

SECOND REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 1695, 1742 & 1674
95TH GENERAL ASSEMBLY

4453L.11P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 211.031, 217.785, 302.302, 302.321, 302.536, 302.750, 478.001, 478.003, 478.009, 479.010, 479.020, 479.170, 542.286, 577.010, 577.012, 577.020, 577.021, 577.023, 577.029, 577.037, 577.039, 577.041, 577.049, and 577.054, RSMo, and to enact in lieu thereof twenty-five new sections relating to driving while intoxicated, with penalty provisions.

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

Section A. Sections 211.031, 217.785, 302.302, 302.321, 302.536, 302.750, 478.001, 2 478.003, 478.009, 479.010, 479.020, 479.170, 542.286, 577.010, 577.012, 577.020, 577.021, 3 577.023, 577.029, 577.037, 577.039, 577.041, 577.049, and 577.054, RSMo, are repealed and 4 twenty-five new sections enacted in lieu thereof, to be known as sections 211.031, 217.785, 5 302.302, 302.321, 302.750, 478.001, 478.003, 478.007, 478.009, 479.010, 479.020, 479.170, 6 542.286, 558.400, 577.005, 577.010, 577.012, 577.020, 577.021, 577.023, 577.029, 577.037, 7 577.041, 577.049, and 577.054, to read as follows:

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family 2 court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall 3 have exclusive original jurisdiction in proceedings:

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

6 (a) The parents, or other persons legally responsible for the care and support of the child 7 or person seventeen years of age, neglect or refuse to provide proper support, education which 8 is required by law, medical, surgical or other care necessary for his or her well-being; except that 9 reliance by a parent, guardian or custodian upon remedial treatment other than medical or

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

10 surgical treatment for a child or person seventeen years of age shall not be construed as neglect
11 when the treatment is recognized or permitted pursuant to the laws of this state;

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

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

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

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

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

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

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

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

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

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

45 have concurrent jurisdiction with the circuit court on any child who is alleged to have violated
46 a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

47 (4) For the adoption of a person;

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

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

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

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

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

67 (4) Upon motion of any party or upon its own motion at any time following a judgment
68 of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause
69 may place the child or person seventeen years of age under the supervision of another juvenile
70 court within or without the state pursuant to section 210.570, RSMo, with the consent of the
71 receiving court;

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

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

79 3. In any proceeding involving any child or person seventeen years of age taken into
80 custody in a county other than the county of the child's residence or the residence of a person

81 seventeen years of age, the juvenile court of the county of the child's residence or the residence
82 of a person seventeen years of age shall be notified of such taking into custody within
83 seventy-two hours.

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

217.785. 1. As used in this section, the term "Missouri postconviction drug and alcohol
2 treatment program" means a program of noninstitutional and institutional correctional programs
3 for the monitoring, control and treatment of certain drug abuse offenders.

4 2. The department of corrections shall establish by regulation the "Missouri
5 Postconviction Drug **and Alcohol** Treatment Program". The program shall include
6 noninstitutional and institutional placement. The institutional phase of the program may include
7 any offender under the supervision and control of the department of corrections. The department
8 shall establish rules determining how, when and where an offender shall be admitted into or
9 removed from the program.

10 3. **Notwithstanding any other law, any nonviolent offender who has been convicted,**
11 **pled guilty, or been found guilty under section 577.010 or 577.012, or any similar provision**
12 **of federal or state law, and who is incarcerated for such offense, may be required to**
13 **participate in the institutional phase of the program, which may include education,**
14 **treatment, and rehabilitation programs. When an offender participating in the**
15 **institutional program under this subsection is released on probation and parole, the**
16 **offender shall be required to complete a department-approved community supervised**
17 **program or if no such program is available in the offender's community, then the offender**
18 **shall be required to submit to continuous alcohol monitoring for a period of time**
19 **established by the court or department, but in no event less than ninety days. Failure of**
20 **an offender to complete the department-approved community supervised program or to**
21 **satisfactorily perform on continuous alcohol monitoring may be sufficient cause for the**
22 **offender to be remanded to the sentencing court for assignment to the institutional phase**
23 **of the program or any other authorized disposition.**

24 4. Any first-time offender who has pled guilty or been found guilty of violating the
25 provisions of chapter 195, RSMo, or whose controlled substance abuse was a precipitating or
26 contributing factor in the commission of his offense, and who is placed on probation may be

27 required to participate in the noninstitutional phase of the program, which may include
28 education, treatment and rehabilitation programs. Persons required to attend a program pursuant
29 to this section may be charged a reasonable fee to cover the costs of the program. Failure of an
30 offender to complete successfully the noninstitutional phase of the program [shall] **may** be
31 sufficient cause for the offender to be remanded to the sentencing court for assignment to the
32 institutional phase of the program or any other authorized disposition.

33 [4.] **5.** A probationer shall be eligible for assignment to the institutional phase of the
34 postconviction drug treatment program if he has failed to complete successfully the
35 noninstitutional phase of the program. If space is available, the sentencing court may assign the
36 offender to the institutional phase of the program as a special condition of probation, without the
37 necessity of formal revocation of probation.

38 [5.] **6.** The availability of space in the institutional program shall be determined by the
39 department of corrections. If the sentencing court is advised that there is no space available, then
40 the court shall consider other authorized dispositions.

41 [6.] **7.** Any time after ninety days and prior to one hundred twenty days after assignment
42 of the offender to the institutional phase of the program, the department shall submit to the court
43 a report outlining the performance of the offender in the program. If the department determines
44 that the offender will not participate or has failed to complete the program, the department shall
45 advise the sentencing court, who shall cause the offender to be brought before the court for
46 consideration of revocation of the probation or other authorized disposition. If the offender
47 successfully completes the program, the department shall release the individual to the appropriate
48 probation and parole district office and so advise the court.

49 [7.] **8.** Time spent in the institutional phase of the program shall count as time served on
50 the sentence.

302.302. 1. The director of revenue shall put into effect a point system for the suspension
2 and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of
3 collateral. The initial point value is as follows:

4 (1) Any moving violation of a state law or county or municipal or federal traffic
5 ordinance or regulation not listed in this section, other than a violation of vehicle equipment
6 provisions or a court-ordered supervision as provided in section 302.303 2 points

7 (except any violation of municipal stop sign ordinance where no accident is involved
8 1 point)

9 (2) Speeding

10 In violation of a state law 3 points

11 In violation of a county or municipal ordinance 2 points

12 (3) Leaving the scene of an accident in violation of section 577.060, RSMo 12 points

- 13 In violation of any county or municipal ordinance 6 points
- 14 (4) Careless and imprudent driving in violation of subsection 4 of section [304.016,
- 15 RSMo] **304.012, RSMo** 4 points
- 16 In violation of a county or municipal ordinance 2 points
- 17 (5) Operating without a valid license in violation of subdivision (1) or (2) of subsection
- 18 1 of section 302.020:
- 19 (a) For the first conviction 2 points
- 20 (b) For the second conviction 4 points
- 21 (c) For the third conviction 6 points
- 22 (6) Operating with a suspended or revoked license prior to restoration of operating
- 23 privileges 12 points
- 24 (7) Obtaining a license by misrepresentation 12 points
- 25 (8) For the first conviction of driving while in an intoxicated condition or under the
- 26 influence of controlled substances or drugs 8 points
- 27 (9) For the second or subsequent conviction of any of the following offenses however
- 28 combined: driving while in an intoxicated condition, driving under the influence of controlled
- 29 substances or drugs or driving with a blood alcohol content of eight-hundredths of one percent
- 30 or more by weight 12 points
- 31 (10) For the first conviction for driving with blood alcohol content eight-hundredths of
- 32 one percent or more by weight
- 33 In violation of state law 8 points
- 34 In violation of a county or municipal ordinance or federal law or regulation 8 points
- 35 (11) Any felony involving the use of a motor vehicle 12 points
- 36 (12) Knowingly permitting unlicensed operator to operate a motor vehicle 4 points
- 37 (13) For a conviction for failure to maintain financial responsibility pursuant to county
- 38 or municipal ordinance or pursuant to section 303.025, RSMo 4 points
- 39 (14) Endangerment of a highway worker in violation of section 304.585, RSMo 4 points
- 40 (15) Aggravated endangerment of a highway worker in violation of section 304.585,
- 41 RSMo 12 points
- 42 (16) For a conviction of violating a municipal ordinance that prohibits tow truck
- 43 operators from stopping at or proceeding to the scene of an accident unless they have been
- 44 requested to stop or proceed to such scene by a party involved in such accident or by an officer
- 45 of a public safety agency 4 points
- 46 2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess
- 47 an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section

48 302.020, when the director issues such operator a license or permit pursuant to the provisions
49 of sections 302.010 to 302.340.

50 3. An additional two points shall be assessed when personal injury or property damage
51 results from any violation listed in subdivisions (1) to (13) of subsection 1 of this section and if
52 found to be warranted and certified by the reporting court.

53 4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this
54 section constitutes both a violation of a state law and a violation of a county or municipal
55 ordinance, points may be assessed for either violation but not for both. Notwithstanding that an
56 offense arising out of the same occurrence could be construed to be a violation of subdivisions
57 (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more
58 than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for
59 offenses arising out of the same occurrence.

60 5. The director of revenue shall put into effect a system for staying the assessment of
61 points against an operator. The system shall provide that the satisfactory completion of a
62 driver-improvement program or, in the case of violations committed while operating a
63 motorcycle, a motorcycle-rider training course approved by the state highways and transportation
64 commission, by an operator, when so ordered and verified by any court having jurisdiction over
65 any law of this state or county or municipal ordinance, regulating motor vehicles, other than a
66 violation committed in a commercial motor vehicle as defined in section 302.700 or a violation
67 committed by an individual who has been issued a commercial driver's license or is required to
68 obtain a commercial driver's license in this state or any other state, shall be accepted by the
69 director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4)
70 of subsection 1 of this section or pursuant to subsection 3 of this section. A court using a
71 centralized violation bureau established under section 476.385, RSMo, may elect to have the
72 bureau order and verify completion of a driver-improvement program or motorcycle-rider
73 training course as prescribed by order of the court. For the purposes of this subsection, the
74 driver-improvement program shall meet or exceed the standards of the National Safety Council's
75 eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the
76 operation of a motorcycle, the program shall meet the standards established by the state highways
77 and transportation commission pursuant to sections 302.133 to 302.137. The completion of a
78 driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu
79 of points more than one time in any thirty-six-month period and shall be completed within sixty
80 days of the date of conviction in order to be accepted in lieu of the assessment of points. Every
81 court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days
82 after completion of the driver-improvement program or motorcycle-rider training course by an
83 operator, forward a record of the completion to the director, all other provisions of the law to the

84 contrary notwithstanding. The director shall establish procedures for record keeping and the
85 administration of this subsection.

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

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

302.750. 1. If a person refuses, upon the request of a law enforcement officer pursuant
2 to section 302.745, to submit to any test allowed under that section, [then none shall be given
3 and] evidence of the refusal shall be admissible in any proceeding to determine whether a person
4 was operating a commercial motor vehicle while under the influence of alcohol or controlled
5 substances. In this event, the officer shall make a sworn report to the director that he requested
6 a test pursuant to section 302.745 and that the person refused to submit to such testing.

7 2. A person requested to submit to a test as provided by section 302.745 shall be warned
8 by the law enforcement officer requesting the test that a refusal to submit to the test will result
9 in that person being immediately placed out of service for a period of twenty-four hours and

10 being disqualified from operating a commercial motor vehicle for a period of not less than one
11 year if for a first refusal to submit to the test and for life if for a second or subsequent refusal to
12 submit to the test. The director may issue rules and regulations, in accordance with guidelines
13 established by the secretary, under which a disqualification for life under this section may be
14 reduced to a period of not less than ten years.

15 3. Upon receipt of the sworn report of a law enforcement officer submitted under
16 subsection 1 of this section, the director shall disqualify the driver from operating a commercial
17 motor vehicle.

18 4. If a person has been disqualified from operating a commercial motor vehicle because
19 of his refusal to submit to a chemical test, he may request a hearing before a court of record in
20 the county in which the request was made. Upon his request, the clerk of the court shall notify
21 the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf
22 of the officer. At the hearing the judge shall determine only:

23 (1) Whether or not the law enforcement officer had reasonable grounds to believe that
24 the person was driving a commercial motor vehicle with any amount of alcohol in his system;

25 (2) Whether or not the person refused to submit to the test.

26 5. If the judge determines any issues not to be in the affirmative, he shall order the
27 director to reinstate the privilege to operate a commercial motor vehicle.

28 6. Requests for review as herein provided shall go to the head of the docket of the court
29 wherein filed.

478.001. 1. Drug courts may be established by any circuit court pursuant to sections
2 478.001 to 478.006 to provide an alternative for the judicial system to dispose of cases which
3 stem from drug use. A drug court shall combine judicial supervision, drug testing and treatment
4 of drug court participants. Except for good cause found by the court, a drug court making a
5 referral for substance abuse treatment, when such program will receive state or federal funds in
6 connection with such referral, shall refer the person only to a program which is certified by the
7 department of mental health, unless no appropriate certified treatment program is located within
8 the same county as the drug court. Upon successful completion of the treatment program, the
9 charges, petition or penalty against a drug court participant may be dismissed, reduced or
10 modified. Any fees received by a court from a defendant as payment for substance treatment
11 programs shall not be considered court costs, charges or fines.

12 2. A DWI docket may be established by any circuit court under sections 478.001
13 to 478.007 to provide an alternative for the judicial system to dispose of cases which stem
14 from driving while intoxicated. A drug court commissioner may serve as a commissioner
15 in a DWI court or any other treatment or problem-solving court as designated by the Drug
16 Court Coordinating Commission. Drug court commissioners may serve in counties other

17 **than the county they are appointed upon agreement by the presiding judge of that county**
18 **and assignment by the Supreme Court.**

478.003. In any judicial circuit of this state, a majority of the judges of the circuit court
2 may designate a judge to hear cases arising in the circuit subject to the provisions of sections
3 478.001 to [478.006] **478.007**. In lieu thereof and subject to appropriations or other funds
4 available for such purpose, a majority of the judges of the circuit court may appoint a person or
5 persons to act as drug **and alcohol** court commissioners. Each commissioner shall be appointed
6 for a term of four years, but may be removed at any time by a majority of the judges of the circuit
7 court. The qualifications and compensation of the commissioner shall be the same as that of an
8 associate circuit judge. If the compensation of a commissioner appointed pursuant to this section
9 is provided from other than state funds, the source of such fund shall pay to and reimburse the
10 state for the actual costs of the salary and benefits of the commissioner. The commissioner shall
11 have all the powers and duties of a circuit judge, except that any order, judgment or decree of the
12 commissioner shall be confirmed or rejected by an associate circuit or circuit judge by order of
13 record entered within the time the judge could set aside such order, judgment or decree had the
14 same been made by the judge. If so confirmed, the order, judgment or decree shall have the same
15 effect as if made by the judge on the date of its confirmation.

478.007. 1. Any circuit court may establish a docket or court to provide an
2 **alternative for the judicial system to dispose of cases in which a person has pleaded guilty**
3 **to driving while intoxicated or driving with excessive blood alcohol content and:**

4 (1) The person was operating a motor vehicle with at least fifteen-hundredths of
5 one percent or more by weight of alcohol in such person's blood; or

6 (2) The person has pleaded guilty to or has been found guilty of one or more
7 intoxication-related traffic offenses as defined by section 577.023.

8 **2. This docket or court shall combine judicial supervision, drug testing, continuous**
9 **alcohol monitoring, substance abuse traffic offender program compliance, and treatment**
10 **of DWI court participants. Any fees received by a court from a defendant as payment for**
11 **treatment programs shall not be considered court costs, charges, or fines. This docket or**
12 **court may operate in conjunction with a drug court established pursuant to sections**
13 **478.001 to 478.006.**

478.009. 1. In order to coordinate the allocation of resources available to drug courts
2 **and the dockets or courts established by section 478.007** throughout the state, there is hereby
3 established a "Drug Courts Coordinating Commission" in the judicial department. The drug
4 courts coordinating commission shall consist of one member selected by the director of the
5 department of corrections; one member selected by the director of the department of social
6 services; one member selected by the director of the department of mental health; one member

7 selected by the director of the department of public safety; one member selected by the state
8 courts administrator; and three members selected by the supreme court. The supreme court shall
9 designate the chair of the commission. The commission shall periodically meet at the call of the
10 chair; evaluate resources available for assessment and treatment of persons assigned to drug
11 courts or for operation of drug courts; secure grants, funds and other property and services
12 necessary or desirable to facilitate drug court operation; and allocate such resources among the
13 various drug courts operating within the state.

14 2. There is hereby established in the state treasury a "Drug Court Resources Fund",
15 which shall be administered by the drug courts coordinating commission. Funds available for
16 allocation or distribution by the drug courts coordinating commission may be deposited into the
17 drug court resources fund. Notwithstanding the provisions of section 33.080, RSMo, to the
18 contrary, moneys in the drug court resources fund shall not be transferred or placed to the credit
19 of the general revenue fund of the state at the end of each biennium, but shall remain deposited
20 to the credit of the drug court resources fund.

479.010. **Except as provided in section 577.023.18**, violations of municipal ordinances
2 shall be heard and determined only before divisions of the circuit court as hereinafter provided
3 in this chapter. "Heard and determined", for purposes of this chapter, shall mean any process
4 under which the court in question retains the final authority to make factual determinations
5 pertaining to allegations of a municipal ordinance violation, including, but not limited to, the use
6 of a system of administrative adjudication as provided in section 479.011, preliminary to a
7 determination by appeal to the court in question.

479.020. 1. Any city, town or village, including those operating under a constitutional
2 or special charter, may, and cities with a population of four hundred thousand or more shall,
3 provide by ordinance or charter for the selection, tenure and compensation of a municipal judge
4 or judges consistent with the provisions of this chapter who shall have original jurisdiction to
5 hear and determine all violations against the ordinances of the municipality. The method of
6 selection of municipal judges shall be provided by charter or ordinance. Each municipal judge
7 shall be selected for a term of not less than two years as provided by charter or ordinance.

8 2. Except where prohibited by charter or ordinance, the municipal judge may be a
9 part-time judge and may serve as municipal judge in more than one municipality.

10 3. No person shall serve as a municipal judge of any municipality with a population of
11 seven thousand five hundred or more or of any municipality in a county of the first class with a
12 charter form of government unless the person is licensed to practice law in this state unless, prior
13 to January 2, 1979, such person has served as municipal judge of that same municipality for at
14 least two years.

15 4. Notwithstanding any other statute, a municipal judge need not be a resident of the
16 municipality or of the circuit in which the municipal judge serves except where ordinance or
17 charter provides otherwise. Municipal judges shall be residents of Missouri.

18 5. Judges selected under the provisions of this section shall be municipal judges of the
19 circuit court and shall be divisions of the circuit court of the circuit in which the municipality,
20 or major geographical portion thereof, is located. The judges of these municipal divisions shall
21 be subject to the rules of the circuit court which are not inconsistent with the rules of the supreme
22 court. The presiding judge of the circuit shall have general administrative authority over the
23 judges and court personnel of the municipal divisions within the circuit.

24 6. No municipal judge shall hold any other office in the municipality which the
25 municipal judge serves as judge. The compensation of any municipal judge and other court
26 personnel shall not be dependent in any way upon the number of cases tried, the number of guilty
27 verdicts reached or the amount of fines imposed or collected.

28 7. Municipal judges shall be at least twenty-one years of age. No person shall serve as
29 municipal judge after that person has reached that person's seventy-fifth birthday.

30 8. Within six months after selection for the position, each municipal judge who is not
31 licensed to practice law in this state shall satisfactorily complete the course of instruction for
32 municipal judges prescribed by the supreme court. **The course of instruction shall include a**
33 **review of state laws on intoxication-related offenses as defined in section 577.023 including**
34 **jurisdictional issues related to such offenses, reporting requirements for those offenses to**
35 **the highway patrol central repository as set out in section 43.503 and required assessment**
36 **for offenders under the substance abuse traffic offender program (SATOP). Each**
37 **municipal judge shall adopt a written policy requiring that municipal court personnel**
38 **timely report all dispositions of all charges for intoxication-related traffic offenses to the**
39 **central repository. Circuit court clerks and municipal court clerks shall retain records of**
40 **the judgment, charging document, any amendments to the charging document and waiver**
41 **of counsel, if applicable, pertaining to intoxication-related traffic offense convictions for**
42 **not less than fifty years.** The state courts administrator shall certify to the supreme court the
43 names of those judges who satisfactorily complete the prescribed course. If a municipal judge
44 fails to complete satisfactorily the prescribed course within six months after the municipal
45 judge's selection as municipal judge, the municipal judge's office shall be deemed vacant and
46 such person shall not thereafter be permitted to serve as a municipal judge, nor shall any
47 compensation thereafter be paid to such person for serving as municipal judge.

479.170. **1. The provisions of this section shall be known as and referred to as**
2 **"Cary's Law".**

3 **2.** If, in the progress of any trial before a municipal judge, it shall appear to the judge that
4 the accused ought to be put upon trial for an offense against the criminal laws of the state and
5 not cognizable before him as municipal judge, he shall immediately stop all further proceedings
6 before him as municipal judge and cause the complaint to be made before some associate circuit
7 judge within the county.

8 **3.** For purposes of this section, these offenses are not cognizable in municipal court:

9 **(1)** Any offense involving the operation of a motor vehicle in an intoxicated
10 condition as defined in section 577.001, if the defendant has been convicted, found guilty,
11 or pled guilty to two or more previous intoxication-related traffic offenses as defined in
12 section 577.023 or had two or more previous alcohol-related enforcement contacts as
13 defined in section 302.525; or

14 **(2)** Any offense involving the operation of a motor vehicle in an intoxicated
15 condition as defined in section 577.001, if the defendant has been convicted, found guilty,
16 or pled guilty to a previous intoxication-related traffic offense as defined in section 577.023
17 and the pending offense resulted in physical injury requiring medical attention to a person
18 other than the driver.

19 **4.** The municipal prosecutor shall certify to the municipal judge that a review of
20 the defendant's driving record was conducted prior to exercising jurisdiction for
21 intoxicated-related traffic offenses. This review shall include a search of the Missouri
22 uniform law enforcement system (MULES) to include criminal history records from the
23 central repository, the driving while intoxicated tracking system (DWITS) maintained by
24 the highway patrol, and the driving record maintained by the Missouri department of
25 revenue.

26 **5.** Each municipal judge shall receive adequate instruction on the laws related to
27 intoxication-related traffic offenses as defined in section 577.023 including jurisdictional
28 issues related to such offenses, reporting requirements to the highway patrol central
29 repository as set out in section 43.503 and required assessment for offenders under the
30 substance abuse traffic offender program (SATOP). Each municipal judge shall adopt a
31 written policy requiring that municipal court personnel timely report all dispositions of all
32 charges for intoxication-related traffic offenses to the central repository.

33 **6.** Each municipal court shall provide a copy of its written policy for reporting
34 dispositions of intoxication-related offenses to the office of state courts administrator and
35 the highway patrol. To assist municipal courts, the office of state courts administrator may
36 create a model policy for the reporting of dispositions of all charges for intoxication-related
37 offenses.

38 **7. Each municipal division of every circuit court in the state of Missouri shall**
39 **prepare a report every six months. The report shall include, but shall not be limited to, the**
40 **total number and disposition of every intoxication-related offense adjudicated, dismissed**
41 **or pending in its municipal court division. The municipal court division shall submit said**
42 **report to the circuit court en banc. The report shall include the six month period**
43 **beginning January first and ending June thirtieth and the six month period beginning July**
44 **first and ending December thirty-first of each year. The report shall be submitted to the**
45 **circuit court en banc no later than sixty days following the end of the reporting period.**
46 **The circuit court en banc shall make recommendations or take any action it deems**
47 **appropriate based on its review of said reports.**

 542.286. 1. A warrant to search a person or any movable thing, **including a warrant**
2 **to collect a sample of a person's blood, breath, saliva, or urine,** may be executed in any part
3 of the state where the person or thing is found if, subsequent to the filing of the application, the
4 person or thing moves or is taken out of the territorial jurisdiction of the judge issuing the
5 warrant.

6 2. All other search warrants shall be executed within the territorial jurisdiction of the
7 court out of which the warrant issued and within the territorial jurisdiction of the officer
8 executing the warrant.

558.400. 1. Notwithstanding any other provision of law to the contrary, any
2 **offender committed to the department of corrections, except those persons who have**
3 **committed a dangerous felony under section 556.061 or any felony under chapter 565 or**
4 **who are considered a dangerous offender under section 558.016 or a persistent sexual**
5 **offender under section 558.018, or whose sentence of imprisonment involves the third or**
6 **subsequent commitment to the department of corrections, shall receive additional credit**
7 **toward service of the prison term and minimum prison term of the sentence of**
8 **imprisonment when the offender successfully completes an institutional program within**
9 **the department of corrections for the monitoring, control and treatment of substance or**
10 **alcohol abuse. For each day of participation in such completed program, the offender shall**
11 **receive one day of additional credit toward service of the prison term and minimum prison**
12 **term of the sentence of imprisonment. To qualify for additional credit for time served**
13 **under this section, the program in which the offender is participating shall require the**
14 **offender to reside in an area of a department of corrections facility that is specifically**
15 **designated for substance or alcohol abuse treatment participants during the time in which**
16 **the offender is in treatment.**

17 **2. Any credit received by an offender shall only apply to the sentence which the**
18 **offender is currently serving. Participation in such programs shall be at the discretion of**
19 **the department of corrections as otherwise provided for by statute and regulation.**

577.005. 1. Each law enforcement agency shall adopt a policy requiring that arrest
2 **information for all intoxication-related traffic offenses is forwarded to the central**
3 **repository as required by section 43.503 and shall certify adoption of such policy when**
4 **applying for any grants administered by the department of public safety.**

5 **2. Each county prosecuting attorney and municipal prosecutor shall adopt a policy**
6 **requiring that charge information for all intoxication-related traffic offenses is forwarded**
7 **to the central repository as required by section 43.503 and shall certify adoption of such**
8 **policy when applying for any grants administered by the department of public safety.**

9 **3. Effective January 1, 2011, the highway patrol shall, based on the data submitted,**
10 **maintain regular accountability reports of alcohol-related arrests, charges, and**
11 **dispositions.**

 577.010. 1. A person commits the crime of "driving while intoxicated" if he operates
2 a motor vehicle while in an intoxicated or drugged condition.

3 2. Driving while intoxicated is for the first offense, a class B misdemeanor, **unless the**
4 **offense occurred while a passenger under the age of sixteen was in the vehicle, in which**
5 **case such offense is a class A misdemeanor.** No person convicted of or pleading guilty to the
6 offense of driving while intoxicated shall be granted a suspended imposition of sentence for such
7 offense, unless such person shall be placed on probation for a minimum of two years.

 577.012. 1. A person commits the crime of "driving with excessive blood alcohol
2 content" if such person operates a motor vehicle in this state with eight-hundredths of one
3 percent or more by weight of alcohol in such person's blood.

4 2. As used in this section, percent by weight of alcohol in the blood shall be based upon
5 grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may
6 be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes
7 of determining the alcoholic content of a person's blood under this section, the test shall be
8 conducted in accordance with the provisions of sections 577.020 to 577.041.

9 3. For the first offense, driving with excessive blood alcohol content is a class B
10 misdemeanor, **unless the offense occurred while a passenger under the age of sixteen was**
11 **in the vehicle, in which case such offense is a class A misdemeanor.**

 577.020. 1. Any person who operates a motor vehicle upon the public highways of this
2 state shall be deemed to have given consent to, subject to the provisions of sections 577.019 to
3 577.041, a chemical test or tests of the person's breath, blood, saliva or urine for the purpose of

4 determining the alcohol or drug content of the person's blood pursuant to the following
5 circumstances:

6 (1) If the person is arrested for any offense arising out of acts which the arresting officer
7 had reasonable grounds to believe were committed while the person was driving a motor vehicle
8 while in an intoxicated or drugged condition; or

9 (2) If the person is under the age of twenty-one, has been stopped by a law enforcement
10 officer, and the law enforcement officer has reasonable grounds to believe that such person was
11 driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more
12 by weight; or

13 (3) If the person is under the age of twenty-one, has been stopped by a law enforcement
14 officer, and the law enforcement officer has reasonable grounds to believe that such person has
15 committed a violation of the traffic laws of the state, or any political subdivision of the state, and
16 such officer has reasonable grounds to believe, after making such stop, that such person has a
17 blood alcohol content of two-hundredths of one percent or greater;

18 (4) If the person is under the age of twenty-one, has been stopped at a sobriety
19 checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that
20 such person has a blood alcohol content of two-hundredths of one percent or greater;

21 (5) If the person, while operating a motor vehicle, has been involved in a motor vehicle
22 collision which resulted in a fatality or a readily apparent serious physical injury as defined in
23 section 565.002, RSMo, or has been arrested as evidenced by the issuance of a uniform traffic
24 ticket for the violation of any state law or county or municipal ordinance with the exception of
25 equipment violations contained in chapter 306, RSMo, or similar provisions contained in county
26 or municipal ordinances; or

27 (6) If the person, while operating a motor vehicle, has been involved in a motor vehicle
28 collision which resulted in a fatality or serious physical injury as defined in section 565.002,
29 RSMo.

30

31 The test shall be administered at the direction of the law enforcement officer whenever the
32 person has been arrested or stopped for any reason.

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

36 3. Chemical analysis of the person's breath, blood, saliva, or urine to be considered valid
37 pursuant to the provisions of sections 577.019 to 577.041 shall be performed according to
38 methods approved by the state department of health and senior services by licensed medical

39 personnel or by a person possessing a valid permit issued by the state department of health and
40 senior services for this purpose.

41 4. The state department of health and senior services shall approve satisfactory
42 techniques, devices, equipment, or methods to be considered valid pursuant to the provisions of
43 sections 577.019 to 577.041 and shall establish standards to ascertain the qualifications and
44 competence of individuals to conduct analyses and to issue permits which shall be subject to
45 termination or revocation by the state department of health and senior services.

46 5. The person tested may have a physician, or a qualified technician, chemist, registered
47 nurse, or other qualified person at the choosing and expense of the person to be tested, administer
48 a test in addition to any administered at the direction of a law enforcement officer. The failure
49 or inability to obtain an additional test by a person shall not preclude the admission of evidence
50 relating to the test taken at the direction of a law enforcement officer.

51 6. Upon the request of the person who is tested, full information concerning the test shall
52 be made available to such person. Full information is limited to the following:

53 (1) The type of test administered and the procedures followed;

54 (2) The time of the collection of the blood or breath sample or urine analyzed;

55 (3) The numerical results of the test indicating the alcohol content of the blood and
56 breath and urine;

57 (4) The type and status of any permit which was held by the person who performed the
58 test;

59 (5) If the test was administered by means of a breath-testing instrument, the date of
60 performance of the most recent required maintenance of such instrument.

61

62 Full information does not include manuals, schematics, or software of the instrument used to test
63 the person or any other material that is not in the actual possession of the state. Additionally, full
64 information does not include information in the possession of the manufacturer of the test
65 instrument.

66 7. Any person given a chemical test of the person's breath pursuant to subsection 1 of
67 this section or a field sobriety test may be videotaped during any such test at the direction of the
68 law enforcement officer. Any such video recording made during the chemical test pursuant to
69 this subsection or a field sobriety test shall be admissible as evidence at either any trial of such
70 person for either a violation of any state law or county or municipal ordinance, or any license
71 revocation or suspension proceeding pursuant to the provisions of chapter 302, RSMo.

72 **8. Due to the imminent destruction of evidence that may occur if a blood sample is**
73 **not drawn in a timely manner, a blood sample may be extracted without a warrant and**
74 **without consent from a person suspected of operating a motor vehicle in an intoxicated**

75 **condition if that person has refused to submit to a chemical test authorized under this**
76 **section. Any law enforcement officer taking a blood sample under this section shall file a**
77 **probable cause affidavit setting forth the basis for the blood draw with the associate circuit**
78 **court within seventy-two hours of arrest. Such affidavit must be executed by the seizing**
79 **officer stating the basis for the blood draw and showing probable cause for such blood**
80 **draw. The associate circuit judge shall review the affidavit ex parte and determine**
81 **whether probable cause existed for the blood draw. The blood draw shall be tested and**
82 **the results of the blood test on such sample are admissible in evidence pursuant to the**
83 **exigent circumstances exception to the warrant requirement only after a judge of**
84 **competent jurisdiction has determined that probable cause existed for the blood draw. No**
85 **law enforcement officer who requests that a blood sample be drawn for the purpose of**
86 **determining an individual's blood alcohol content shall be civilly liable for damages to the**
87 **individual from which the blood was drawn, unless for gross negligence or by willful or**
88 **wanton act or omission.**

577.021. 1. Any [state, county or municipal] law enforcement officer who has the power
2 of arrest for violations of section 577.010 or 577.012 and who is [certified] **licensed** pursuant
3 to chapter 590, RSMo, may, prior to arrest, administer a chemical test to any person suspected
4 of operating a motor vehicle in violation of section 577.010 or 577.012.

5 2. Any [state, county, or municipal] law enforcement officer who has the power of arrest
6 for violations of section 577.010 or 577.012 and who is [certified] **licensed** under chapter 590,
7 RSMo, shall make all reasonable efforts to administer a chemical test to any person suspected
8 of driving a motor vehicle involved in a collision which resulted in a fatality or serious physical
9 injury as defined in section 565.002, RSMo.

10 3. A test administered pursuant to this section shall be admissible as evidence of
11 probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence of
12 blood alcohol content. The provisions of sections 577.019 and 577.020 shall not apply to a test
13 administered prior to arrest pursuant to this section.

14

15 The provisions changing chapter 577 are severable from this legislation. The general assembly
16 would have enacted the remainder of this legislation without the changes made to chapter 577,
17 and the remainder of the legislation is not essentially and inseparably connected with or
18 dependent upon the changes to chapter 577.

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

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 of section 565.024, RSMo; murder in the second degree
8 under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic
9 offense; or assault in the second degree under subdivision (4) of subsection 1 of section 565.060,
10 RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of
11 subsection 1 of section 565.082, RSMo;

12 (2) A "chronic offender" is:

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

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

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

29 (3) "Continuous alcohol monitoring", automatically testing breath, blood, or transdermal
30 alcohol concentration levels and tampering attempts at least once every hour, regardless of the
31 location of the person who is being monitored, and regularly transmitting the data. Continuous
32 alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of
33 section 217.690, RSMo;

34 (4) An "intoxication-related traffic offense" is driving while intoxicated, driving with
35 excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of
36 subsection 1 of section 565.024, RSMo, murder in the second degree under section 565.021,
37 RSMo, where the underlying felony is an intoxication-related traffic offense, assault in the
38 second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of
39 a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of

40 section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state
41 law or a county or municipal ordinance;

42 (5) A "persistent offender" is one of the following:

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

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

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

53 2. Any person who pleads guilty to or is found guilty of a violation of section 577.010
54 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A
55 misdemeanor, **unless the offense occurred while a passenger under the age of sixteen was**
56 **in the vehicle, in which case such offense is a class D felony.**

57 3. Any person who pleads guilty to or is found guilty of a violation of section 577.010
58 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D
59 felony, **unless the offense occurred while a passenger under the age of sixteen was in the**
60 **vehicle, in which case such offense is a class C felony.**

61 4. Any person who pleads guilty to or is found guilty of a violation of section 577.010
62 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a
63 class C felony, **unless the offense occurred while a passenger under the age of sixteen was**
64 **in the vehicle, in which case such offense is a class B felony.**

65 5. Any person who pleads guilty to or is found guilty of a violation of section 577.010
66 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class
67 B felony, **unless the offense occurred while a passenger under the age of sixteen was in the**
68 **vehicle, in which case such offense is a class A felony.**

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

76 service. No persistent offender shall be eligible for parole or probation until he or she has served
77 a minimum of ten days imprisonment, unless as a condition of such parole or probation such
78 person performs at least sixty days of community service under the supervision of the court. No
79 aggravated offender shall be eligible for parole or probation until he or she has served a
80 minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or
81 probation until he or she has served a minimum of two years imprisonment. In addition to any
82 other terms or conditions of probation, the court shall consider, as a condition of probation for
83 any person who pleads guilty to or is found guilty of an intoxication-related traffic offense,
84 requiring the offender to abstain from consuming or using alcohol or any products containing
85 alcohol as demonstrated by continuous alcohol monitoring or by verifiable breath alcohol testing
86 performed a minimum of four times per day as scheduled by the court for such duration as
87 determined by the court, but not less than ninety days. The court may, in addition to imposing
88 any other fine, costs, or assessments provided by law, require the offender to bear any costs
89 associated with continuous alcohol monitoring or verifiable breath alcohol testing.

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

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

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

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

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

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

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

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

108 12. Nothing in this section shall prevent the use of presentence investigations or
109 commitments.

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

112 14. The pleas or findings of guilt shall be prior to the date of commission of the present
113 offense.

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

117 16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an
118 intoxication-related traffic offense shall be heard and determined by the trial court out of the
119 hearing of the jury prior to the submission of the case to the jury, and shall include but not be
120 limited to evidence of convictions received by a search of the records of the Missouri uniform
121 law enforcement system maintained by the Missouri state highway patrol. After hearing the
122 evidence, the court shall enter its findings thereon. A plea of guilty or a finding of guilt followed
123 by incarceration, a fine, a suspended imposition of sentence, suspended execution of sentence,
124 probation or parole or any combination thereof in any intoxication-related traffic offense in a
125 state, county or municipal court or any combination thereof, shall be treated as a prior plea of
126 guilty or finding of guilt for purposes of this section.

 577.029. A licensed physician, registered nurse, **phlebotomist**, or trained medical
2 technician, acting at the request and direction of the law enforcement officer, shall withdraw
3 blood for the purpose of determining the alcohol content of the blood, unless such medical
4 personnel, in his or her good faith medical judgment, believes such procedure would endanger
5 the life or health of the person in custody. Blood may be withdrawn only by such medical
6 personnel, but such restriction shall not apply to the taking of a breath test, a saliva specimen,
7 or a urine specimen. In withdrawing blood for the purpose of determining the alcohol content
8 thereof, only a previously unused and sterile needle and sterile vessel shall be utilized and the
9 withdrawal shall otherwise be in strict accord with accepted medical practices. Upon the request
10 of the person who is tested, full information concerning the test taken at the direction of the law
11 enforcement officer shall be made available to him or her.

 577.037. 1. Upon the trial of any person for violation of any of the provisions of section
2 565.024, RSMo, or section 565.060, RSMo, or section 577.010 or 577.012, or upon the trial of
3 any criminal action or violations of county or municipal ordinances or in any license suspension
4 or revocation proceeding pursuant to the provisions of chapter 302, RSMo, arising out of acts
5 alleged to have been committed by any person while driving a motor vehicle while in an
6 intoxicated condition, the amount of alcohol **and controlled substances** in the person's blood
7 at the time of the act alleged as shown by any chemical analysis of the person's blood, breath,
8 saliva or urine is admissible in evidence and the provisions of subdivision (5) of section 491.060,
9 RSMo, shall not prevent the admissibility or introduction of such evidence if otherwise

10 admissible. If there was eight-hundredths of one percent or more by weight of alcohol in the
11 person's blood, this shall be prima facie evidence that the person was intoxicated at the time the
12 specimen was taken.

13 2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per
14 one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

15 3. The foregoing provisions of this section shall not be construed as limiting the
16 introduction of any other competent evidence bearing upon the question whether the person was
17 intoxicated **or under the influence of controlled substances**.

18 4. A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise
19 to the presumption or to have the effect provided for in subsection 1 of this section, shall have
20 been performed as provided in sections 577.020 to 577.041 and in accordance with methods and
21 standards approved by the state department of health and senior services.

22 5. Any charge alleging a violation of section 577.010 or 577.012 or any county or
23 municipal ordinance prohibiting driving while intoxicated or driving under the influence of
24 alcohol shall be dismissed with prejudice if a chemical analysis of the defendant's breath, blood,
25 saliva, or urine performed in accordance with sections 577.020 to 577.041 and rules promulgated
26 thereunder by the state department of health and senior services demonstrate that there was less
27 than eight-hundredths of one percent of alcohol in the defendant's blood unless one or more of
28 the following considerations cause the court to find a dismissal unwarranted:

29 (1) There is evidence that the chemical analysis is unreliable as evidence of the
30 defendant's intoxication at the time of the alleged violation due to the lapse of time between the
31 alleged violation and the obtaining of the specimen;

32 (2) There is evidence that the defendant was under the influence of a controlled
33 substance, or drug, or a combination of either or both with or without alcohol; or

34 (3) There is substantial evidence of intoxication from physical observations of witnesses
35 or admissions of the defendant.

577.041. 1. If a person under arrest, or who has been stopped pursuant to subdivision
2 (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to
3 any test allowed pursuant to section 577.020, then [none shall be given and] evidence of the
4 refusal shall be admissible in a proceeding pursuant to section 565.024, 565.060, or 565.082,
5 RSMo, or section 577.010 or 577.012. The request of the officer shall include the reasons of the
6 officer for requesting the person to submit to a test and also shall inform the person that evidence
7 of refusal to take the test may be used against such person and that the person's license shall be
8 immediately revoked upon refusal to take the test. If a person when requested to submit to any
9 test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be

10 granted twenty minutes in which to attempt to contact an attorney. If upon the completion of the
11 twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a
12 refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of
13 license revocation personally upon the person and shall take possession of any license to operate
14 a motor vehicle issued by this state which is held by that person. The officer shall issue a
15 temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall
16 also give the person a notice of such person's right to file a petition for review to contest the
17 license revocation. **Nothing in this section shall be construed as prohibiting an officer from**
18 **obtaining a sample of blood in accordance with section 577.020.8 and urine from a person**
19 **without a warrant.**

20 2. The officer shall make a certified report under penalties of perjury for making a false
21 statement to a public official. The report shall be forwarded to the director of revenue and shall
22 include the following:

23 (1) That the officer has:

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

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

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

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

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

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

40 3. Upon receipt of the officer's report, the director shall revoke the license of the person
41 refusing to take the test for a period of [one year] **two years**; or if the person is a nonresident,
42 such person's operating permit or privilege shall be revoked for [one year] **two years**; or if the
43 person is a resident without a license or permit to operate a motor vehicle in this state, an order

44 shall be issued denying the person the issuance of a license or permit for a period of [one year]
45 **two years.**

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

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

58 (2) Whether or not the officer had:

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

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

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

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

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

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

73 7. No person who has had a license to operate a motor vehicle suspended or revoked
74 pursuant to the provisions of this section shall have that license reinstated until such person has
75 participated in and successfully completed a substance abuse traffic offender program defined
76 in section 577.001, or a program determined to be comparable by the department of mental
77 health [or the court]. Assignment recommendations, based upon the needs assessment as
78 described in subdivision [(22)] **(23)** of section 302.010, RSMo, shall be delivered in writing to

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

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

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

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

119 10. Any person who has had a license to operate a motor vehicle revoked more than once
120 for violation of the provisions of this section shall be required to file proof with the director of
121 revenue that any motor vehicle operated by the person is equipped with a functioning, certified
122 ignition interlock device as a required condition of license reinstatement. Such ignition interlock
123 device shall further be required to be maintained on all motor vehicles operated by the person
124 for a period of not less than six months immediately following the date of reinstatement. If the
125 person fails to maintain such proof with the director as required by this section, the license shall
126 be rerevoked and the person shall be guilty of a class A misdemeanor.

127 11. The revocation period of any person whose license and driving privilege has been
128 revoked under this section and who has filed proof of financial responsibility with the
129 department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall
130 be terminated by a notice from the director of revenue after [one year] **two years** from the
131 effective date of the revocation. Unless proof of financial responsibility is filed with the
132 department of revenue, the revocation shall remain in effect for a period of [two] **three** years
133 from its effective date. If the person fails to maintain proof of financial responsibility in
134 accordance with chapter 303, RSMo, the person's license and driving privilege shall be rerevoked
135 [and the person shall be guilty of a class A misdemeanor].

577.049. 1. Upon a plea of guilty or a finding of guilty for an offense of violating the
2 provisions of section 577.010 or 577.012 or violations of county or municipal ordinances
3 involving alcohol- or drug-related traffic offenses, the court shall order the person to participate
4 in and successfully complete a substance abuse traffic offender program defined in section
5 577.001. **The court order shall establish a time limit for the person to successfully complete**
6 **the substance abuse traffic offender program requirements.**

7 2. The fees for the substance abuse traffic offender program, or a portion thereof, to be
8 determined by the division of alcohol and drug abuse of the department of mental health, shall
9 be paid by the person enrolling in the program. Any person who is enrolled in the program shall
10 pay, in addition to any fee charged for the program, a supplemental fee to be determined by the
11 department of mental health for the purposes of funding the substance abuse traffic offender
12 program defined in section 302.010, RSMo, and section 577.001. The administrator of the
13 program shall remit to the division of alcohol and drug abuse of the department of mental health

14 on or before the fifteenth day of each month the supplemental fees for all persons enrolled in the
15 program, less two percent for administrative costs. Interest shall be charged on any unpaid
16 balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this
17 section and shall accrue at a rate not to exceed the annual rates established pursuant to the
18 provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and
19 any interest received by the department of mental health pursuant to this section shall be
20 deposited in the mental health earnings fund which is created in section 630.053, RSMo.

21 3. Any administrator who fails to remit to the division of alcohol and drug abuse of the
22 department of mental health the supplemental fees and interest for all persons enrolled in the
23 program pursuant to this section shall be subject to a penalty equal to the amount of interest
24 accrued on the supplemental fees due the division pursuant to this section. If the supplemental
25 fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the
26 department of mental health within six months of the due date, the attorney general of the state
27 of Missouri shall initiate appropriate action of the collection of said fees and interest accrued.
28 The court shall assess attorney fees and court costs against any delinquent program.

577.054. 1. After a period of not less than ten years, an individual who has pleaded
2 guilty or has been convicted for a first alcohol-related driving offense which is a misdemeanor
3 or a county or city ordinance violation and which is not a conviction for driving a commercial
4 motor vehicle while under the influence of alcohol and who since such date has not been
5 convicted of any other alcohol-related driving offense may apply to the court in which he or she
6 pled guilty or was sentenced for an order to expunge from all official records all recordations of
7 his or her arrest, plea, trial or conviction. If the court determines, after hearing, that such person
8 has not been convicted of any **subsequent** alcohol-related driving offense [in the ten years prior
9 to the date of the application for expungement, and] , has no other **subsequent** alcohol-related
10 enforcement contacts as defined in section 302.525, RSMo, [during that ten-year period,] **and**
11 **has no other alcohol-related driving charges or alcohol-related enforcement actions**
12 **pending at the time of the hearing on the application**, the court shall enter an order of
13 expungement. Upon granting of the order of expungement, the records and files maintained in
14 any administrative or court proceeding in an associate or circuit division of the circuit court
15 under this section shall be confidential and only available to the parties or by order of the court
16 for good cause shown. The effect of such order shall be to restore such person to the status he
17 or she occupied prior to such arrest, plea or conviction and as if such event had never taken
18 place. No person as to whom such order has been entered shall be held thereafter under any
19 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his
20 or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in

21 response to any inquiry made of him or her for any purpose whatsoever and no such inquiry shall
22 be made for information relating to an expungement under this section. A person shall only be
23 entitled to one expungement pursuant to this section. Nothing contained in this section shall
24 prevent the director from maintaining such records as to ensure that an individual receives only
25 one expungement pursuant to this section for the purpose of informing the proper authorities of
26 the contents of any record maintained pursuant to this section.

27 2. The provisions of this section shall not apply to any individual who has been issued
28 a commercial driver's license or is required to possess a commercial driver's license issued by
29 this state or any other state.

2 [302.536. If the judge upholds the department's ruling to suspend or
3 revoke a person's license after a hearing conducted pursuant to subsection 1 of
4 section 302.535, and the person appeals such ruling, the department shall pay any
5 court costs and attorney fees the person incurs pursuant to such appeal if the court
6 reverses the department's ruling to suspend or revoke such person's license.]

2 [577.039. An arrest without a warrant by a law enforcement officer,
3 including a uniformed member of the state highway patrol, for a violation of
4 section 577.010 or 577.012 is lawful whenever the arresting officer has
5 reasonable grounds to believe that the person to be arrested has violated the
6 section, whether or not the violation occurred in the presence of the arresting
7 officer and when such arrest without warrant is made within one and one-half
8 hours after such claimed violation occurred, unless the person to be arrested has
9 left the scene of an accident or has been removed from the scene to receive
10 medical treatment, in which case such arrest without warrant may be made more
than one and one-half hours after such violation occurred.]

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