

FIRST EXTRAORDINARY SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2
93RD GENERAL ASSEMBLY

Reported from the Special Committee on General Laws, September 7, 2005, with recommendation that the House Committee Substitute for House Bill No. 2 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

2510L.02C

AN ACT

To repeal section 210.117 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for house committee substitute no. 2 for house bill no. 568 and approved by the governor on June 24, 2005, and section 210.117 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate committee substitute no. 2 for senate bill no. 155 and approved by the governor on July 14, 2005, and section 210.117 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 420 & 344 and approved by the governor on July 13, 2005, and section 211.038 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for house committee substitute no. 2 for house bill no. 568 and approved by the governor on June 24, 2005, merged with section 211.038 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate committee substitute no. 2 for senate bill no. 155 and approved by the governor on July 14, 2005, merged with section 211.038 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 420 & 344 and approved by the governor on July 13, 2005, and section 211.181 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 420 & 344 and approved by the governor on July 13, 2005, and section 311.310 as

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

enacted by the first regular session of the ninety-third general assembly in senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with section 311.310 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, and section 311.310 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate bill no. 402 and approved by the governor on July 13, 2005, and section 565.024 as enacted by the first regular session of the ninety-third general assembly in senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with section 565.024 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, and section 568.050 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and section 568.050 as enacted by the first regular session of the ninety-third general assembly in senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with section 568.050 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, and section 577.023 as enacted by the first regular session of the ninety-third general assembly in senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with section 577.023 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and section 577.023 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, merged with section 577.023 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill

no. 353 and approved by the governor on July 13, 2005, and section 577.625 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and section 577.628 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and to enact in lieu thereof seven new sections relating to crime, with penalty provisions and an emergency clause.

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

Section A. Section 210.117 as enacted by the first regular session of the ninety-third
2 general assembly in conference committee substitute for senate substitute for house committee
3 substitute no. 2 for house bill no. 568 and approved by the governor on June 24, 2005, and
4 section 210.117 as enacted by the first regular session of the ninety-third general assembly in
5 conference committee substitute for house committee substitute for senate committee substitute
6 no. 2 for senate bill no. 155 and approved by the governor on July 14, 2005, and section 210.117
7 as enacted by the first regular session of the ninety-third general assembly in conference
8 committee substitute for house committee substitute for senate committee substitute for senate
9 bills nos. 420 & 344 and approved by the governor on July 13, 2005, and section 211.038 as
10 enacted by the first regular session of the ninety-third general assembly in conference committee
11 substitute for senate substitute for house committee substitute no. 2 for house bill no. 568 and
12 approved by the governor on June 24, 2005, merged with section 211.038 as enacted by the first
13 regular session of the ninety-third general assembly in conference committee substitute for house
14 committee substitute for senate committee substitute no. 2 for senate bill no. 155 and approved
15 by the governor on July 14, 2005, merged with section 211.038 as enacted by the first regular
16 session of the ninety-third general assembly in conference committee substitute for house
17 committee substitute for senate committee substitute for senate bills nos. 420 & 344 and
18 approved by the governor on July 13, 2005, and section 211.181 as enacted by the first regular
19 session of the ninety-third general assembly in conference committee substitute for house
20 committee substitute for senate committee substitute for senate bills nos. 420 & 344 and
21 approved by the governor on July 13, 2005, and section 311.310 as enacted by the first regular
22 session of the ninety-third general assembly in senate substitute no. 2 for senate committee
23 substitute for house committee substitute for house bill no. 972 and approved by the governor
24 on July 13, 2005, merged with section 311.310 as enacted by the first regular session of the

25 ninety-third general assembly in house committee substitute for senate substitute for senate
26 committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor
27 on July 13, 2005, and section 311.310 as enacted by the first regular session of the ninety-third
28 general assembly in house committee substitute for senate substitute for senate bill no. 402 and
29 approved by the governor on July 13, 2005, and section 565.024 as enacted by the first regular
30 session of the ninety-third general assembly in senate substitute no. 2 for senate committee
31 substitute for house committee substitute for house bill no. 972 and approved by the governor
32 on July 13, 2005, merged with section 565.024 as enacted by the first regular session of the
33 ninety-third general assembly in house committee substitute for senate substitute for senate
34 committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor
35 on July 13, 2005, and section 568.050 as enacted by the first regular session of the ninety-third
36 general assembly in conference committee substitute for senate substitute for senate committee
37 substitute for house committee substitute for house bill no. 353 and approved by the governor
38 on July 13, 2005, and section 568.050 as enacted by the first regular session of the ninety-third
39 general assembly in senate substitute no. 2 for senate committee substitute for house committee
40 substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with
41 section 568.050 as enacted by the first regular session of the ninety-third general assembly in
42 house committee substitute for senate substitute for senate committee substitute for senate bills
43 nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, and section 577.023
44 as enacted by the first regular session of the ninety-third general assembly in senate substitute
45 no. 2 for senate committee substitute for house committee substitute for house bill no. 972 and
46 approved by the governor on July 13, 2005, merged with section 577.023 as enacted by the first
47 regular session of the ninety-third general assembly in conference committee substitute for senate
48 substitute for senate committee substitute for house committee substitute for house bill no. 353
49 and approved by the governor on July 13, 2005, and section 577.023 as enacted by the first
50 regular session of the ninety-third general assembly in house committee substitute for senate
51 substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and
52 approved by the governor on July 13, 2005, merged with section 577.023 as enacted by the first
53 regular session of the ninety-third general assembly in conference committee substitute for senate
54 substitute for senate committee substitute for house committee substitute for house bill no. 353
55 and approved by the governor on July 13, 2005, and section 577.625 as enacted by the first
56 regular session of the ninety-third general assembly in conference committee substitute for senate
57 substitute for senate committee substitute for house committee substitute for house bill no. 353
58 and approved by the governor on July 13, 2005, and section 577.628 as enacted by the first
59 regular session of the ninety-third general assembly in conference committee substitute for senate
60 substitute for senate committee substitute for house committee substitute for house bill no. 353

61 and approved by the governor on July 13, 2005, are repealed and seven new sections enacted in
62 lieu thereof, to be known as sections 210.117, 211.038, 211.181, 311.310, 565.024, 568.050, and
63 577.023, to read as follows:

[210.117. 1. A child taken into the custody of the state shall not be
2 reunited with a parent or placed in a home in which the parent or any person
3 residing in the home has been found guilty of, or pled guilty to, any of the
4 following offenses when a child was the victim:

5 (1) A felony violation of section 566.030, 566.032, 566.040, 566.060,
6 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100,
7 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215, RSMo;

8 (2) A violation of section 568.020, RSMo;

9 (3) A violation of subdivision (2) of subsection 1 of section 568.060,
10 RSMo;

11 (4) A violation of section 568.065, RSMo;

12 (5) A violation of section 568.080, RSMo;

13 (6) A violation of section 568.090, RSMo; or

14 (7) A violation of section 568.175, RSMo.

15 2. For all other violations of offenses in chapters 566 and 568, RSMo, not
16 specifically listed in subsection 1 of this section or for a violation of an offense
17 committed in another state when a child is the victim that would be a violation
18 of chapter 566 or 568, RSMo, if committed in Missouri, the division may
19 exercise its discretion regarding the placement of a child taken into the custody
20 of the state in which a parent or any person residing in the home has been found
21 guilty of, or pled guilty to, any such offense.]
22

[210.117. 1. No child taken into the custody of the state shall be reunited
2 with a parent or placed in a home in which the parent or any person residing in
3 the home has been found guilty of, or pled guilty to, a felony violation of chapter
4 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or
5 a violation of section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080,
6 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section
7 568.060, RSMo, when a child was the victim, or an offense committed in another
8 state when a child is the victim, that would be a felony violation of chapter 566,
9 RSMo, except for section 566.034, RSMo, or a violation of section 568.020,
10 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo,
11 except for subdivision (1) of subsection 1 of section 568.060, RSMo, if
12 committed in Missouri; provided however, nothing in this section shall preclude
13 the division from exercising its discretion regarding the placement of a child in
14 a home in which the parent or any person residing in the home has been found
15 guilty of or pled guilty or nolo contendere to any offense excepted or excluded
16 in this section.

17 2. If a court of competent jurisdiction determines, or the division
18 determines, based on a substantiated report of child abuse that is upheld by the

19 child abuse and neglect review board, that a minor has abused another child, such
20 minor shall be prohibited from returning to or residing in any residence located
21 within one thousand feet of the residence of the abused child, or any child care
22 facility or school that the abused child attends, until the abused child reaches
23 eighteen years of age. The prohibitions of this subsection shall not apply where
24 the alleged abuse occurred between siblings.]
25

210.117. 1. A child taken into the custody of the state shall not be reunited with a parent
2 or placed in a home in which the parent or any person residing in the home has been found guilty
3 of, or pled guilty to, any of the following offenses when a child was the victim:

4 (1) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064,
5 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,
6 566.209, 566.212, or 566.215, RSMo;

7 (2) A violation of section 568.020, RSMo;

8 (3) A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;

9 (4) A violation of section 568.065, RSMo;

10 (5) A violation of section 568.080, RSMo;

11 (6) A violation of section 568.090, RSMo; or

12 (7) A violation of section 568.175, RSMo.

13 2. For all other violations of offenses in chapters 566 and 568, RSMo, not specifically
14 listed in subsection 1 of this section or for a violation of an offense committed in another state
15 when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if committed
16 in Missouri, the division may exercise its discretion regarding the placement of a child taken into
17 the custody of the state in which a parent or any person residing in the home has been found
18 guilty of, or pled guilty to, any such offense.

19 3. In any case where **a court of competent jurisdiction determines, or** the children's
20 division determines[,] based on a substantiated report of child abuse **that is upheld by the child**
21 **abuse and neglect review board**, that a child has abused another child, the abusing child shall
22 be prohibited from returning to or residing in any residence, facility, or school within one
23 thousand feet of the residence of the abused child **or any child care facility or school that the**
24 **abused child attends**, unless and until a court of competent jurisdiction determines that the
25 alleged abuse did not occur or the abused child reaches the age of eighteen, whichever earlier
26 occurs. The provisions of this subsection shall not apply when the abusing child and the abused
27 child are **siblings or** children living in the same home.

211.038. 1. A child under the jurisdiction of the juvenile court shall not be reunited with
2 a parent or placed in a home in which the parent or any person residing in the home has been
3 found guilty of, or pled guilty to, any of the following offenses when a child was the victim:

4 (1) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064,
5 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206,
6 566.209, 566.212, or 566.215, RSMo;

7 (2) A violation of section 568.020, RSMo;

8 (3) A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;

9 (4) A violation of section 568.065, RSMo;

10 (5) A violation of section 568.080, RSMo;

11 (6) A violation of section 568.090, RSMo; or

12 (7) A violation of section 568.175, RSMo.

13 2. For all other violations of offenses in chapters 566 and 568, RSMo, not specifically
14 listed in subsection 1 of this section or for a violation of an offense committed in another state
15 when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if committed
16 in Missouri, the juvenile court may exercise its discretion regarding the placement of a child
17 under the jurisdiction of the juvenile court in a home in which a parent or any person residing
18 in the home has been found guilty of, or pled guilty to, any such offense.

19 3. If the juvenile court determines that a minor has abused another child, such minor
20 shall be prohibited from returning to or residing in any residence located within one thousand
21 feet of the residence of the abused child, or any child care facility or school that the abused child
22 attends, until the abused child reaches eighteen years of age. The prohibitions of this subsection
23 shall not apply where the alleged abuse occurred between siblings **or children living in the**
24 **same home.**

211.181. 1. When a child or person seventeen years of age is found by the court to come
2 within the applicable provisions of subdivision (1) of subsection 1 of section 211.031, the court
3 shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child
4 or person seventeen years of age, and the court may, by order duly entered, proceed as follows:

5 (1) Place the child or person seventeen years of age under supervision in his own home
6 or in the custody of a relative or other suitable person after the court or a public agency or
7 institution designated by the court conducts an investigation of the home, relative or person and
8 finds such home, relative or person to be suitable and upon such conditions as the court may
9 require;

10 (2) Commit the child or person seventeen years of age to the custody of:

11 (a) A public agency or institution authorized by law to care for children or to place them
12 in family homes; except that, such child or person seventeen years of age may not be committed
13 to the department of social services, division of youth services;

14 (b) Any other institution or agency which is authorized or licensed by law to care for
15 children or to place them in family homes;

16 (c) An association, school or institution willing to receive the child or person seventeen
17 years of age in another state if the approval of the agency in that state which administers the laws
18 relating to importation of children into the state has been secured; or

19 (d) The juvenile officer;

20 (3) Place the child or person seventeen years of age in a family home;

21 (4) Cause the child or person seventeen years of age to be examined and treated by a
22 physician, psychiatrist or psychologist and when the health or condition of the child or person
23 seventeen years of age requires it, cause the child or person seventeen years of age to be placed
24 in a public or private hospital, clinic or institution for treatment and care; except that, nothing
25 contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment
26 of a child or person seventeen years of age whose parents or guardian in good faith are providing
27 other remedial treatment recognized or permitted under the laws of this state;

28 (5) The court may order, pursuant to subsection 2 of section 211.081, that the child
29 receive the necessary services in the least restrictive appropriate environment including home
30 and community-based services, treatment and support, based on a coordinated, individualized
31 treatment plan. The individualized treatment plan shall be approved by the court and developed
32 by the applicable state agencies responsible for providing or paying for any and all appropriate
33 and necessary services, subject to appropriation, and shall include which agencies are going to
34 pay for and provide such services. Such plan must be submitted to the court within thirty days
35 and the child's family shall actively participate in designing the service plan for the child or
36 person seventeen years of age;

37 (6) The department of social services, in conjunction with the department of mental
38 health, shall apply to the United States Department of Health and Human Services for such
39 federal waivers as required to provide services for such children, including the acquisition of
40 community-based services waivers.

41 2. When a child is found by the court to come within the provisions of subdivision (2)
42 of subsection 1 of section 211.031, the court shall so decree and upon making a finding of fact
43 upon which it exercises its jurisdiction over the child, the court may, by order duly entered,
44 proceed as follows:

45 (1) Place the child under supervision in his own home or in custody of a relative or other
46 suitable person after the court or a public agency or institution designated by the court conducts
47 an investigation of the home, relative or person and finds such home, relative or person to be
48 suitable and upon such conditions as the court may require;

49 (2) Commit the child to the custody of:

50 (a) A public agency or institution authorized by law to care for children or place them
51 in family homes; except that, a child may be committed to the department of social services,

52 division of youth services, only if he is presently under the court's supervision after an
53 adjudication under the provisions of subdivision (2) or (3) of subsection 1 of section 211.031;

54 (b) Any other institution or agency which is authorized or licensed by law to care for
55 children or to place them in family homes;

56 (c) An association, school or institution willing to receive it in another state if the
57 approval of the agency in that state which administers the laws relating to importation of children
58 into the state has been secured; or

59 (d) The juvenile officer;

60 (3) Place the child in a family home;

61 (4) Cause the child to be examined and treated by a physician, psychiatrist or
62 psychologist and when the health or condition of the child requires it, cause the child to be placed
63 in a public or private hospital, clinic or institution for treatment and care; except that, nothing
64 contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment
65 of a child whose parents or guardian in good faith are providing other remedial treatment
66 recognized or permitted under the laws of this state;

67 (5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court.

68

69 Execution of any order entered by the court pursuant to this subsection, including a commitment
70 to any state agency, may be suspended and the child placed on probation subject to such
71 conditions as the court deems reasonable. After a hearing, probation may be revoked and the
72 suspended order executed.

73 3. When a child is found by the court to come within the provisions of subdivision (3)
74 of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon
75 which it exercises its jurisdiction over the child, and the court may, by order duly entered,
76 proceed as follows:

77 (1) Place the child under supervision in his or her own home or in custody of a relative
78 or other suitable person after the court or a public agency or institution designated by the court
79 conducts an investigation of the home, relative or person and finds such home, relative or person
80 to be suitable and upon such conditions as the court may require; provided that, no child who has
81 been adjudicated a delinquent by a juvenile court for committing or attempting to commit a
82 sex-related offense which if committed by an adult would be considered a felony offense
83 pursuant to chapter 566, RSMo, including but not limited to rape, forcible sodomy, child
84 molestation, and sexual abuse, and in which the victim was a child, shall be placed in any
85 residence within one thousand feet of the residence of the victim of that offense until the victim
86 reaches the age of eighteen, and provided further that the provisions of this subdivision regarding
87 placement within one thousand feet of the victim child shall not apply when the abusing child

88 and the victim are **siblings or** children living in the same home;

89 (2) Commit the child to the custody of:

90 (a) A public agency or institution authorized by law to care for children or to place them
91 in family homes;

92 (b) Any other institution or agency which is authorized or licensed by law to care for
93 children or to place them in family homes;

94 (c) An association, school or institution willing to receive it in another state if the
95 approval of the agency in that state which administers the laws relating to importation of children
96 into the state has been secured; or

97 (d) The juvenile officer;

98 (3) Beginning January 1, 1996, the court may make further directions as to placement
99 with the division of youth services concerning the child's length of stay. The length of stay order
100 may set forth a minimum review date;

101 (4) Place the child in a family home;

102 (5) Cause the child to be examined and treated by a physician, psychiatrist or
103 psychologist and when the health or condition of the child requires it, cause the child to be placed
104 in a public or private hospital, clinic or institution for treatment and care; except that, nothing
105 contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment
106 of a child whose parents or guardian in good faith are providing other remedial treatment
107 recognized or permitted under the laws of this state;

108 (6) Suspend or revoke a state or local license or authority of a child to operate a motor
109 vehicle;

110 (7) Order the child to make restitution or reparation for the damage or loss caused by his
111 offense. In determining the amount or extent of the damage, the court may order the juvenile
112 officer to prepare a report and may receive other evidence necessary for such determination. The
113 child and his attorney shall have access to any reports which may be prepared, and shall have the
114 right to present evidence at any hearing held to ascertain the amount of damages. Any restitution
115 or reparation ordered shall be reasonable in view of the child's ability to make payment or to
116 perform the reparation. The court may require the clerk of the circuit court to act as receiving
117 and disbursing agent for any payment ordered;

118 (8) Order the child to a term of community service under the supervision of the court or
119 of an organization selected by the court. Every person, organization, and agency, and each
120 employee thereof, charged with the supervision of a child under this subdivision, or who benefits
121 from any services performed as a result of an order issued under this subdivision, shall be
122 immune from any suit by the child ordered to perform services under this subdivision, or any
123 person deriving a cause of action from such child, if such cause of action arises from the

124 supervision of the child's performance of services under this subdivision and if such cause of
125 action does not arise from an intentional tort. A child ordered to perform services under this
126 subdivision shall not be deemed an employee within the meaning of the provisions of chapter
127 287, RSMo, nor shall the services of such child be deemed employment within the meaning of
128 the provisions of chapter 288, RSMo. Execution of any order entered by the court, including a
129 commitment to any state agency, may be suspended and the child placed on probation subject
130 to such conditions as the court deems reasonable. After a hearing, probation may be revoked and
131 the suspended order executed;

132 (9) When a child has been adjudicated to have violated a municipal ordinance or to have
133 committed an act that would be a misdemeanor if committed by an adult, assess an amount of
134 up to twenty-five dollars to be paid by the child to the clerk of the court; when a child has been
135 adjudicated to have committed an act that would be a felony if committed by an adult, assess an
136 amount of up to fifty dollars to be paid by the child to the clerk of the court.

137 4. Beginning January 1, 1996, the court may set forth in the order of commitment the
138 minimum period during which the child shall remain in the custody of the division of youth
139 services. No court order shall require a child to remain in the custody of the division of youth
140 services for a period which exceeds the child's eighteenth birth date except upon petition filed
141 by the division of youth services pursuant to subsection 1 of section 219.021, RSMo. In any
142 order of commitment of a child to the custody of the division of youth services, the division shall
143 determine the appropriate program or placement pursuant to subsection 3 of section 219.021,
144 RSMo. Beginning January 1, 1996, the department shall not discharge a child from the custody
145 of the division of youth services before the child completes the length of stay determined by the
146 court in the commitment order unless the committing court orders otherwise. The director of the
147 division of youth services may at any time petition the court for a review of a child's length of
148 stay commitment order, and the court may, upon a showing of good cause, order the early
149 discharge of the child from the custody of the division of youth services. The division may
150 discharge the child from the division of youth services without a further court order after the
151 child completes the length of stay determined by the court or may retain the child for any period
152 after the completion of the length of stay in accordance with the law.

153 5. When an assessment has been imposed under the provisions of subsection 2 or 3 of
154 this section, the assessment shall be paid to the clerk of the court in the circuit where the
155 assessment is imposed by court order, to be deposited in a fund established for the sole purpose
156 of payment of judgments entered against children in accordance with section 211.185.

157 [311.310. 1. Any licensee under this chapter, or his employee, who shall
158 sell, vend, give away or otherwise supply any intoxicating liquor in any quantity
159 whatsoever to any person under the age of twenty-one years, or to any person
160 intoxicated or appearing to be in a state of intoxication, or to a habitual drunkard,

161 and any person whomsoever except his parent or guardian who shall procure for,
162 sell, give away or otherwise supply intoxicating liquor to any person under the
163 age of twenty-one years, or to any intoxicated person or any person appearing to
164 be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of
165 a misdemeanor, except that this section shall not apply to the supplying of
166 intoxicating liquor to a person under the age of twenty-one years for medical
167 purposes only, or to the administering of such intoxicating liquor to any person
168 by a duly licensed physician. No person shall be denied a license or renewal of
169 a license issued under this chapter solely due to a conviction for unlawful sale or
170 supply to a minor when serving in the capacity as an employee of a licensed
171 establishment.

172 2. Any owner, occupant, or other person or legal entity with a lawful right
173 to the use and enjoyment of any property is prohibited from knowingly allowing
174 a person under the age of twenty-one to drink or possess intoxicating liquor or
175 knowingly failing to stop a person under the age of twenty-one from drinking or
176 possessing intoxicating liquor on such property, unless such person allowing the
177 person under the age of twenty-one to drink or possess intoxicating liquor is his
178 or her parent or guardian. A person who violates the provisions of this
179 subsection is guilty of a class A misdemeanor.]

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

13 2. [Any owner, occupant, or other person or legal entity with a lawful right to the use and
14 enjoyment of any property, except for a parent or guardian, who knowingly allows any person
15 under the age of twenty-one years to consume intoxicating liquor on such property, or knowingly
16 fails to stop any person under the age of twenty-one years from consuming intoxicating liquor
17 on such property shall be deemed guilty of a class B misdemeanor.] **Any owner, occupant, or
18 other person or legal entity with a lawful right to the exclusive use and enjoyment of any
19 property who knowingly allows a person under the age of twenty-one to drink or possess
20 intoxicating liquor or knowingly fails to stop a person under the age of twenty-one from**

21 **drinking or possessing intoxicating liquor on such property, unless such person allowing**
22 **the person under the age of twenty-one to drink or possess intoxicating liquor is his or her**
23 **parent or guardian, is guilty of a class B misdemeanor. Any second or subsequent violation**
24 **of this subsection is a class A misdemeanor.**

25 3. It shall be a defense to prosecution under this section if:

26 (1) The defendant is a licensed retailer, club, drinking establishment, or caterer or holds
27 a temporary permit, or an employee thereof;

28 (2) The defendant sold the intoxicating liquor to the minor with reasonable cause to
29 believe that the minor was twenty-one or more years of age; and

30 (3) To purchase the intoxicating liquor, the person exhibited to the defendant a driver's
31 license, Missouri nondriver's identification card, or other official or apparently official document,
32 containing a photograph of the minor and purporting to establish that such minor was twenty-one
33 years of age and of the legal age for consumption of intoxicating liquor.

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

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

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

6 (3) **While in an intoxicated condition operates a motor vehicle in this state, and,**
7 **when so operating, acts with criminal negligence to:**

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

11 (b) **Cause the death of two or more persons; or**

12 (c) **Cause the death of any person while he or she has a blood alcohol content of at**
13 **least eighteen-hundredths of one percent by weight of alcohol in such person's blood.**

14 2. [Except as provided in subsections 3 and 4 of this section,] Involuntary manslaughter
15 in the first degree **under subdivision (1) or (2) of subsection 1 of this section** is a class C
16 felony.

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

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

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

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

26 4.] Involuntary manslaughter in the first degree under subdivision [(1), (2), or] (3) of
27 subsection [3] 1 of this section is a class B felony. A second or subsequent violation of
28 subdivision (3) of subsection [3] 1 of this section is a class A felony. For any violation of
29 **subdivision (3) of subsection [3] 1 of this section**, the minimum prison term which the defendant
30 must serve shall be eighty-five percent of his or her sentence.

31 [5.] 3. A person commits the crime of involuntary manslaughter in the second degree if
32 he acts with criminal negligence to cause the death of any person.

33 [6.] 4. Involuntary manslaughter in the second degree is a class D felony.

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

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

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

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

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

17 (5) He or she operates a vehicle in violation of **subdivision (2) or (3) of subsection [2]**
18 **1 of section 565.024 [or], subdivision (4) of subsection 1 of section 565.060**, section 577.010,
19 or **section 577.012**, RSMo, while a child less than seventeen years old is present in the vehicle.

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

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

26 [568.050. 1. A person commits the crime of endangering the welfare of

27 a child in the second degree if:

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

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

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

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

44 (5) The person operates a vehicle in violation of section 565.024, RSMo,
45 565.060, RSMo, 577.010, RSMo, or 577.012, RSMo, while a child less than
46 seventeen years of age is present in the vehicle.

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

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

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

2 (1) An "aggravated offender" is a person who:

3 (a) Has pleaded guilty to or has been found guilty of three or more intoxication-related
4 traffic offenses [or a person who]; or

5 (b) Has pleaded **guilty** to or has been found guilty of **one or more intoxication-related**
6 **traffic offense and, in addition, any of the following:** involuntary manslaughter under
7 subdivision (2) or (3) of subsection 1 [or subsections 3 and 4] of section 565.024, RSMo[.];
8 **murder in the second degree under section 565.021, RSMo, where the underlying felony**
9 **is an intoxication-related traffic offense; or** assault in the second degree under subdivision (4)
10 of subsection 1 of section 565.060, RSMo[.]; or assault of a law enforcement officer in the
11 second degree under subdivision [(3)] (4) of subsection 1 of section 565.082, RSMo[, and in
12 addition, one other intoxicated-related traffic offense];

13 (2) A "chronic offender" is:

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

16 (b) A person who has pleaded guilty to or **has** been found guilty of, on two or more
17 separate occasions, **any combination of the following:** involuntary manslaughter under
18 subdivision (2) **or (3)** of subsection 1 [or subsections 3 and 4] of section 565.024, RSMo[.];
19 **murder in the second degree under section 565.021, RSMo, where the underlying felony**
20 **is an intoxication-related traffic offense;** assault in the second degree under subdivision (4)
21 of subsection 1 of section 565.060, RSMo[.]; **or** assault of a law enforcement officer in the
22 second degree under subdivision [(3)] (4) of subsection 1 of section 565.082, RSMo; **or**

23 (c) A person who has pleaded guilty to or **has** been found guilty of **two or more**
24 **intoxication-related traffic offenses and, in addition, any of the following:** involuntary
25 manslaughter under subdivision (2) **or (3)** of subsection 1 [or subsections 3 and 4] of section
26 565.024, RSMo[.]; **murder in the second degree under section 565.021, RSMo, where the**
27 **underlying felony is an intoxication-related traffic offense;** assault in the second degree under
28 subdivision (4) of subsection 1 of section 565.060, RSMo[.]; **or** assault of a law enforcement
29 officer in the second degree under subdivision [(3)] (4) of subsection 1 of section 565.082,
30 RSMo[, and in addition, two or more intoxication-related traffic offenses];

31 (3) An "intoxication-related traffic offense" is driving while intoxicated, driving with
32 excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) **or (3)** of
33 subsection 1 [or subsections 3 and 4] of section 565.024, RSMo[.]; **murder in the second**
34 **degree under section 565.021, RSMo, where the underlying felony is an intoxication-related**
35 **traffic offense;** assault in the second degree pursuant to subdivision (4) of subsection 1 of
36 section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to
37 subdivision [(3)] (4) of subsection 1 of section 565.082, RSMo, or driving under the influence
38 of alcohol or drugs in violation of state law or a county or municipal ordinance, where the
39 defendant was represented by or waived the right to an attorney in writing;

40 (4) A "persistent offender" is one of the following:

41 (a) A person who has pleaded guilty to or has been found guilty of two or more
42 intoxication-related traffic offenses;

43 (b) A person who has pleaded guilty to or has been found guilty of involuntary
44 manslaughter pursuant to **subdivision (2) or (3)** of subsection 1 of section 565.024, RSMo,
45 assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060,
46 RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision [(3)]
47 (4) of subsection 1 of section 565.082, RSMo; and

48 (5) A "prior offender" is a person who has pleaded guilty to or has been found guilty of
49 one intoxication-related traffic offense, where such prior offense occurred within five years of

50 the occurrence of the intoxication-related traffic offense for which the person is charged.

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

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

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

60 5. Any person who pleads guilty to or is found guilty of a violation of section 577.010
61 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class
62 B felony.

63 6. No state, county, or municipal court shall suspend the imposition of sentence as to a
64 prior offender, persistent offender, aggravated offender, or chronic offender under this section
65 nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo,
66 to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until
67 he or she has served a minimum of five days imprisonment, unless as a condition of such parole
68 or probation such person performs at least thirty days of community service under the
69 supervision of the court in those jurisdictions which have a recognized program for community
70 service. No persistent offender shall be eligible for parole or probation until he or she has served
71 a minimum of ten days imprisonment, unless as a condition of such parole or probation such
72 person performs at least sixty days of community service under the supervision of the court. No
73 aggravated offender shall be eligible for parole or probation until he or she has served a
74 minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or
75 probation until he or she has served a minimum of two years imprisonment.

76 7. The state, county, or municipal court shall find the defendant to be a prior offender,
77 persistent offender, aggravated offender, or chronic offender if:

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

81 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding
82 beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated
83 offender, or chronic offender; and

84 (3) The court makes findings of fact that warrant a finding beyond a reasonable doubt
85 by the court that the defendant is a prior offender, persistent offender, aggravated offender, or

86 chronic offender.

87 8. In a jury trial, the facts shall be pleaded, established and found prior to submission to
88 the jury outside of its hearing.

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

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

93 11. The defendant may waive proof of the facts alleged.

94 12. Nothing in this section shall prevent the use of presentence investigations or
95 commitments.

96 13. At the sentencing hearing both the state, county, or municipality and the defendant
97 shall be permitted to present additional information bearing on the issue of sentence.

98 14. The pleas or findings of guilty shall be prior to the date of commission of the present
99 offense.

100 15. The court shall not instruct the jury as to the range of punishment or allow the jury,
101 upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of
102 prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

103 16. Evidence of prior convictions shall be heard and determined by the trial court out of
104 the hearing of the jury prior to the submission of the case to the jury, and shall include but not
105 be limited to evidence of convictions received by a search of the records of the Missouri uniform
106 law enforcement system maintained by the Missouri state highway patrol. After hearing the
107 evidence, the court shall enter its findings thereon. A conviction of a violation of a municipal
108 or county ordinance in a county or municipal court for driving while intoxicated or a conviction
109 or a plea of guilty or a finding of guilty followed by a suspended imposition of sentence,
110 suspended execution of sentence, probation or parole or any combination thereof in a state court
111 shall be treated as a prior conviction.

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

3 (1) An "aggravated offender" is a person who has pleaded guilty to or
4 been found guilty of three or more intoxication-related traffic offenses or a person
5 who has pleaded guilty to or has been found guilty of involuntary manslaughter
6 under section 565.024, RSMo; murder in the second degree under section
7 565.021, RSMo, where the underlying felony is an intoxication-related offense;
8 assault in the second degree under subdivision (4) of subsection 1 of section
9 565.060, RSMo; or assault of a law enforcement officer in the second degree
10 under subdivision (4) of subsection 1 of section 565.082, RSMo; and in addition,
11 one other intoxication-related traffic offense;

12 (2) A "chronic offender" is:

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

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

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

26 (3) An "intoxication-related traffic offense" is driving while intoxicated,
27 driving with excessive blood alcohol content, involuntary manslaughter pursuant
28 to section 565.024, RSMo, murder in the second degree pursuant to section
29 565.021, RSMo, where the underlying felony is an intoxication-related offense,
30 assault in the second degree pursuant to subdivision (4) of subsection 1 of section
31 565.060, RSMo, assault of a law enforcement officer in the second degree
32 pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo, or driving
33 under the influence of alcohol or drugs in violation of state law or a county or
34 municipal ordinance, where the defendant was represented by or waived the right
35 to an attorney in writing;

36 (4) A "persistent offender" is one of the following:

37 (a) A person who has pleaded guilty to or has been found guilty of two
38 or more intoxication-related traffic offenses;

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

44 (5) A "prior offender" is a person who has pleaded guilty to or has been
45 found guilty of one intoxication-related traffic offense, where such prior offense
46 occurred within five years of the occurrence of the intoxication-related traffic
47 offense for which the person is charged.

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

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

54 4. Any person who pleads guilty to or is found guilty of a violation of
55 section 577.010 or section 577.012 who is alleged and proved to be an aggravated

56 offender shall be guilty of a class C felony.

57 5. Any person who pleads guilty to or is found guilty of a violation of
58 section 577.010 or section 577.012 who is alleged and proved to be a chronic
59 offender shall be guilty of a class B felony.

60 6. No state, county, or municipal court shall suspend the imposition of
61 sentence as to a prior offender, persistent offender, aggravated offender, or
62 chronic offender under this section nor sentence such person to pay a fine in lieu
63 of a term of imprisonment, section 557.011, RSMo, to the contrary
64 notwithstanding. No prior offender shall be eligible for parole or probation until
65 he or she has served a minimum of five days imprisonment, unless as a condition
66 of such parole or probation such person performs at least thirty days of
67 community service under the supervision of the court in those jurisdictions which
68 have a recognized program for community service. No persistent offender shall
69 be eligible for parole or probation until he or she has served a minimum of ten
70 days imprisonment, unless as a condition of such parole or probation such person
71 performs at least sixty days of community service under the supervision of the
72 court. No aggravated offender shall be eligible for parole or probation until he
73 or she has served a minimum of sixty days imprisonment. No chronic offender
74 shall be eligible for parole or probation until he or she has served a minimum of
75 two years imprisonment.

76 7. The state, county, or municipal court shall find the defendant to be a
77 prior offender, persistent offender, aggravated offender, or chronic offender if:

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

81 (2) Evidence is introduced that establishes sufficient facts pleaded to
82 warrant a finding beyond a reasonable doubt the defendant is a prior offender,
83 persistent offender, aggravated offender, or chronic offender; and

84 (3) The court makes findings of fact that warrant a finding beyond a
85 reasonable doubt by the court that the defendant is a prior offender, persistent
86 offender, aggravated offender, or chronic offender.

87 8. In a jury trial, the facts shall be pleaded, established and found prior
88 to submission to the jury outside of its hearing.

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

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

93 11. The defendant may waive proof of the facts alleged.

94 12. Nothing in this section shall prevent the use of presentence
95 investigations or commitments.

96 13. At the sentencing hearing both the state, county, or municipality and
97 the defendant shall be permitted to present additional information bearing on the
98 issue of sentence.

99 14. The pleas or findings of guilty shall be prior to the date of
100 commission of the present offense.

101 15. The court shall not instruct the jury as to the range of punishment or
102 allow the jury, upon a finding of guilty, to assess and declare the punishment as
103 part of its verdict in cases of prior offenders, persistent offenders, aggravated
104 offenders, or chronic offenders.

105 16. Evidence of prior convictions shall be heard and determined by the
106 trial court out of the hearing of the jury prior to the submission of the case to the
107 jury, and shall include but not be limited to evidence of convictions received by
108 a search of the records of the Missouri uniform law enforcement system
109 maintained by the Missouri state highway patrol. After hearing the evidence, the
110 court shall enter its findings thereon. A conviction of a violation of a municipal
111 or county ordinance in a county or municipal court for driving while intoxicated
112 or a conviction or a plea of guilty or a finding of guilty followed by a suspended
113 imposition of sentence, suspended execution of sentence, probation or parole or
114 any combination thereof in a state court shall be treated as a prior conviction.]
115

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

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

2 [577.628. 1. No person less than eighteen years of age shall possess upon
3 the real property comprising a public or private elementary or secondary school
4 or school bus prescription medication without a valid prescription for such
5 medication. For purposes of this section, prescription medication shall not
6 include medication containing a controlled substance, as defined in section
7 195.010, RSMo.

8 2. The provisions of this section shall not apply to any person less than
9 eighteen years of age authorized to possess a prescription medication by any
10 school personnel who are responsible for storing, maintaining, or dispensing any
prescription medication under chapter 338, RSMo. This section shall not limit

11 the use of any prescription medication by emergency personnel, as defined in
12 section 565.081, RSMo, during an emergency situation.

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

Section B. Because immediate action is necessary to correct statutory inconsistencies
2 regarding criminal liability for certain offenses section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution, and section A of this act shall be
5 in full force and effect upon its passage and approval.

Section C. If the repeal and reenactment of sections 311.310, 565.024, 568.050, and
2 577.023 and the repeal of sections 311.310, 568.050, 577.023, 577.625 and 577.628 of section
3 A of this act or the application thereof to anyone or to any circumstances is held invalid, the
4 remainder of those sections and the application of such provisions to others or other
5 circumstances shall not be affected thereby.