (2) Second degree murder pursuant to section 565.021, RSMo;

15 (3) First degree assault pursuant to section 565.050, RSMo;

16 (4) Forcible rape pursuant to section 566.030, RSMo;

17 (5) Forcible sodomy pursuant to section 566.060, RSMo;

18 (6) First degree robbery pursuant to section 569.020, RSMo; or

19 (7) Distribution of drugs pursuant to section 195.211, RSMo.

20 3.] In any confinement to which the provisions of this section apply, the confinee
21 shall be permitted at any reasonable time to consult with counsel or other persons acting
22 on the confinee's behalf.

23 [4.] 3. Any person who violates the provisions of this section, by refusing to
24 release any person who is entitled to release pursuant to this section, or by refusing to
25 permit a confinee to consult with counsel or other persons, or who transfers any such
26 confinees to the custody or control of another, or to another place, or who falsely charges
27 such person, with intent to avoid the provisions of this section, is guilty of a class A
28 misdemeanor.

545.550. 1. If the defendant be in actual custody or confinement, the court or
2 officer granting the order of removal shall, **subject to any arrangements made**
3 **pursuant to section 2 of this section**, also make an order commanding the sheriff
4 to remove the body of the defendant to the jail of the county into which the cause is to
5 be removed, and then deliver him to the keeper of such jail, together with the warrant
6 or process, by virtue of which he is imprisoned or held.

7 **2. The sheriff of the county granting the change of venue and the**
8 **sheriff of the county into which the cause is removed, may agree as to which**
9 **county's jail will house the defendant. If the sheriffs do not agree where the**
10 **defendant will be confined, the defendant will be confined in the county into**
11 **which the cause is removed. In the event that the county granting the change**
12 **of venue continues to house the defendant, the sheriff of that county shall be**
13 **responsible for the timely transportation of the defendant for all court**
14 **appearances that require the presence of the defendant.**

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

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

- 6 (1) For any felony, three years;
- 7 (2) For any misdemeanor, one year;
- 8 (3) For any infraction, six months.

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

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

20 (2) Any offense based upon misconduct in office by a public officer or employee
21 at any time when the defendant is in public office or employment or within two years
22 thereafter, but in no case shall this provision extend the period of limitation by more

23 than three years; and

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

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

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

33 5. A prosecution is commenced [either when an indictment is found or an
34 information filed] **as follows: For a misdemeanor or infraction, when the**
35 **information is filed; and for a felony, when the complaint is filed.**

36 6. The period of limitation does not run:

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

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

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

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

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

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

10 3. If the jury at the first stage of a trial finds the defendant guilty of the
11 submitted offense, the second stage of the trial shall proceed. The issue at the second
12 stage of the trial shall be the punishment to be assessed and declared. Evidence
13 supporting or mitigating punishment may be presented. Such evidence may include,

14 within the discretion of the court, evidence concerning the impact of the crime upon the
15 victim, the victim's family and others, the nature and circumstances of the offense, and
16 the history and character of the defendant. Rebuttal and surrebuttal evidence may be
17 presented. The state shall be the first to proceed. The court shall instruct the jury as
18 to the range of punishment authorized by statute for each submitted offense. The
19 attorneys may argue the issue of punishment to the jury, and the state shall have the
20 right to open and close the argument. The jury shall assess and declare the punishment
21 as authorized by statute.

22 4. A second stage of the trial shall not proceed and the court, and not the jury,
23 shall assess punishment if] **The court shall instruct the jury as to the range of**
24 **punishment as part of the verdict, unless:**

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

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

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

37 [5.] **3.** If the jury returns a verdict of guilty [in the first stage] and declares a
38 term of imprisonment [in the second stage] **as provided in subsection 2 of this**
39 **section**, the court shall proceed as provided in subsection 1 of this section except that
40 any term of imprisonment imposed cannot exceed the term declared by the jury unless
41 the term declared by the jury is less than the authorized lowest term for the offense, in
42 which event the court cannot impose a term of imprisonment greater than the lowest
43 term provided for the offense.

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

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

49 (2) If he has been found guilty of a class A felony, the court may impose any

50 sentence authorized for the class A felony.

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

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

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

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

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

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

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

17 5. A "persistent misdemeanor offender" is one who has pleaded guilty to or has
18 been found guilty of two or more class A or B misdemeanors, committed at different
19 times, which are defined as offenses under chapters 195, 565, 566, 567, 568, 569, 570,
20 571, 572, 573, 574, 575, and 576, RSMo.

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

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

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

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

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

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

29 [8. An offender convicted of a nonviolent class C or class D felony with no prior
30 prison commitments, after serving one hundred twenty days of his or her sentence, may,
31 in writing, petition the court to serve the remainder of his or her sentence on probation,

32 parole, or other court-approved alternative sentence. No hearing shall be conducted
33 unless the court deems it necessary. Upon the offender petitioning the court, the
34 department of corrections shall submit a report to the sentencing court which evaluates
35 the conduct of the offender while in custody, alternative custodial methods available to
36 the offender, and shall recommend whether the offender be released or remain in
37 custody. If the report issued by the department is favorable and recommends probation,
38 parole, or other alternative sentence, the court shall follow the recommendations of the
39 department if the court deems it appropriate. Any placement of an offender pursuant
40 to section 559.115, RSMo, shall be excluded from the provisions of this subsection.]

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

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

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

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

27 (3) If the offender has three or more previous prison commitments to the

28 department of corrections for felonies unrelated to the present offense, the minimum
29 prison term which the offender must serve shall be eighty percent of his or her sentence
30 or until the offender attains seventy years of age, and has served at least forty percent
31 of the sentence imposed, whichever occurs first.

32 3. Other provisions of the law to the contrary notwithstanding, any offender who
33 has pleaded guilty to or has been found guilty of a dangerous felony as defined in section
34 556.061, RSMo, and is committed to the department of corrections shall be required to
35 serve a minimum prison term of eighty-five percent of the sentence imposed by the court
36 or until the offender attains seventy years of age, and has served at least forty percent
37 of the sentence imposed, whichever occurs first.

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

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

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

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

54 6. (1) A sentencing advisory commission is hereby created to consist of eleven
55 members. One member shall be appointed by the speaker of the house. One member
56 shall be appointed by the president pro tem of the senate. One member shall be the
57 director of the department of corrections. Six members shall be appointed by and serve
58 at the pleasure of the governor from among the following: the public defender
59 commission; private citizens; a private member of the Missouri Bar; the board of
60 probation and parole; and a prosecutor. Two members shall be appointed by the
61 supreme court, one from a metropolitan area and one from a rural area. All members
62 shall be appointed to a four-year term. All members of the sentencing commission
63 appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory

64 commission at the pleasure of the governor.

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

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

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

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

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

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

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

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

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

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

104 (8) The circuit and associate circuit courts of this state, the office of the state
105 courts administrator, the department of public safety, and the department of corrections
106 shall cooperate with the commission by providing information or access to information
107 needed by the commission. The office of the state courts administrator will provide
108 needed staffing resources.

109 7. Courts shall retain discretion to lower or exceed the sentence recommended
110 by the commission as otherwise allowable by law, and to order restorative justice
111 methods, when applicable.

112 8. If the imposition or execution of a sentence is suspended, the court may order
113 any or all of the following restorative justice methods, or any other method that the court
114 finds just or appropriate:

115 (1) Restitution to any victim or a statutorily created fund for costs incurred as
116 a result of the offender's actions;

117 (2) Offender treatment programs;

118 (3) Mandatory community service;

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

120 (5) Community-based residential and nonresidential programs.

121 9. The provisions of this section shall apply only to offenses occurring on or after
122 August 28, 2003.

123 10. Pursuant to subdivision (1) of subsection 8 of this section, the court may
124 order the assessment and payment of a designated amount of restitution to a county law
125 enforcement restitution fund established by the county commission pursuant to section
126 50.565, RSMo. Such contribution shall not exceed three hundred dollars for any charged
127 offense. Any restitution moneys deposited into the county law enforcement restitution
128 fund pursuant to this section shall only be expended pursuant to the provisions of
129 section 50.565, RSMo.

130 11. A judge may order payment to a restitution fund only if such fund had been
131 created by ordinance or resolution of a county of the state of Missouri prior to
132 sentencing. A judge shall not have any direct supervisory authority or administrative
133 control over any fund to which the judge is ordering a defendant to make payment.

134 12. A defendant who fails to make a payment to a county law enforcement
135 restitution fund may not have his or her probation revoked solely for failing to make

136 such payment unless the judge, after evidentiary hearing, makes a finding supported by
137 a preponderance of the evidence that the defendant either willfully refused to make the
138 payment or that the defendant willfully, intentionally, and purposefully failed to make
139 sufficient bona fide efforts to acquire the resources to pay.

559.016. 1. Unless terminated as provided in section 559.036, the terms during
2 which each probation shall remain conditional and be subject to revocation are:

3 (1) A term of years not less than one year and not to exceed five years for a
4 felony;

5 (2) A term not less than six months and not to exceed two years for a
6 misdemeanor;

7 (3) A term not less than six months and not to exceed one year for an infraction.

8 2. The court shall designate a specific term of probation at the time of sentencing
9 or at the time of suspension of imposition of sentence.

10 3. The court may extend a period of probation, however, no more than one
11 extension of any probation may be ordered **except that the court may extend the**
12 **total time on probation by one additional year by order of the court if the**
13 **defendant admits he or she has violated the conditions of his or her probation**
14 **or is found by the court to have violated the conditions of his or her**
15 **probation.** Total time on any probation term, including any extension, shall not exceed
16 the maximum term as established in subsection 1 of this section **plus one additional**
17 **year if the defendant admits or the court finds that the defendant has**
18 **violated the conditions of his or her probation.**

559.036. 1. A term of probation commences on the day it is imposed. Multiple
2 terms of Missouri probation, whether imposed at the same time or at different times,
3 shall run concurrently. Terms of probation shall also run concurrently with any federal
4 or other state jail, prison, probation or parole term for another offense to which the
5 defendant is or becomes subject during the period, unless otherwise specified by the
6 Missouri court.

7 2. The court may terminate a period of probation and discharge the defendant
8 at any time before completion of the specific term fixed under section 559.016 if
9 warranted by the conduct of the defendant and the ends of justice. The court may extend
10 the term of the probation, but no more than one extension of any probation may be
11 ordered **except that the court may extend the term of probation by one**
12 **additional year by order of the court if the defendant admits he or she has**
13 **violated the conditions of probation or is found by the court to have violated**
14 **the conditions of his or her probation.** Total time on any probation term, including

15 any extension shall not exceed the maximum term established in section
16 559.016. Procedures for termination, discharge and extension may be established by rule
17 of court.

18 3. If the defendant violates a condition of probation at any time prior to the
19 expiration or termination of the probation term, the court may continue him on the
20 existing conditions, with or without modifying or enlarging the conditions or extending
21 the term, or, if such continuation, modification, enlargement or extension is not
22 appropriate, may revoke probation and order that any sentence previously imposed be
23 executed. If imposition of sentence was suspended, the court may revoke probation and
24 impose any sentence available under section 557.011, RSMo. The court may mitigate
25 any sentence of imprisonment by reducing the prison or jail term by all or part of the
26 time the defendant was on probation. The court may, upon revocation of probation, place
27 an offender on a second term of probation. Such probation shall be for a term of
28 probation as provided by section 559.016, notwithstanding any amount of time served
29 by the offender on the first term of probation.

30 4. Probation shall not be revoked without giving the probationer notice and an
31 opportunity to be heard on the issues of whether he violated a condition of probation
32 and, if he did, whether revocation is warranted under all the circumstances.

33 5. **The prosecuting or circuit attorney may file a motion to revoke**
34 **probation or** at any time during the term of probation, the court may issue a notice to
35 the probationer to appear to answer a charge of a violation, and the court may issue a
36 warrant of arrest for the violation. Such notice shall be personally served upon the
37 probationer. The warrant shall authorize the return of the probationer to the custody
38 of the court or to any suitable detention facility designated by the court. **Upon the**
39 **filing of the prosecutor or circuit attorney's motion or on the court's own**
40 **motion, the court may immediately enter an order suspending the period of**
41 **probation and may order a warrant for the defendant's arrest. The probation**
42 **shall remain suspended until the court rules on the prosecutor or circuit**
43 **attorney's motion, or until the court otherwise orders the probation**
44 **reinstated.**

45 6. The power of the court to revoke probation shall extend for the duration of the
46 term of probation designated by the court and for any further period which is reasonably
47 necessary for the adjudication of matters arising before its expiration, provided that
48 some affirmative manifestation of an intent to conduct a revocation hearing occurs prior
49 to the expiration of the period and that every reasonable effort is made to notify the
50 probationer and to conduct the hearing prior to the expiration of the period.

559.105. 1. Any person who has been convicted of or has pled guilty to
2 a violation of subdivision (2) of subsection 1 of section 569.080, RSMo, or
3 paragraph (a) of subdivision (3) of subsection 3 of section 570.030, RSMo, may
4 be ordered by the court to make restitution to the victim for the victim's
5 losses due to such offense. Restitution pursuant to this section shall include,
6 but not be limited to, the following:

7 (1) A victim's reasonable expenses to participate in the prosecution of
8 the crime;

9 (2) A victim's payment for any repairs or replacement of the motor
10 vehicle, watercraft, or aircraft; and

11 (3) A victim's costs associated with towing or storage fees for the motor
12 vehicle caused by the acts of the defendant.

13 2. No person ordered by the court to pay restitution pursuant to this
14 section shall be released from probation until such restitution is complete. If
15 full restitution is not made within the original term of probation, the court
16 shall order the maximum term of probation allowed for such offense.

17 3. Any person eligible to be released on parole for a violation of
18 subdivision (2) of subsection 1 of section 569.080, RSMo, or paragraph (a) of
19 subdivision (3) of subsection 3 of section 570.030, RSMo, may be required, as
20 a condition of parole, to make restitution pursuant to this section. The board
21 of probation and parole shall not release any person from any term of parole
22 for such offense until the person has completed such restitution, or until the
23 maximum term of parole for such offense has been served.

559.115. 1. Neither probation nor parole shall be granted by the circuit court
2 between the time the transcript on appeal from the offender's conviction has been filed
3 in appellate court and the disposition of the appeal by such court.

4 2. Unless otherwise prohibited by subsection 5 of this section, a circuit court only
5 upon its own motion and not that of the state or the offender shall have the power to
6 grant probation to an offender anytime up to one hundred twenty days after such
7 offender has been delivered to the department of corrections but not thereafter. The
8 court may request information and a recommendation from the department concerning
9 the offender and such offender's behavior during the period of incarceration. Except as
10 provided in this section, the court may place the offender on probation in a program
11 created pursuant to section 217.777, RSMo, or may place the offender on probation with
12 any other conditions authorized by law.

13 3. The court may recommend placement of an offender in a department of

14 corrections one hundred twenty-day program. Upon the recommendation of the court,
15 the department of corrections shall determine the offender's eligibility for the program,
16 the nature, intensity, and duration of any offender's participation in a program and the
17 availability of space for an offender in any program. When the court recommends and
18 receives placement of an offender in a department of corrections one hundred twenty-day
19 program, the offender shall be released on probation if the department of corrections
20 determines that the offender has successfully completed the program except as
21 follows. Upon successful completion of a treatment program, the board of probation and
22 parole shall advise the sentencing court of an offender's probationary release date thirty
23 days prior to release. The court shall release the offender unless such release constitutes
24 an abuse of discretion. If the court determined that there is an abuse of discretion, the
25 court may order the execution of the offender's sentence only after conducting a hearing
26 on the matter within ninety to one hundred twenty days of the offender's sentence. If
27 the court does not respond when an offender successfully completes the program, the
28 offender shall be released on probation. Upon successful completion of a shock
29 incarceration program, the board of probation and parole shall advise the sentencing
30 court of an offender's probationary release date thirty days prior to release. The court
31 shall follow the recommendation of the department unless the court determines that
32 probation is not appropriate. If the court determines that probation is not appropriate,
33 the court may order the execution of the offender's sentence only after conducting a
34 hearing on the matter within ninety to one hundred twenty days of the offender's
35 sentence. If the department determines that an offender is not successful in a program,
36 then after one hundred days of incarceration the circuit court shall receive from the
37 department of corrections a report on the offender's participation in the program and
38 department recommendations for terms and conditions of an offender's probation. The
39 court shall then release the offender on probation or order the offender to remain in the
40 department to serve the sentence imposed.

41 4. If the department of corrections one hundred twenty-day program is full, the
42 court may place the offender in a private program approved by the department of
43 corrections or the court, the expenses of such program to be paid by the offender, or in
44 an available program offered by another organization. If the offender is convicted of a
45 class C or class D nonviolent felony, the court may order probation while awaiting
46 appointment to treatment.

47 5. Except when the offender has been found to be a predatory sexual offender
48 pursuant to section 558.018, RSMo, the court shall request that the offender be placed
49 in the sexual offender assessment unit of the department of corrections if the defendant

50 has pleaded guilty to or has been found guilty of sexual abuse when classified as a class
51 B felony.

52 6. Unless the offender is being granted probation pursuant to successful
53 completion of a one hundred twenty-day program the circuit court shall notify the state
54 in writing when the court intends to grant probation to the offender pursuant to the
55 provisions of this section. The state may, in writing, request a hearing within ten days
56 of receipt of the court's notification that the court intends to grant probation. Upon the
57 state's request for a hearing, the court shall grant a hearing as soon as reasonably
58 possible. If the state does not respond to the court's notice in writing within ten days,
59 the court may proceed upon its own motion to grant probation.

60 7. An offender's first incarceration for one hundred twenty days for participation
61 in a department of corrections program prior to release on probation shall not be
62 considered a previous prison commitment for the purpose of determining a minimum
63 prison term under the provisions of section 558.019, RSMo.

64 8. Notwithstanding any other provision of law, probation may not be granted
65 pursuant to this section to offenders who have been convicted of murder in the second
66 degree pursuant to section 565.021, RSMo; forcible rape pursuant to section 566.030,
67 RSMo; forcible sodomy pursuant to section 566.060, RSMo; statutory rape in the first
68 degree pursuant to section 566.032, RSMo; statutory sodomy in the first degree pursuant
69 to section 566.062, RSMo; child molestation in the first degree pursuant to section
70 566.067, RSMo, when classified as a class [B] A felony; abuse of a child pursuant to
71 section 568.060, RSMo, when classified as a class A felony; an offender who has been
72 found to be a predatory sexual offender pursuant to section 558.018, RSMo; or any
73 offense in which there exists a statutory prohibition against either probation or parole.

559.607. 1. Judges of the municipal division in any circuit, acting through a chief
2 or presiding judge, **either** may contract with a private **or public** entity **or may**
3 **employ any qualified person to serve as the city's probation officer** to provide
4 probation and rehabilitation services for persons placed on probation for violation of any
5 ordinance of the city, specifically including the offense of operating or being in physical
6 control of a motor vehicle while under the influence of intoxicating liquor or narcotic
7 drugs. The contracting city shall not be required to pay for any part of the cost of
8 probation and rehabilitation services authorized under sections 559.600 to
9 559.615. Persons found guilty or pleading guilty to ordinance violations and placed on
10 probation by municipal or city court judges shall contribute **a service fee to the court**
11 **in the amount set forth in section 559.604 to pay** the cost of their probation
12 supervision **provided by a probation officer employed by the court or by a**

13 **contract probation officer** as provided for in section 559.604.

14 2. When approved by municipal court judges in [a circuit] **the municipal**
15 **division**, the application, judicial order of approval, and the contract shall be forwarded
16 to and filed with the board of probation and parole. The court-approved private **or**
17 **public** entity **or probation officer employed by the court** shall then function as
18 the probation office for the city, pursuant to the terms of the contract **or conditions of**
19 **employment** and the terms of probation ordered by the judge. Any city in this state
20 which presently does not have probation services available for persons convicted of its
21 ordinance violations, **or that contracts out those services with a private entity**,
22 may, under the procedures authorized in sections 559.600 to 559.615, **continue to**
23 contract with a private entity **or employ any qualified person and contract with**
24 **the municipal division** to provide such probation supervision and rehabilitation
25 services.

 565.081. 1. A person commits the crime of assault of a law enforcement officer
2 [or], emergency personnel, **or probation and parole officer** in the first degree if such
3 person attempts to kill or knowingly causes or attempts to cause serious physical injury
4 to a law enforcement officer or emergency personnel.

 2. As used in this section, "emergency personnel" means any paid or volunteer
6 firefighter, emergency room or trauma center personnel, or emergency medical technician
7 as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

 3. Assault of a law enforcement officer [or], emergency personnel, **or probation**
9 **and parole officer** in the first degree is a class A felony.

 565.082. 1. A person commits the crime of assault of a law enforcement officer
2 [or], emergency personnel, **or probation and parole officer** in the second degree if
3 such person:

 (1) Knowingly causes or attempts to cause physical injury to a law enforcement
5 officer [or], emergency personnel, **or probation and parole officer** by means of a
6 deadly weapon or dangerous instrument;

 (2) Knowingly causes or attempts to cause physical injury to a law enforcement
8 officer [or], emergency personnel, **or probation and parole officer** by means other
9 than a deadly weapon or dangerous instrument;

 (3) Recklessly causes serious physical injury to a law enforcement officer [or],
11 emergency personnel, **or probation and parole officer**; or

 (4) While in an intoxicated condition or under the influence of controlled
13 substances or drugs, operates a motor vehicle in this state and when so operating, acts
14 with criminal negligence to cause physical injury to a law enforcement officer [or],

15 emergency personnel, **or probation and parole officer**;

16 (5) Acts with criminal negligence to cause physical injury to a law enforcement
17 officer [or], emergency personnel, **or probation and parole officer** by means of a
18 deadly weapon or dangerous instrument;

19 (6) Purposely or recklessly places a law enforcement officer [or], emergency
20 personnel, **or probation and parole officer** in apprehension of immediate serious
21 physical injury; or

22 (7) Acts with criminal negligence to create a substantial risk of death or serious
23 physical injury to a law enforcement officer [or], emergency personnel, **or probation**
24 **and parole officer**.

25 2. As used in this section, "emergency personnel" means any paid or volunteer
26 firefighter, emergency room or trauma center personnel, or emergency medical technician
27 as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

28 3. Assault of a law enforcement officer [or], emergency personnel, **or probation**
29 **and parole officer** in the second degree is a class B felony unless committed pursuant
30 to subdivision (2), (5), (6), or (7) of subsection 1 of this section in which case it is a class
31 C felony.

565.083. 1. A person commits the crime of assault of a law enforcement officer
2 [or] , emergency personnel, **or probation and parole officer** in the third degree if:

3 (1) Such person recklessly causes physical injury to a law enforcement officer
4 [or], emergency personnel, **or probation and parole officer**;

5 (2) Such person purposely places a law enforcement officer [or], emergency
6 personnel, **or probation and parole officer** in apprehension of immediate physical
7 injury;

8 (3) Such person knowingly causes or attempts to cause physical contact with a
9 law enforcement officer [or], emergency personnel, **or probation and parole officer**
10 without the consent of the law enforcement officer or emergency personnel.

11 2. As used in this section, "emergency personnel" means any paid or volunteer
12 firefighter, emergency room or trauma center personnel, or emergency medical technician
13 as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

14 3. Assault of a law enforcement officer [or], emergency personnel, **or probation**
15 **and parole officer** in the third degree is a class A misdemeanor.

565.085. 1. **An offender or prisoner commits the crime of endangering**
2 **a corrections employee, a visitor to a correctional facility, or another offender**
3 **or prisoner if he or she attempts to cause or knowingly causes such person**
4 **to come into contact with blood, seminal fluid, urine, feces, or saliva.**

5 **2. For the purposes of this section, the following terms mean:**

6 **(1) "Corrections employee", a person who is an employee, or contracted**
7 **employee of a subcontractor, of a department or agency responsible for**
8 **operating a jail, prison, correctional facility, or sexual offender treatment**
9 **center or a person who is assigned to work in a jail, prison, correctional**
10 **facility, or sexual offender treatment center;**

11 **(2) "Offender", a person in the custody of the department of corrections;**

12 **(3) "Prisoner", a person confined in a county or city jail.**

13 **3. Endangering a corrections employee, a visitor to a correctional**
14 **facility, or another offender or prisoner is a class D felony unless the**
15 **substance is unidentified in which case it is a class A misdemeanor. If an**
16 **offender or prisoner is knowingly infected with the human immunodeficiency**
17 **virus (HIV), hepatitis B or hepatitis C and exposes another person to HIV or**
18 **hepatitis B or hepatitis C by committing the crime of endangering a**
19 **corrections employee, a visitor to a correctional facility, or another offender**
20 **or prisoner, it is a class C felony.**

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

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

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

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

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

3 (1) Knowingly exposes the person's genitals to a child less than fourteen years
4 of age [in a manner that] **with the knowledge that such exposure** would cause a
5 reasonable adult to believe that the conduct is likely to cause affront or alarm to a child
6 less than fourteen years of age;

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

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

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

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

**566.086. 1. A person commits the crime of sexual contact with a student
2 while on public school property if he or she is a teacher, as that term is
3 defined in subdivisions (4), (5), and (7) of section 168.104, RSMo, and he or she
4 has sexual contact with a student of the public school while on any public
5 school property.**

6 **2. For the purposes of this section, public school property shall mean
7 property of any public school in this state serving kindergarten through
8 grade twelve.**

9 **3. Sexual contact with a student while on public school property is a
10 class D felony.**

566.140. 1. Any person who has pleaded guilty to or been found guilty of
2 violating the provisions of this chapter, and is granted a suspended imposition or
3 execution of sentence or placed under the supervision of the board of probation and
4 parole shall be required to participate in and successfully complete a program of

5 treatment, education and rehabilitation designed for perpetrators of sexual
6 offenses. Persons required to attend a program pursuant to this section may be charged
7 a reasonable fee to cover the costs of such program.

8 2. No person who provides assessment services or who makes a report, finding,
9 or recommendation for any probationer to attend any counseling or program of
10 treatment, education or rehabilitation as a condition or requirement of probation,
11 following the probationer's plea of guilty to or a finding of guilt of violating any provision
12 of this chapter or chapter 565, RSMo, may be related within the third degree of
13 consanguinity or affinity to any person who has a financial interest, whether direct or
14 indirect, in the counseling or program of treatment, education or rehabilitation or any
15 financial interest, whether direct or indirect, in any private entity which provides the
16 counseling or program of treatment, education or rehabilitation. Any person who
17 violates this subsection shall thereafter:

18 (1) Immediately remit to the state of Missouri any financial income gained as a
19 direct or indirect result of the action constituting the violation;

20 (2) Be prohibited from providing assessment or counseling services or any
21 program of treatment, education or rehabilitation to, for, on behalf of, at the direction
22 of, or in contract with the state board of probation and parole or any office thereof; and

23 (3) Be prohibited from having any financial interest, whether direct or indirect,
24 in any private entity which provides assessment or counseling services or any program
25 of treatment, education or rehabilitation to, for, on behalf of, at the direction of, or in
26 contract with the state board of probation and parole or any office thereof.

27 **3. The provisions of subsection 2 of this section shall not apply when**
28 **the department of corrections has identified only one qualified service**
29 **provider within reasonably accessible distance from the offender or when the**
30 **only providers available within a reasonable distance are related within the**
31 **third degree of consanguinity or affinity to any person who has a financial**
32 **interest in the service provider.**

567.080. 1. Any room, building or other structure regularly used for sexual
2 contact for pay as defined in section 567.010 or any unlawful prostitution activity
3 prohibited by this chapter **or any building, place, or the ground itself, in or upon**
4 **which any lewdness or assignation is conducted, permitted, continued, or**
5 **exists** is a public nuisance.

6 2. **Any person who erects, establishes, continues, maintains, uses, owns,**
7 **or leases any building or other place for the purpose of lewdness, assignation,**
8 **sexual contact for pay as defined in section 567.010 or any unlawful**

9 **prostitution activity prohibited by this chapter is guilty of maintaining a**
10 **nuisance and on conviction shall be punished by a fine not to exceed one**
11 **thousand dollars or by imprisonment in the county jail for a period not to**
12 **exceed one year, or by both the fine and imprisonment.**

13 **3.** The attorney general, circuit attorney or prosecuting attorney may, in addition
14 to all criminal sanctions, prosecute a suit in equity to enjoin the nuisance. If the court
15 finds that [the] **any owner, lessee, sublessee, employee or agent of the owner,**
16 **assignee, or partner of the owner** of the room, building **or its grounds**, or structure
17 knew or had reason to believe that the premises were being used regularly for sexual
18 contact for pay or unlawful prostitution activity, **or any act of lewdness or**
19 **assignation**, the court may order that the premises shall not be occupied or used for
20 such period as the court may determine, not to exceed one year.

21 **[3.] 4.** All persons, including owners, **partners**, lessees, **sublessees**, officers,
22 agents, inmates or employees, aiding or facilitating such a nuisance may be made
23 defendants in any suit to enjoin the nuisance, and they may be enjoined from engaging
24 in any sexual contact for pay or unlawful prostitution activity anywhere within the
25 jurisdiction of the court.

26 **[4.] 5.** Appeals shall be allowed from the judgment of the court as in other civil
27 actions.

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

3 (1) The person knowingly acts in a manner that creates a substantial risk to the
4 life, body, or health of a child less than seventeen years old; or

5 (2) The person knowingly engages in sexual conduct with a person under the age
6 of seventeen years over whom the person is a parent, guardian, or otherwise charged
7 with the care and custody;

8 (3) The person knowingly encourages, aids or causes a child less than seventeen
9 years of age to engage in any conduct which violates the provisions of chapter 195,
10 RSMo;

11 (4) Such person enlists the aid, either through payment or coercion, of a person
12 less than seventeen years of age to unlawfully manufacture, compound, produce, prepare,
13 sell, transport, test or analyze amphetamine or methamphetamine or any of their
14 analogues, or to obtain any material used to manufacture, compound, produce, prepare,
15 test or analyze amphetamine or methamphetamine or any of their analogues; or

16 (5) Such person, in the presence of a person less than seventeen years of age **or**
17 **in a residence where a person less than seventeen years of age resides,**

18 unlawfully manufactures, **or attempts to manufacture** compounds, produces,
19 prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any
20 of their analogues.

21 2. Endangering the welfare of a child in the first degree is a class C felony unless
22 the offense is committed as part of a ritual or ceremony, or except on a second or
23 subsequent offense, in which case the crime is a class B felony.

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

3 (1) He **or she** with criminal negligence acts in a manner that creates a
4 substantial risk 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
6 years old to engage in any conduct which causes or tends to cause the child to come
7 within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision

8 (3) of subsection 1 of section 211.031, RSMo; or

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

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

18 **(5) He or she operates a vehicle in violation of subsection 2 of section**
19 **565.024 or section 577.010 or 577.012, RSMo, while a child less than seventeen**
20 **years old is present in the vehicle.**

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

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

2 569.080. 1. A person commits the crime of tampering in the first degree if:

3 (1) He **or she** for the purpose of causing a substantial interruption or
4 impairment of a service rendered to the public by a utility or by an institution providing
5 health or safety protection, damages or tampers with property or facilities of such a

6 utility or institution, and thereby causes substantial interruption or impairment of
7 service; or

8 (2) He **or she** knowingly receives, possesses, sells, alters, defaces, destroys or
9 unlawfully operates an automobile, airplane, motorcycle, motorboat or other
10 motor-propelled vehicle without the consent of the owner thereof.

11 2. Tampering in the first degree is a class C felony.

12 **3. Upon a finding by the court that the probative value outweighs the**
13 **prejudicial effect, evidence of the following is admissible in any criminal**
14 **prosecution of a person under subdivision (2) of subsection 1 of this section**
15 **to prove the requisite knowledge or belief:**

16 (1) **That he or she received, possessed, sold, altered, defaced, destroyed,**
17 **or operated an automobile, airplane, motorcycle, motorboat, or other motor-**
18 **propelled vehicle unlawfully on a separate occasion;**

19 (2) **That he or she acquired the automobile, airplane, motorcycle,**
20 **motorboat, or other motor-propelled vehicle for a consideration which he or**
21 **she knew was far below its reasonable value.**

569.090. 1. A person commits the crime of tampering in the second degree if he
2 **or she:**

3 (1) Tampers with property of another for the purpose of causing substantial
4 inconvenience to that person or to another; or

5 (2) Unlawfully rides in or upon another's automobile, airplane, motorcycle,
6 motorboat or other motor-propelled vehicle; or

7 (3) Tampers or makes connection with property of a utility; or

8 (4) Tampers with, or causes to be tampered with, any meter or other property of
9 an electric, gas, steam or water utility, the effect of which tampering is either:

10 (a) To prevent the proper measuring of electric, gas, steam or water service; or

11 (b) To permit the diversion of any electric, gas, steam or water service.

12 2. In any prosecution under subdivision (4) of subsection 1, proof that a meter
13 or any other property of a utility has been tampered with, and the person or persons
14 accused received the use or direct benefit of the electric, gas, steam or water service,
15 with one or more of the effects described in subdivision (4) of subsection 1, shall be
16 sufficient to support an inference which the trial court may submit to the trier of fact,
17 from which the trier of fact may conclude that there has been a violation of such
18 subdivision by the person or persons who use or receive the direct benefit of the electric,
19 gas, steam or water service.

20 3. Tampering in the second degree is a class A misdemeanor unless:

21 **(1)** Committed as a second or subsequent violation of subdivision (4) of
22 subsection 1, in which case it is a class D felony;

23 **(2) The defendant has a prior conviction or has had a prior finding of**
24 **guilt pursuant to paragraph (a) of subdivision (3) of subsection 3 of section**
25 **570.030, RSMo, section 570.080, RSMo, or subdivision (2) of subsection 1 of this**
26 **section, in which case it is a class C felony.**

570.040. 1. Every person who has previously pled guilty or been found guilty on
2 two separate occasions of a stealing-related offense where such offenses occurred within
3 ten years of the date of occurrence of the present offense and where the person received
4 [and served] a sentence of ten days or more on such previous offense and who
5 subsequently pleads guilty or is found guilty of a stealing-related offense is guilty of a
6 class D felony, **unless the subsequent plea or guilty verdict is pursuant to**
7 **paragraph (a) of subdivision (3) of subsection 3 of section 570.030, in which**
8 **case the person shall be guilty of a class B felony,** and shall be punished
9 accordingly.

10 2. As used in this section, the term "stealing-related offense" shall include federal
11 and state violations of criminal statutes against stealing or buying or receiving stolen
12 property and shall also include municipal ordinances against same if the defendant was
13 either represented by counsel or knowingly waived counsel in writing and the judge
14 accepting the plea or making the findings was a licensed attorney at the time of the
15 court proceedings.

16 3. Evidence of prior guilty pleas or findings of guilt shall be heard by the court,
17 out of the hearing of the jury, prior to the submission of the case to the jury, and the
18 court shall determine the existence of the prior guilty pleas or findings of guilt.

570.080. 1. A person commits the crime of receiving stolen property if for the
2 purpose of depriving the owner of a lawful interest therein, he **or she** receives, retains
3 or disposes of property of another knowing that it has been stolen, or believing that it
4 has been stolen.

5 2. Evidence of the following is admissible in any criminal prosecution pursuant
6 to this section to prove the requisite knowledge or belief of the alleged receiver:

7 (1) That he **or she** was found in possession or control of other property stolen on
8 separate occasions from two or more persons;

9 (2) That he **or she** received other stolen property in another transaction within
10 the year preceding the transaction charged;

11 (3) That he **or she** acquired the stolen property for a consideration which he **or**
12 **she** knew was far below its reasonable value;

13 **(4) That he or she obtained control over stolen property knowing the**
14 **property to have been stolen or under such circumstances as would**
15 **reasonably induce a person to believe the property was stolen.**

16 3. Receiving stolen property is a class A misdemeanor unless the property
17 involved has a value of five hundred dollars or more, or the person receiving the property
18 is a dealer in goods of the type in question, in which cases receiving stolen property is
19 a class C felony.

570.120. 1. A person commits the crime of passing a bad check when:

2 (1) With purpose to defraud, the person makes, issues or passes a check or other
3 similar sight order **or any other form of presentment involving the transmission**
4 **of account information** for the payment of money, knowing that it will not be paid by
5 the drawee, or that there is no such drawee; or

6 (2) The person makes, issues, or passes a check or other similar sight order **or**
7 **any other form of presentment involving the transmission of account**
8 **information** for the payment of money, knowing that there are insufficient funds in **or**
9 **on deposit with that account for the payment of such check, sight order, or**
10 **other form of presentment involving the transmission of account information**
11 **in full and all other checks, sight orders, or other forms of presentment**
12 **involving the transmission of account information upon such funds then**
13 **outstanding**, or that there is no such account or no drawee and fails to pay the check
14 or sight order **or other form of presentment involving the transmission of**
15 **account information** within ten days after receiving actual notice in writing that it
16 has not been paid because of insufficient funds or credit with the drawee or because
17 there is no such drawee.

18 2. As used in subdivision (2) of subsection 1 of this section, "actual notice in
19 writing" means notice of the nonpayment which is actually received by the
20 defendant. Such notice may include the service of summons or warrant upon the
21 defendant for the initiation of the prosecution of the check or checks which are the
22 subject matter of the prosecution if the summons or warrant contains information of the
23 ten-day period during which the instrument may be paid and that payment of the
24 instrument within such ten-day period will result in dismissal of the charges. The
25 requirement of notice shall also be satisfied for written communications which are
26 tendered to the defendant and which the defendant refuses to accept.

27 3. The face amounts of any bad checks passed pursuant to one course of conduct
28 within any ten-day period may be aggregated in determining the grade of the offense.

29 4. Passing bad checks is a class A misdemeanor, unless:

30 (1) The face amount of the check or sight order or the aggregated amounts is five
31 hundred dollars or more; or

32 (2) The issuer had no account with the drawee or if there was no such drawee at
33 the time the check or order was issued, in which cases passing bad checks is a class [D]
34 C felony.

35 5. (1) In addition to all other costs and fees allowed by law, each prosecuting
36 attorney or circuit attorney who takes any action pursuant to the provisions of this
37 section shall collect from the issuer in such action an administrative handling cost. The
38 cost shall be [five] **twenty-five** dollars for checks of less than [ten dollars, ten dollars
39 for checks of ten dollars but less than] one hundred dollars, and [twenty-five] **fifty**
40 dollars for checks of one hundred dollars [or more] **but less than two hundred fifty**
41 **dollars**. For checks of [one] **two** hundred **fifty** dollars or more an additional fee of ten
42 percent of the face amount shall be assessed, with a maximum fee for administrative
43 handling costs not to exceed [fifty] **seventy-five** dollars total. Notwithstanding the
44 provisions of sections 50.525 to 50.745, RSMo, the costs provided for in this subsection
45 shall be deposited by the county treasurer into a separate interest-bearing fund to be
46 expended by the prosecuting attorney or circuit attorney. The funds shall be expended,
47 upon warrants issued by the prosecuting attorney or circuit attorney directing the
48 treasurer to issue checks thereon, only for purposes related to that previously authorized
49 in this section. Any revenues that are not required for the purposes of this section may
50 be placed in the general revenue fund of the county or city not within a
51 county. Notwithstanding any law to the contrary, in addition to the administrative
52 handling cost, the prosecuting attorney or circuit attorney shall collect an additional cost
53 of [one dollar] **five dollars** per check for deposit to the Missouri office of prosecution
54 services fund established in subsection 2 of section 56.765, RSMo. All moneys collected
55 pursuant to this section which are payable to the Missouri office of prosecution services
56 fund shall be transmitted at least monthly by the county treasurer to the director of
57 revenue who shall deposit the amount collected pursuant to the credit of the Missouri
58 office of prosecution services fund under the procedure established pursuant to
59 subsection 2 of section 56.765, RSMo.

60 (2) The moneys deposited in the fund may be used by the prosecuting or circuit
61 attorney for office supplies, postage, books, training, office equipment, capital outlay,
62 expenses of trial and witness preparation, additional employees for the staff of the
63 prosecuting or circuit attorney [and], employees' salaries, **and for other lawful**
64 **expenses incurred by the circuit or prosecuting attorney in operation of that**
65 **office**.

66 (3) This fund may be audited by the state auditor's office or the appropriate
67 auditing agency.

68 (4) If the moneys collected and deposited into this fund are not totally expended
69 annually, then the unexpended balance shall remain in said fund and the balance shall
70 be kept in said fund to accumulate from year to year.

71 6. Notwithstanding any other provision of law to the contrary:

72 (1) In addition to the administrative handling costs provided for in subsection 5
73 of this section, the prosecuting attorney or circuit attorney may collect from the issuer,
74 in addition to the face amount of the check, a reasonable service charge, which along
75 with the face amount of the check, shall be turned over to the party to whom the bad
76 check was issued;

77 (2) If a check that is dishonored or returned unpaid by a financial institution is
78 not referred to the prosecuting attorney or circuit attorney for any action pursuant to the
79 provisions of this section, the party to whom the check was issued, or his or her agent
80 or assignee, or a holder, may collect from the issuer, in addition to the face amount of
81 the check, a reasonable service charge, not to exceed twenty-five dollars, plus an amount
82 equal to the actual charge by the depository institution for the return of each unpaid or
83 dishonored instrument.

84 7. [In all cases where a prosecutor receives notice from the original holder that
85 a person has violated this section with respect to a payroll check or order, the prosecutor,
86 if he determines there is a violation of this section, shall file an information or seek an
87 indictment within sixty days of such notice and may file an information or seek an
88 indictment thereafter if the prosecutor has failed through neglect or mistake to do so
89 within sixty days of such notice and if he determines there is sufficient evidence shall
90 further prosecute such cases.

91 8.] When any financial institution returns a dishonored check to the person who
92 deposited such check, it shall be in substantially the same physical condition as when
93 deposited, or in such condition as to provide the person who deposited the check the
94 information required to identify the person who wrote the check.

570.255. 1. Any person guilty of a violation of sections 570.225 to 570.255 is
2 punishable as follows:

3 (1) For the first offense of a violation of sections 570.225 to 570.241 which is not
4 a felony under subdivision (2) of this subsection, such person is guilty of a misdemeanor,
5 and upon conviction shall be punished by a fine not exceeding five thousand dollars, or
6 by confinement in the county jail not exceeding six months, or by both such fine and
7 confinement.

8 (2) For any offense of a violation of section 570.240 or 570.241 involving one
9 hundred or more articles upon which motion pictures or audiovisual works are recorded,
10 or any other violation of section 570.225 to 570.241 involving one [thousand] **hundred**
11 or more articles, such person is guilty of a felony and, upon conviction, shall be punished
12 by a fine not exceeding fifty thousand dollars, or by imprisonment by the department of
13 corrections for not more than five years, or by both such fine and imprisonment.

14 (3) For the second and subsequent violations of sections 570.225 to 570.255, such
15 person is guilty of a felony and, upon conviction, shall be punished by a fine not
16 exceeding one hundred thousand dollars, or by imprisonment by the department of
17 corrections for not less than two years nor more than five years, or by both such fine and
18 imprisonment.

19 2. If a person is convicted of any violation of sections 570.225 to 570.255, the
20 court in its judgment of conviction may order the forfeiture and destruction or other
21 disposition of all unlawful recordings and all implements, devices and equipment used
22 or intended to be used in the manufacture of the unlawful recordings. The court may
23 enter an order preserving such recordings and all implements, devices and equipment
24 as evidence for use in other cases or pending in the final determination of an
25 appeal. The provisions of this subsection shall not be construed to allow an order to
26 destroy any such implements, devices, or equipment used or intended to be used in such
27 manufacture subject to any valid lien or rights under any security agreement or title
28 retention contract when the holder thereof is an innocent party.

29 3. The penalties provided under sections 570.225 to 570.255 are not exclusive and
30 are in addition to any other penalties provided by law.

2 570.300. 1. A person commits the crime of theft of cable television service if he:

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

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

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

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

15 **(5) Knowingly attempts to connect to, tamper with, or otherwise**
16 **interfere with any cable television signal, cables, wires, devices, or**
17 **equipment, which is used for the distribution of cable television and which**
18 **results in the unauthorized use of a cable television system or the disruption**
19 **of the delivery of the cable television service. Nothing in this section shall**
20 **be construed to prohibit, restrict, or otherwise limit the purchase, sale, or use**
21 **of any products, including without limitation hardware, software, or other**
22 **items, intended to provide services and features to a customer who has**
23 **lawfully obtained a connection from a cable company.**

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

28 3. Any cable television operator may bring an action to enjoin and restrain any
29 violation of the provisions of this section or bring an action for conversion. In addition
30 to any actual damages, an operator may be entitled to punitive damages and reasonable
31 attorney fees in any case in which the court finds that the violation was committed
32 willfully and for purposes of commercial advantage. In the event of a defendant's verdict
33 the defendant may be entitled to reasonable attorney fees.

34 4. The existence on the property and in the actual possession of the accused of
35 any connection wire, or conductor, which is connected in such a manner as to permit the
36 use of cable television service without the same being reported for payment to and
37 specifically authorized by the operator of the cable television service shall be sufficient
38 to support an inference which the trial court may submit to the trier of fact, from which
39 the trier of fact may conclude that the accused has committed the crime of theft of cable
40 television service.

41 5. If a cable television company either:

42 (1) Provides unsolicited cable television service; or

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

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

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

 573.503. 1. Notwithstanding any provision of law to the contrary, any city not
2 within a county and any county may, by order or ordinance, require a background check
3 be conducted on all employees of any adult cabaret **or sexually-oriented business as**
4 **defined in section 67.2540, RSMo**, to ascertain whether any such employees have
5 been convicted of or have pled guilty to any misdemeanor or felony involving prostitution
6 or aiding or abetting prostitution, drug possession or trafficking, money laundering, tax
7 evasion, or illegal gambling activity.

8 **2. If an order or ordinance is created that requires employees of an**
9 **adult cabaret or sexually-oriented business as defined in section 67.2540,**
10 **RSMo, to complete a background check under subsection 1 of this section, a**
11 **violation of such an order or ordinance shall be a class B misdemeanor.**

 575.185. 1. A person commits the crime of failure to provide identity
2 when, having been lawfully stopped or detained by a law enforcement officer,
3 and having been requested by the officer to provide his or her identification
4 to the officer:

5 (1) That person knowingly refuses to state his or her name and address
6 or to provide documentation of his or her name or address, such as, but not
7 limited to, a driver's license, credit card, or Social Security card; or

8 (2) That person falsely reports his or her name or address to a law
9 enforcement officer.

10 2. For the purposes of this section, a person has been "lawfully stopped
11 or detained" by a law enforcement officer when the law enforcement officer
12 has briefly stopped and detained the person upon reasonable suspicion to
13 believe that the person has committed, is committing, or is about to commit
14 a crime. "Reasonable suspicion" means specific and articulable facts which,
15 taken together with rational inferences from those facts, would lead a
16 reasonable person to conclude that the person has committed, is committing,
17 or is about to commit a crime. The collective information in the possession
18 of all officers connected to an investigation can be considered in determining
19 whether reasonable suspicion existed for the stop or detention.

20 3. Failure to provide identity is a class C misdemeanor unless the
21 person falsely reported his or her name or address, in which case it is a class
22 A misdemeanor.

 575.270. 1. A person commits the crime of tampering with a witness if, with

2 purpose to induce a witness or a prospective witness [in an official proceeding] to disobey
3 a subpoena or other legal process, or to absent himself or avoid subpoena or other legal
4 process, or to withhold evidence, information or documents, or to testify falsely, he:

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

6 (2) Uses force, threats or deception; or

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

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

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

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

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

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

19 3. Tampering with a witness in a prosecution, tampering with a witness with
20 purpose to induce the witness to testify falsely, or victim tampering is a class C felony
21 if the original charge is a felony. Otherwise, tampering with a witness or victim
22 tampering is a class A misdemeanor. Persons convicted under this section shall not be
23 eligible for parole.

576.050. 1. A public servant commits the crime of misuse of official information
2 if, in contemplation of official action by himself **or herself** or by a governmental unit
3 with which he **or she** is associated, or in reliance on information to which he **or she** has
4 access in his **or her** official capacity and which has not been made public, he **or she**
5 knowingly:

6 (1) Acquires a pecuniary interest in any property, transaction, or enterprise
7 which may be affected by such information or official action; or

8 (2) Speculates or wagers on the basis of such information or official action; or

9 (3) Aids, advises or encourages another to do any of the foregoing with purpose
10 of conferring a pecuniary benefit on any person.

11 **2. A person commits this crime if he or she knowingly obtains or**
12 **recklessly discloses information from the Missouri Uniform Law Enforcement**
13 **System (MULES) or the National Crime Information Center System (NCIC) for**
14 **private or personal use, or for a purpose other than in connection with their**

15 **official duties and performance of their job.**

16 [2.] 3. Misuse of official information is a class A misdemeanor.

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

3 (1) An "intoxication-related traffic offense" is driving while intoxicated, driving
4 with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision
5 (2) of subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to
6 subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement
7 officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082,
8 RSMo, or driving under the influence of alcohol or drugs in violation of state law or a
9 county or municipal ordinance, where [the judge in such case was an attorney and] the
10 defendant was represented by or waived the right to an attorney in writing;

11 (2) A "persistent offender" is one of the following:

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

16 (b) A person who has pleaded guilty to or has been found guilty of involuntary
17 manslaughter pursuant to subsection 1 of section 565.024, RSMo, assault in the second
18 degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of
19 a law enforcement officer in the second degree pursuant to subdivision (3) of subsection
20 1 of section 565.082, RSMo; and

21 (3) A "prior offender" is a person who has pleaded guilty to or has been found
22 guilty of one intoxication-related traffic offense, where such prior offense occurred within
23 five years of the occurrence of the intoxication-related traffic offense for which the person
24 is charged.

25 2. Any person who pleads guilty to or is found guilty of a violation of section
26 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a
27 class A misdemeanor.

28 3. Any person who pleads guilty to or is found guilty of a violation of section
29 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty
30 of a class D felony.

31 4. No court shall suspend the imposition of sentence as to a prior or persistent
32 offender under this section nor sentence such person to pay a fine in lieu of a term of
33 imprisonment, section 557.011, RSMo, to the contrary notwithstanding. No prior
34 offender shall be eligible for parole or probation until he **or she** has served a minimum

35 of five days imprisonment, unless as a condition of such parole or probation such person
36 performs at least thirty days of community service under the supervision of the court in
37 those jurisdictions which have a recognized program for community service. No
38 persistent offender shall be eligible for parole or probation until he or she has served a
39 minimum of ten days imprisonment, unless as a condition of such parole or probation
40 such person performs at least sixty days of community service under the supervision of
41 the court.

42 5. The court shall find the defendant to be a prior offender or persistent offender,
43 if:

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

47 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a
48 finding beyond a reasonable doubt the defendant is a prior offender or persistent
49 offender; and

50 (3) The court makes findings of fact that warrant a finding beyond a reasonable
51 doubt by the court that the defendant is a prior offender or persistent offender.

52 6. In a jury trial, the facts shall be pleaded, established and found prior to
53 submission to the jury outside of its hearing.

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

56 8. The defendant shall be accorded full rights of confrontation and
57 cross-examination, with the opportunity to present evidence, at such hearings.

58 9. The defendant may waive proof of the facts alleged.

59 10. Nothing in this section shall prevent the use of presentence investigations
60 or commitments.

61 11. At the sentencing hearing both the state and the defendant shall be
62 permitted to present additional information bearing on the issue of sentence.

63 12. The pleas or findings of guilty shall be prior to the date of commission of the
64 present offense.

65 13. The court shall not instruct the jury as to the range of punishment or allow
66 the jury, upon a finding of guilty, to assess and declare the punishment as part of its
67 verdict in cases of prior offenders or persistent offenders.

68 14. Evidence of prior convictions shall be heard and determined by the trial court
69 out of the hearing of the jury prior to the submission of the case to the jury, and shall
70 include but not be limited to evidence of convictions received by a search of the records

71 of the Missouri uniform law enforcement system maintained by the Missouri state
72 highway patrol. After hearing the evidence, the court shall enter its findings thereon.

577.041. 1. If a person under arrest, or who has been stopped pursuant to
2 subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the
3 officer to submit to any test allowed pursuant to section 577.020, then none shall be
4 given and evidence of the refusal shall be admissible in a proceeding pursuant to
5 [section] **sections** 565.024, [or] 565.060[,] **or 565.082**, RSMo, or section 577.010 or
6 577.012. The request of the officer shall include the reasons of the officer for requesting
7 the person to submit to a test and also shall inform the person that evidence of refusal
8 to take the test may be used against such person and that the person's license shall be
9 immediately revoked upon refusal to take the test. If a person when requested to submit
10 to any test allowed pursuant to section 577.020 requests to speak to an attorney, the
11 person shall be granted twenty minutes in which to attempt to contact an attorney. If
12 upon the completion of the twenty-minute period the person continues to refuse to
13 submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf
14 of the director of revenue, serve the notice of license revocation personally upon the
15 person and shall take possession of any license to operate a motor vehicle issued by this
16 state which is held by that person. The officer shall issue a temporary permit, on behalf
17 of the director of revenue, which is valid for fifteen days and shall also give the person
18 a notice of such person's right to file a petition for review to contest the license
19 revocation.

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

22 (1) That the officer has:

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

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

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

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

34 (3) Whether the officer secured the license to operate a motor vehicle of the

35 person;

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

37 (5) Copies of the notice of revocation, the fifteen-day temporary permit and the
38 notice of the right to file a petition for review, which notices and permit may be
39 combined in one document; and

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

42 3. Upon receipt of the officer's report, the director shall revoke the license of the
43 person refusing to take the test for a period of one year; or if the person is a nonresident,
44 such person's operating permit or privilege shall be revoked for one year; or if the person
45 is a resident without a license or permit to operate a motor vehicle in this state, an order
46 shall be issued denying the person the issuance of a license or permit for a period of one
47 year.

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

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

61 (2) Whether or not the officer had:

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

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

67 (c) Reasonable grounds to believe that the person stopped, being under the age
68 of twenty-one years, was committing a violation of the traffic laws of the state, or
69 political subdivision of the state, and such officer had reasonable grounds to believe,
70 after making such stop, that the person had a blood alcohol content of two-hundredths

71 of one percent or greater; and

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

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

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

77 7. No person who has had a license to operate a motor vehicle suspended or
78 revoked pursuant to the provisions of this section shall have that license reinstated until
79 such person has participated in and successfully completed a substance abuse traffic
80 offender program defined in section 577.001, or a program determined to be comparable
81 by the department of mental health or the court. Assignment recommendations, based
82 upon the needs assessment as described in subdivision (22) of section 302.010, RSMo,
83 shall be delivered in writing to the person with written notice that the person is entitled
84 to have such assignment recommendations reviewed by the court if the person objects
85 to the recommendations. The person may file a motion in the associate division of the
86 circuit court of the county in which such assignment was given, on a printed form
87 provided by the state courts administrator, to have the court hear and determine such
88 motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the
89 person or entity making the needs assessment as the respondent and a copy of the
90 motion shall be served upon the respondent in any manner allowed by law. Upon
91 hearing the motion, the court may modify or waive any assignment recommendation that
92 the court determines to be unwarranted based upon a review of the needs assessment,
93 the person's driving record, the circumstances surrounding the offense, and the
94 likelihood of the person committing a like offense in the future, except that the court
95 may modify but may not waive the assignment to an education or rehabilitation program
96 of a person determined to be a prior or persistent offender as defined in section 577.023,
97 or of a person determined to have operated a motor vehicle with fifteen-hundredths of
98 one percent or more by weight in such person's blood. Compliance with the court
99 determination of the motion shall satisfy the provisions of this section for the purpose
100 of reinstating such person's license to operate a motor vehicle. The respondent's
101 personal appearance at any hearing conducted pursuant to this subsection shall not be
102 necessary unless directed by the court.

103 8. The fees for the substance abuse traffic offender program, or a portion thereof
104 to be determined by the division of alcohol and drug abuse of the department of mental
105 health, shall be paid by the person enrolled in the program. Any person who is enrolled
106 in the program shall pay, in addition to any fee charged for the program, a supplemental

107 fee to be determined by the department of mental health for the purposes of funding the
108 substance abuse traffic offender program defined in section 302.010, RSMo, and section
109 577.001. The administrator of the program shall remit to the division of alcohol and
110 drug abuse of the department of mental health on or before the fifteenth day of each
111 month the supplemental fee for all persons enrolled in the program, less two percent for
112 administrative costs. Interest shall be charged on any unpaid balance of the
113 supplemental fees due the division of alcohol and drug abuse pursuant to this section
114 and shall accrue at a rate not to exceed the annual rates established pursuant to the
115 provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees
116 and any interest received by the department of mental health pursuant to this section
117 shall be deposited in the mental health earnings fund which is created in section
118 630.053, RSMo.

119 9. Any administrator who fails to remit to the division of alcohol and drug abuse
120 of the department of mental health the supplemental fees and interest for all persons
121 enrolled in the program pursuant to this section shall be subject to a penalty equal to
122 the amount of interest accrued on the supplemental fees due the division pursuant to
123 this section. If the supplemental fees, interest, and penalties are not remitted to the
124 division of alcohol and drug abuse of the department of mental health within six months
125 of the due date, the attorney general of the state of Missouri shall initiate appropriate
126 action of the collection of said fees and interest accrued. The court shall assess attorney
127 fees and court costs against any delinquent program.

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

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

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

15 (3) Any offense involving the possession or use of a controlled substance as

16 defined in chapter 195, RSMo, in violation of the state law or, beginning July 1, 1992,
17 a county or municipal ordinance, where [the judge in such case was an attorney and] the
18 defendant was represented by or waived the right to an attorney in writing;

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

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

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

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

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

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

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

**577.625. 1. No person less than eighteen years of age shall distribute
2 upon the real property comprising a public or private elementary or
3 secondary school or school bus a prescription medication to any individual
4 who does not have a valid prescription for such medication. For purposes of
5 this section, prescription medication shall not include medication containing
6 a controlled substance, as defined in section 195.010, RSMo.**

7 **2. The provisions of this section shall not apply to any person less than**

8 eighteen years of age authorized to distribute a prescription medication by
9 any school personnel who are responsible for storing, maintaining, or
10 dispensing any prescription medication under chapter 338, RSMo. This
11 section shall not limit the use of any prescription medication by emergency
12 personnel, as defined in section 565.081, RSMo, during an emergency
13 situation.

14 3. Any person less than eighteen years of age who violates this section
15 is guilty of a class B misdemeanor for a first offense and a class A
16 misdemeanor for any second or subsequent offense.

577.628. 1. No person less than eighteen years of age shall possess upon
2 the real property comprising a public or private elementary or secondary
3 school or school bus prescription medication without a valid prescription for
4 such medication. For purposes of this section, prescription medication shall
5 not include medication containing a controlled substance, as defined in
6 section 195.010, RSMo.

7 2. The provisions of this section shall not apply to any person less than
8 eighteen years of age authorized to possess a prescription medication by any
9 school personnel who are responsible for storing, maintaining, or dispensing
10 any prescription medication under chapter 338, RSMo. This section shall not
11 limit the use of any prescription medication by emergency personnel, as
12 defined in section 565.081, RSMo, during an emergency situation.

13 3. Any person less than eighteen years of age who violates the
14 provisions of this section is guilty of a class C misdemeanor for a first offense
15 and a class B misdemeanor for any second or subsequent offense.

578.500. 1. Any person, while a motion picture is being exhibited, who
2 knowingly operates an audiovisual recording function of a device in a motion
3 picture theater without the consent of the owner or lessee of the motion
4 picture theater shall be guilty of criminal use of real property.

5 2. As used in this section, the term "audiovisual recording function"
6 means the capability of a device to record or transmit a motion picture or any
7 part thereof by means of any technology now known or later developed.

8 3. As used in this section, the term "motion picture theater" means a
9 movie theater, screening room, or other venue that is being utilized primarily
10 for the exhibition of a motion picture at the time of the offense, but excluding
11 the lobby, entrance, or other areas of the building where a motion picture
12 cannot be viewed.

13 4. The provisions of this section shall not prevent any lawfully

14 **authorized investigative, law enforcement protective, or intelligence**
15 **gathering employee or agent, of the state or federal government, from**
16 **operating any audiovisual recording device in any facility where a motion**
17 **picture is being exhibited, as part of lawfully authorized investigative,**
18 **protective, law enforcement, or intelligence gathering activities. The owner**
19 **or lessee of a facility where a motion picture is being exhibited, or the**
20 **authorized agent or employee of such owner or lessee, who alerts law**
21 **enforcement authorities of an alleged violation of this section shall not be**
22 **liable in any civil action arising out of measures taken by such owner, lessee,**
23 **agent, or employee in the course of subsequently detaining a person that the**
24 **owner, lessee, agent, or employee in good faith believed to have violated this**
25 **section while awaiting the arrival of law enforcement authorities, unless the**
26 **plaintiff can show by clear and convincing evidence that such measures were**
27 **unreasonable or the period of detention was unreasonably long.**

28 **5. Any person who has pled guilty to or been found guilty of violating**
29 **the provisions of this section shall be guilty of a class A misdemeanor, unless**
30 **the person has previously pled guilty or been found guilty of violating the**
31 **provisions of this section, in which case it is a class D felony.**

589.417. 1. Except for the specific information listed in [subsection]
2 **subsections 2 and 3** of this section, the complete statements, photographs and
3 fingerprints required by sections 589.400 to 589.425 shall not be subject to the provisions
4 of chapter 610, RSMo, and are not public records as defined in section 610.010, RSMo,
5 and shall be available only to courts, prosecutors and law enforcement agencies.

6 **2. Notwithstanding any provision of law to the contrary, the chief law**
7 **enforcement official of the county shall maintain, for all offenders registered in such**
8 **county, a complete list of the names, addresses and crimes for which such offenders are**
9 **registered. Any person may request such list from the chief law enforcement official of**
10 **the county.**

11 **3. Notwithstanding any other provision of law the chief law**
12 **enforcement official of the county may maintain a web page on the Internet**
13 **which can be open to the public and can include a registered sexual offender**
14 **search capability. Only the information listed in subdivisions (1) to (4) of this**
15 **subsection shall be provided to the public in the registered sexual offender**
16 **search:**

17 **(1) The name of the offender;**

18 **(2) The last known address of the offender, including the street**
19 **address, city, county, state, and zip code;**

- 20 **(3) A photograph of the offender; and**
21 **(4) The crime or crimes for which the offender was convicted that**
22 **caused him or her to have to register.**

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

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

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

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

17 (4) For victims, the right to confer with and to be informed by the prosecutor
18 regarding bail hearings, guilty pleas, pleas under chapter 552, RSMo, or its successors,
19 hearings, sentencing and probation revocation hearings and the right to be heard at such
20 hearings, including juvenile proceedings, unless in the determination of the court the
21 interests of justice require otherwise;

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

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

26 (b) The right to be informed by local law enforcement agencies or the appropriate
27 juvenile authorities, of the availability of victim compensation assistance, assistance in
28 obtaining documentation of the victim's losses, including, but not limited to and subject
29 to existing law concerning protected information or closed records, access to copies of
30 complete, unaltered, unedited investigation reports of motor vehicle, pedestrian, and
31 other similar accidents upon request to the appropriate law enforcement agency by the
32 victim or the victim's representative, and emergency crisis intervention services available
33 in the community;

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

35 (d) Within twenty-four hours, any escape by such person from a municipal
36 detention facility, county jail, a correctional facility operated by the department of
37 corrections, mental health facility, or the division of youth services or any agency thereof,
38 and any subsequent recapture of such person;

39 (6) For victims, the right to be informed by appropriate juvenile authorities of
40 probation revocation hearings initiated by the juvenile authority and the right to be
41 heard at such hearings or to offer a written statement, video or audio tape in lieu of a
42 personal appearance, the right to be informed by the board of probation and parole of
43 probation revocation hearings initiated by the board and of parole hearings, the right to
44 be present at each and every phase of parole hearings and the right to be heard at
45 probation revocation and parole hearings or to offer a written statement, video or audio
46 tape in lieu of a personal appearance, and the right to be informed by the custodial
47 mental health facility or agency thereof of any hearings for the release of a person
48 committed pursuant to the provisions of chapter 552, RSMo, the right to be present at
49 such hearings, the right to be heard at such hearings or to offer a written statement,
50 video or audio tape in lieu of personal appearance;

51 (7) For victims and witnesses, upon their written request, the right to be
52 informed by the appropriate custodial authority, including any municipal detention
53 facility, juvenile detention facility, county jail, correctional facility operated by the
54 department of corrections, mental health facility, division of youth services or agency
55 thereof if the offense would have been a felony if committed by an adult, postconviction
56 or commitment pursuant to the provisions of chapter 552, RSMo, of the following:

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

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

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

62 (d) Any scheduled parole or release hearings, **including hearings under**
63 **section 217.362, RSMo**, regarding such person and any changes in the scheduling of
64 such hearings. No such hearing shall be conducted without thirty days' advance notice;

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

69 (f) Any decision by a parole board, **by a juvenile releasing authority or by a**

70 circuit court presiding over releases pursuant to the provisions of chapter 552, RSMo,
71 **or by a circuit court presiding over releases under section 217.362, RSMo**, to
72 release such person or any decision by the governor to commute the sentence of such
73 person or pardon such person;

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

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

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

81 (10) For victims and witnesses, on charged cases or submitted cases where no
82 charge decision has yet been made, to be informed by the prosecuting attorney of the
83 status of the case and of the availability of victim compensation assistance and of
84 financial assistance and emergency and crisis intervention services available within the
85 community and information relative to applying for such assistance or services, and of
86 any final decision by the prosecuting attorney not to file charges;

87 (11) For victims, to be informed by the prosecuting attorney of the right to
88 restitution which shall be enforceable in the same manner as any other cause of action
89 as otherwise provided by law;

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

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

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

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

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

106 for victims, the right to speedy appellate review of their cases, provided that nothing in
107 this subdivision shall prevent the defendant from having sufficient time to prepare such
108 defendant's defense. The attorney general shall provide victims, upon their written
109 request, case status information throughout the appellate process of their cases. The
110 provisions of this subdivision shall apply only to proceedings involving the particular
111 case to which the person is a victim or witness;

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

116 2. The provisions of subsection 1 of this section shall not be construed to imply
117 any victim who is incarcerated by the department of corrections or any local law
118 enforcement agency has a right to be released to attend any hearing or that the
119 department of corrections or the local law enforcement agency has any duty to transport
120 such incarcerated victim to any hearing.

121 3. Those persons entitled to notice of events pursuant to the provisions of
122 subsection 1 of this section shall provide the appropriate person or agency with their
123 current addresses and telephone numbers or the addresses or telephone numbers at
124 which they wish notification to be given.

125 4. Notification by the appropriate person or agency [by certified mail to the most
126 current address provided by the victim] **utilizing the statewide automated crime**
127 **victim notification system as established in section 650.310, RSMo,** shall
128 constitute compliance with the victim notification requirement of this section. **If**
129 **notification utilizing the statewide automated crime victim notification**
130 **system cannot be used, then written notification shall be sent by certified**
131 **mail to the most current address provided by the victim.**

132 5. Victims' rights as established in section 32 of article I of the Missouri
133 Constitution or the laws of this state pertaining to the rights of victims of crime shall
134 be granted and enforced regardless of the desires of a defendant and no privileges of
135 confidentiality shall exist in favor of the defendant to exclude victims or prevent their
136 full participation in each and every phase of parole hearings or probation revocation
137 hearings. The rights of the victims granted in this section are absolute and the policy
138 of this state is that the victim's rights are paramount to the defendant's rights. The
139 victim has an absolute right to be present at any hearing in which the defendant is
140 present before a probation and parole hearing officer.

650.055. 1. Every individual who pleads guilty or nolo contendere to or is

2 convicted in a Missouri circuit court, of a felony or any offense under chapter 566, RSMo,
3 or has been determined beyond a reasonable doubt to be a sexually violent predator
4 pursuant to sections 632.480 to 632.513, RSMo, shall have a blood or scientifically
5 accepted biological sample collected for purposes of DNA profiling analysis:

6 (1) Upon entering the department of corrections reception and diagnostic centers;
7 or

8 (2) Before release from a county jail or detention facility, state correctional
9 facility or any other detention facility or institution, or any mental health facility if
10 committed as a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo;
11 or

12 (3) When the state accepts a person from another state under any interstate
13 compact, or under any other reciprocal agreement with any county, state, or federal
14 agency, or any other provision of law, whether or not the person is confined or released,
15 the acceptance is conditional on the person providing a DNA sample if the person was
16 convicted of, pleaded guilty to, or pleaded nolo contendere to an offense in any other
17 jurisdiction which would be considered a qualifying offense as defined in this section if
18 committed in this state, or if the person was convicted of, pleaded guilty to, or pleaded
19 nolo contendere to any equivalent offense in any other jurisdiction; or

20 (4) If such individual is under the jurisdiction of the department of
21 corrections. Such jurisdiction includes persons currently incarcerated, persons on
22 probation, as defined in section 217.650, RSMo, and on parole, as also defined in section
23 217.650, RSMo.

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

38 person shall provide another sample for analysis.

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

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

46 5. Implementation of section 650.050 and this section shall be subject to future
47 appropriations to keep Missouri's DNA system compatible with the Federal Bureau of
48 Investigation's DNA data bank system.

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

54 (1) Peace officers, as defined in section 590.010, RSMo, and other employees of
55 law enforcement agencies who need to obtain such records to perform their public duties;

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

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

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

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

69 8. An individual may request expungement of his or her DNA sample and DNA
70 profile through the court issuing the reversal or dismissal. A certified copy of the court
71 order establishing that such conviction has been reversed or guilty plea or plea of nolo
72 contendere has been set aside shall be sent to the Missouri state highway patrol crime
73 laboratory. Upon receipt of the court order, the laboratory will determine that the

74 requesting individual has no other qualifying offense as a result of any separate plea or
75 conviction prior to expungement.

76 (1) A person whose DNA record or DNA profile has been included in the state
77 DNA database in accordance with this section, section 488.5050, RSMo, and sections
78 650.050, 650.052, and 650.100 may request expungement on the grounds that the
79 conviction has been reversed, or the guilty plea or plea of nolo contendere on which the
80 authority for including that person's DNA record or DNA profile was based has been set
81 aside.

82 (2) Upon receipt of a written request for expungement, a certified copy of the
83 final court order reversing the conviction or setting aside the plea and any other
84 information necessary to ascertain the validity of the request, the Missouri state
85 highway patrol crime laboratory shall expunge all DNA records and identifiable
86 information in the database pertaining to the person and destroy the DNA sample of the
87 person, unless the Missouri state highway patrol determines that the person is otherwise
88 obligated to submit a DNA sample. Within thirty days after the receipt of the court
89 order, the Missouri state highway patrol shall notify the individual that it has expunged
90 his or her DNA sample and DNA profile, or the basis for its determination that the
91 person is otherwise obligated to submit a DNA sample.

92 (3) The Missouri state highway patrol is not required to destroy any item of
93 physical evidence obtained from a DNA sample if evidence relating to another person
94 would thereby be destroyed.

95 (4) Any identification, warrant, arrest, or evidentiary use of a DNA match
96 derived from the database shall not be excluded or suppressed from evidence, nor shall
97 any conviction be invalidated or reversed or plea set aside due to the failure to expunge
98 or a delay in expunging DNA records.

99 9. Notwithstanding the sovereign immunity of the state, an individual who is
100 determined to be "actually innocent" of a crime may be paid restitution in accordance
101 with this subsection. The individual may receive an amount of fifty dollars per day for
102 each day of postconviction incarceration for the crime for which the individual is
103 determined to be actually innocent. The petition for the payment of said restitution
104 shall be filed with the sentencing court within one year of the release from confinement
105 after August 28, 2003. For the purposes of this subsection the term "actually innocent"
106 shall mean:

107 (1) The individual was convicted of a felony for which a final order of release was
108 entered by the court;

109 (2) All appeals of the order of release have been exhausted;

110 (3) The individual was not serving any term of a sentence for any other crime
111 concurrently with the sentence for which they are determined to be actually innocent;
112 and

113 (4) Testing ordered pursuant to section 547.035, RSMo, demonstrates a person's
114 innocence of the crime for which the person is in custody.

115 An individual who receives restitution pursuant to this subsection shall be prohibited
116 from seeking any civil redress from the state, its departments and agencies, or any
117 employee thereof, or any political subdivision or its employees. This subsection shall not
118 be construed as a waiver of sovereign immunity for any purposes other than the
119 restitution provided for herein. All restitution paid pursuant to this subsection shall be
120 paid from moneys in the DNA profiling analysis fund. The department shall determine
121 the aggregate amount of restitution owed during a fiscal year. If moneys remain in the
122 fund on June thirtieth of each fiscal year, the remaining moneys shall be used to pay
123 restitution to those individuals who have received an order awarding restitution under
124 this subsection during the past fiscal year. If insufficient moneys remain in the fund on
125 June thirtieth of each fiscal year to pay restitution to such persons, the department shall
126 pay each individual who has received an order awarding restitution a pro rata share of
127 the amount such person is owed. The remaining amounts owed to such individual shall
128 be paid from the fund on June thirtieth of each subsequent fiscal year, provided moneys
129 remain in the fund on June thirtieth, until such time as the restitution to the individual
130 has been paid in full. **However, no individual awarded restitution under this**
131 **subsection shall receive more than thirty-six thousand five hundred dollars**
132 **during each fiscal year.** No interest on unpaid restitution shall be awarded to the
133 individual. If there are no moneys remaining in the DNA profiling analysis fund, then
134 no payments shall be made under this subsection. No individual who has been
135 determined by the court to be actually innocent shall be responsible for the costs of care
136 under section 217.831, RSMo.

137 10. If the results of the DNA testing confirm the person's guilt, then the person
138 filing for DNA testing under section 547.035, RSMo, shall:

139 (1) Be liable for any reasonable costs incurred when conducting the DNA test,
140 including but not limited to the cost of the test. Such costs shall be determined by the
141 court and shall be included in the findings of fact and conclusions of law made by the
142 court; and

143 (2) Be sanctioned under the provisions of section 217.262, RSMo.

Section B. Because of the need to protect the children of this state, the repeal
2 and reenactment of section 566.083 of this act is deemed necessary for the immediate

3 preservation of the public health, welfare, peace and safety, and is hereby declared to be
4 an emergency act within the meaning of the constitution, and the repeal and
5 reenactment of section 566.083 of this act shall be in full force and effect upon its
6 passage and approval.

Section C. If any provision of sections 67.2540 to 67.2556 and section 567.080 or
2 the application thereof to anyone or to any circumstances is held invalid, the remainder
3 of those sections and the application of such provisions to others or other circumstances
4 shall not be affected thereby.

✓