

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1371
97TH GENERAL ASSEMBLY

4510S.10T

2014

AN ACT

To repeal sections 160.261, 167.115, 167.171, 188.030, 195.130, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212, 556.061, 558.019, 559.036, 559.106, 559.115, 559.633, 565.002, 565.073, 566.135, 566.147, 566.148, 566.149, 577.001, 577.010, 577.020, 577.037, 577.041, and 660.315, RSMo, and section 476.055 as enacted by senate committee substitute for house bill no. 1460 merged with conference committee substitute for house committee substitute for senate bill no. 628, ninety-sixth general assembly, second regular session, section 476.055 as enacted by conference committee substitute for house committee substitute for senate bill no. 636, ninety-sixth general assembly, second regular session, and sections 160.261, 167.115, 167.171, 188.030, 197.1036, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212, 476.055, 545.940, 556.061, 558.019, 559.036, 559.106, 559.115, 559.633, 565.002, 565.073, 566.147, 566.148, 566.149, 577.001, 577.010, 577.013, 577.020, 577.037, 577.041, 579.060, and 579.105 as enacted by house committee substitute for senate substitute for senate committee substitute for senate bill no. 491, ninety-seventh general assembly, second regular session, and to enact in lieu thereof thirty-two new sections relating to the Missouri criminal code restructuring, with penalty provisions and an effective date for certain sections.

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

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.

Section A. Sections 160.261, 167.115, 167.171, 188.030, 195.130, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212, 556.061, 558.019, 559.036, 559.106, 559.115, 559.633, 565.002, 565.073, 566.135, 566.147, 566.148, 566.149, 577.001, 577.010, 577.020, 577.037, 577.041, and 660.315, RSMo, and section 476.055 as enacted by senate committee substitute for house bill no. 1460 merged with conference committee substitute for house committee substitute for senate bill no. 628, ninety-sixth general assembly, second regular session, section 476.055 as enacted by conference committee substitute for house committee substitute for senate bill no. 636, ninety-sixth general assembly, second regular session, and sections 160.261, 167.115, 167.171, 188.030, 197.1036, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212, 476.055, 545.940, 556.061, 558.019, 559.036, 559.106, 559.115, 559.633, 565.002, 565.073, 566.147, 566.148, 566.149, 577.001, 577.010, 577.013, 577.020, 577.037, 577.041, 579.060, and 579.105 as enacted by house committee substitute for senate substitute for senate committee substitute for senate bill no. 491, ninety-seventh general assembly, second regular session, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 160.261, 167.115, 167.171, 188.030, 197.1036, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212, 476.055, 545.940, 556.061, 558.019, 559.036, 559.106, 559.115, 559.633, 565.002, 565.073, 566.147, 566.148, 566.149, 577.001, 577.010, 577.013, 577.020, 577.037, 577.041, 579.060, and 579.105, to read as follows:

160.261. 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion

19 of physical force by a student with the intent to do serious physical injury as defined in
20 [subdivision (6) of] section [565.002] **556.061** to another person while on school property,
21 including a school bus in service on behalf of the district, or while involved in school activities.
22 The policy shall at a minimum require school administrators to report, as soon as reasonably
23 practical, to the appropriate law enforcement agency any of the following crimes, or any act
24 which if committed by an adult would be one of the following crimes:

- 25 (1) First degree murder under section 565.020;
- 26 (2) Second degree murder under section 565.021;
- 27 (3) Kidnapping under section 565.110 **as it existed prior to January 1, 2017, or**
28 **kidnapping in the first degree under section 565.110;**
- 29 (4) First degree assault under section 565.050;
- 30 (5) Rape in the first degree under section 566.030;
- 31 (6) Sodomy in the first degree under section 566.060;
- 32 (7) Burglary in the first degree under section 569.160;
- 33 (8) Burglary in the second degree under section 569.170;
- 34 (9) Robbery in the first degree under section 569.020 **as it existed prior to January 1,**
35 **2017, or robbery in the first degree under section 570.023;**
- 36 (10) Distribution of drugs under section 195.211 **as it existed prior to January 1, 2017,**
37 **or manufacture of a controlled substance under section 579.055;**
- 38 (11) Distribution of drugs to a minor under section 195.212 **as it existed prior to**
39 **January 1, 2017, or delivery of a controlled substance under section 579.020;**
- 40 (12) Arson in the first degree under section 569.040;
- 41 (13) Voluntary manslaughter under section 565.023;
- 42 (14) Involuntary manslaughter under section 565.024 **as it existed prior to January 1,**
43 **2017, involuntary manslaughter in the first degree under section 565.024, or involuntary**
44 **manslaughter in the second degree under section 565.027;**
- 45 (15) Second degree assault under section 565.060 **as it existed prior to January 1,**
46 **2017, or second degree assault under section 565.052;**
- 47 (16) Rape in the second degree under section 566.031;
- 48 (17) Felonious restraint under section 565.120 **as it existed prior to January 1, 2017,**
49 **or kidnapping in the second degree under section 565.120;**
- 50 (18) Property damage in the first degree under section 569.100;
- 51 (19) The possession of a weapon under chapter 571;
- 52 (20) Child molestation in the first degree pursuant to section 566.067 **as it existed prior**
53 **to January 1, 2017, or child molestation in the first, second, or third degree pursuant to**
54 **section 566.067, 566.068, or 566.069;**

- 55 (21) Sodomy in the second degree pursuant to section 566.061;
56 (22) Sexual misconduct involving a child pursuant to section 566.083;
57 (23) Sexual abuse in the first degree pursuant to section 566.100;
58 (24) Harassment under section 565.090 **as it existed prior to January 1, 2017, or**
59 **harassment in the first degree under section 565.090;** or
60 (25) Stalking under section 565.225 **as it existed prior to January 1, 2017, or stalking**
61 **in the first degree under section 565.225;**

62
63 committed on school property, including but not limited to actions on any school bus in service
64 on behalf of the district or while involved in school activities. The policy shall require that any
65 portion of a student's individualized education program that is related to demonstrated or
66 potentially violent behavior shall be provided to any teacher and other school district employees
67 who are directly responsible for the student's education or who otherwise interact with the
68 student on an educational basis while acting within the scope of their assigned duties. The policy
69 shall also contain the consequences of failure to obey standards of conduct set by the local board
70 of education, and the importance of the standards to the maintenance of an atmosphere where
71 orderly learning is possible and encouraged.

72 3. The policy shall provide that any student who is on suspension for any of the offenses
73 listed in subsection 2 of this section or any act of violence or drug-related activity defined by
74 school district policy as a serious violation of school discipline pursuant to subsection 9 of this
75 section shall have as a condition of his or her suspension the requirement that such student is not
76 allowed, while on such suspension, to be within one thousand feet of any school property in the
77 school district where such student attended school or any activity of that district, regardless of
78 whether or not the activity takes place on district property unless:

79 (1) Such student is under the direct supervision of the student's parent, legal guardian,
80 or custodian and the superintendent or the superintendent's designee has authorized the student
81 to be on school property;

82 (2) Such student is under the direct supervision of another adult designated by the
83 student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school
84 which suspended the student and the superintendent or the superintendent's designee has
85 authorized the student to be on school property;

86 (3) Such student is enrolled in and attending an alternative school that is located within
87 one thousand feet of a public school in the school district where such student attended school;
88 or

89 (4) Such student resides within one thousand feet of any public school in the school
90 district where such student attended school in which case such student may be on the property
91 of his or her residence without direct adult supervision.

92 4. Any student who violates the condition of suspension required pursuant to subsection
93 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of
94 sections 167.161, 167.164, and 167.171. In making this determination consideration shall be
95 given to whether the student poses a threat to the safety of any child or school employee and
96 whether such student's unsupervised presence within one thousand feet of the school is disruptive
97 to the educational process or undermines the effectiveness of the school's disciplinary policy.
98 Removal of any pupil who is a student with a disability is subject to state and federal procedural
99 rights. This section shall not limit a school district's ability to:

100 (1) Prohibit all students who are suspended from being on school property or attending
101 an activity while on suspension;

102 (2) Discipline students for off-campus conduct that negatively affects the educational
103 environment to the extent allowed by law.

104 5. The policy shall provide for a suspension for a period of not less than one year, or
105 expulsion, for a student who is determined to have brought a weapon to school, including but
106 not limited to the school playground or the school parking lot, brought a weapon on a school bus
107 or brought a weapon to a school activity whether on or off of the school property in violation of
108 district policy, except that:

109 (1) The superintendent or, in a school district with no high school, the principal of the
110 school which such child attends may modify such suspension on a case-by-case basis; and

111 (2) This section shall not prevent the school district from providing educational services
112 in an alternative setting to a student suspended under the provisions of this section.

113 6. For the purpose of this section, the term "weapon" shall mean a firearm as defined
114 under 18 U.S.C. 921 and the following items, as defined in section 571.010: a blackjack, a
115 concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife,
116 knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade
117 knife; except that this section shall not be construed to prohibit a school board from adopting a
118 policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for
119 educational purposes so long as the firearm is unloaded. The local board of education shall
120 define weapon in the discipline policy. Such definition shall include the weapons defined in this
121 subsection but may also include other weapons.

122 7. All school district personnel responsible for the care and supervision of students are
123 authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any

property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

8. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by the school district, shall not be civilly liable when acting in conformity with the established policies developed by each board, including but not limited to policies of student discipline or when reporting to his or her supervisor or other person as mandated by state law acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. "Acts of violence" as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020 to any school district in which the student subsequently attempts to enroll.

10. Spanking, when administered by certificated personnel and in the presence of a witness who is an employee of the school district, or the use of reasonable force to protect persons or property, when administered by personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210. The provisions of sections 210.110 to 210.165 notwithstanding, the children's division shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to the use of reasonable force to protect persons or property when administered by personnel of a school district or any spanking administered in a reasonable manner by any certificated school personnel in the presence of a witness who is an employee of the school district pursuant to a written policy of discipline established by the board of education of the school district, as long as no allegation of sexual misconduct arises from the spanking or use of force.

11. If a student reports alleged sexual misconduct on the part of a teacher or other school employee to a person employed in a school facility who is required to report such misconduct

160 to the children's division under section 210.115, such person and the superintendent of the school
161 district shall report the allegation to the children's division as set forth in section 210.115.
162 Reports made to the children's division under this subsection shall be investigated by the division
163 in accordance with the provisions of sections 210.145 to 210.153 and shall not be investigated
164 by the school district under subsections 12 to 20 of this section for purposes of determining
165 whether the allegations should or should not be substantiated. The district may investigate the
166 allegations for the purpose of making any decision regarding the employment of the accused
167 employee.

168 12. Upon receipt of any reports of child abuse by the children's division other than
169 reports provided under subsection 11 of this section, pursuant to sections 210.110 to 210.165
170 which allegedly involve personnel of a school district, the children's division shall notify the
171 superintendent of schools of the district or, if the person named in the alleged incident is the
172 superintendent of schools, the president of the school board of the school district where the
173 alleged incident occurred.

174 13. If, after an initial investigation, the superintendent of schools or the president of the
175 school board finds that the report involves an alleged incident of child abuse other than the
176 administration of a spanking by certificated school personnel or the use of reasonable force to
177 protect persons or property when administered by school personnel pursuant to a written policy
178 of discipline or that the report was made for the sole purpose of harassing a public school
179 employee, the superintendent of schools or the president of the school board shall immediately
180 refer the matter back to the children's division and take no further action. In all matters referred
181 back to the children's division, the division shall treat the report in the same manner as other
182 reports of alleged child abuse received by the division.

183 14. If the report pertains to an alleged incident which arose out of or is related to a
184 spanking administered by certificated personnel or the use of reasonable force to protect persons
185 or property when administered by personnel of a school district pursuant to a written policy of
186 discipline or a report made for the sole purpose of harassing a public school employee, a
187 notification of the reported child abuse shall be sent by the superintendent of schools or the
188 president of the school board to the law enforcement in the county in which the alleged incident
189 occurred.

190 15. The report shall be jointly investigated by the law enforcement officer and the
191 superintendent of schools or, if the subject of the report is the superintendent of schools, by a law
192 enforcement officer and the president of the school board or such president's designee.

193 16. The investigation shall begin no later than forty-eight hours after notification from
194 the children's division is received, and shall consist of, but need not be limited to, interviewing
195 and recording statements of the child and the child's parents or guardian within two working days

196 after the start of the investigation, of the school district personnel allegedly involved in the
197 report, and of any witnesses to the alleged incident.

198 17. The law enforcement officer and the investigating school district personnel shall
199 issue separate reports of their findings and recommendations after the conclusion of the
200 investigation to the school board of the school district within seven days after receiving notice
201 from the children's division.

202 18. The reports shall contain a statement of conclusion as to whether the report of alleged
203 child abuse is substantiated or is unsubstantiated.

204 19. The school board shall consider the separate reports referred to in subsection 17 of
205 this section and shall issue its findings and conclusions and the action to be taken, if any, within
206 seven days after receiving the last of the two reports. The findings and conclusions shall be
207 made in substantially the following form:

208 (1) The report of the alleged child abuse is unsubstantiated. The law enforcement officer
209 and the investigating school board personnel agree that there was not a preponderance of
210 evidence to substantiate that abuse occurred;

211 (2) The report of the alleged child abuse is substantiated. The law enforcement officer
212 and the investigating school district personnel agree that the preponderance of evidence is
213 sufficient to support a finding that the alleged incident of child abuse did occur;

214 (3) The issue involved in the alleged incident of child abuse is unresolved. The law
215 enforcement officer and the investigating school personnel are unable to agree on their findings
216 and conclusions on the alleged incident.

217 20. The findings and conclusions of the school board under subsection 19 of this section
218 shall be sent to the children's division. If the findings and conclusions of the school board are
219 that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated,
220 the case closed, and no record shall be entered in the children's division central registry. If the
221 findings and conclusions of the school board are that the report of the alleged child abuse is
222 substantiated, the children's division shall report the incident to the prosecuting attorney of the
223 appropriate county along with the findings and conclusions of the school district and shall
224 include the information in the division's central registry. If the findings and conclusions of the
225 school board are that the issue involved in the alleged incident of child abuse is unresolved, the
226 children's division shall report the incident to the prosecuting attorney of the appropriate county
227 along with the findings and conclusions of the school board, however, the incident and the names
228 of the parties allegedly involved shall not be entered into the central registry of the children's
229 division unless and until the alleged child abuse is substantiated by a court of competent
230 jurisdiction.

231 21. Any superintendent of schools, president of a school board or such person's designee
232 or law enforcement officer who knowingly falsifies any report of any matter pursuant to this
233 section or who knowingly withholds any information relative to any investigation or report
234 pursuant to this section is guilty of a class A misdemeanor.

235 22. In order to ensure the safety of all students, should a student be expelled for bringing
236 a weapon to school, violent behavior, or for an act of school violence, that student shall not, for
237 the purposes of the accreditation process of the Missouri school improvement plan, be
238 considered a dropout or be included in the calculation of that district's educational persistence
239 ratio.

 167.115. 1. Notwithstanding any provision of chapter 211 or chapter 610 to the contrary,
2 the juvenile officer, sheriff, chief of police or other appropriate law enforcement authority shall,
3 as soon as reasonably practical, notify the superintendent, or the superintendent's designee, of
4 the school district in which the pupil is enrolled when a petition is filed pursuant to subsection
5 1 of section 211.031 alleging that the pupil has committed one of the following acts:

- 6 (1) First degree murder under section 565.020;
- 7 (2) Second degree murder under section 565.021;
- 8 (3) Kidnapping under section 565.110 **as it existed prior to January 1, 2017, or**
9 **kidnapping in the first degree under section 565.110;**
- 10 (4) First degree assault under section 565.050;
- 11 (5) Forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape
12 in the first degree under section 566.030;
- 13 (6) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013, or
14 sodomy in the first degree under section 566.060;
- 15 (7) Burglary in the first degree under section 569.160;
- 16 (8) Robbery in the first degree under section 569.020 **as it existed prior to January 1,**
17 **2017, or robbery in the first degree under section 570.023;**
- 18 (9) Distribution of drugs under section 195.211 **as it existed prior to January 1, 2017,**
19 **or manufacture of a controlled substance under section 579.055;**
- 20 (10) Distribution of drugs to a minor under section 195.212 **as it existed prior to**
21 **January 1, 2017, or delivery of a controlled substance under section 579.020;**
- 22 (11) Arson in the first degree under section 569.040;
- 23 (12) Voluntary manslaughter under section 565.023;
- 24 (13) Involuntary manslaughter under section 565.024 **as it existed prior to January 1,**
25 **2017, involuntary manslaughter in the first degree under section 565.024, or involuntary**
26 **manslaughter in the second degree under section 565.027;**

- 27 (14) Second degree assault under section 565.060 **as it existed prior to January 1,**
28 **2017, or second degree assault under section 565.052;**
- 29 (15) Sexual assault under section 566.040 as it existed prior to August 28, 2013, or rape
30 in the second degree under section 566.031;
- 31 (16) Felonious restraint under section 565.120 **as it existed prior to January 1, 2017,**
32 **or kidnapping in the second degree under section 565.120;**
- 33 (17) Property damage in the first degree under section 569.100;
- 34 (18) The possession of a weapon under chapter 571;
- 35 (19) Child molestation in the first degree pursuant to section 566.067 **as it existed prior**
36 **to January 1, 2017;**
- 37 (20) **Child molestation in the first, second, or third degree pursuant to sections**
38 **566.067, 566.068, or 566.069;**
- 39 (21) Deviate sexual assault pursuant to section 566.070 as it existed prior to August 28,
40 2013, or sodomy in the second degree under section 566.061;
- 41 [(21)] (22) Sexual misconduct involving a child pursuant to section 566.083; or
42 [(22)] (23) Sexual abuse pursuant to section 566.100 as it existed prior to August 28,
43 2013, or sexual abuse in the first degree under section 566.100.
- 44 2. The notification shall be made orally or in writing, in a timely manner, no later than
45 five days following the filing of the petition. If the report is made orally, written notice shall
46 follow in a timely manner. The notification shall include a complete description of the conduct
47 the pupil is alleged to have committed and the dates the conduct occurred but shall not include
48 the name of any victim. Upon the disposition of any such case, the juvenile office or prosecuting
49 attorney or their designee shall send a second notification to the superintendent providing the
50 disposition of the case, including a brief summary of the relevant finding of facts, no later than
51 five days following the disposition of the case.
- 52 3. The superintendent or the designee of the superintendent shall report such information
53 to teachers and other school district employees with a need to know while acting within the scope
54 of their assigned duties. Any information received by school district officials pursuant to this
55 section shall be received in confidence and used for the limited purpose of assuring that good
56 order and discipline is maintained in the school. This information shall not be used as the sole
57 basis for not providing educational services to a public school pupil.
- 58 4. The superintendent shall notify the appropriate division of the juvenile or family court
59 upon any pupil's suspension for more than ten days or expulsion of any pupil that the school
60 district is aware is under the jurisdiction of the court.

61 5. The superintendent or the superintendent's designee may be called to serve in a
62 consultant capacity at any dispositional proceedings pursuant to section 211.031 which may
63 involve reference to a pupil's academic treatment plan.

64 6. Upon the transfer of any pupil described in this section to any other school district in
65 this state, the superintendent or the superintendent's designee shall forward the written
66 notification given to the superintendent pursuant to subsection 2 of this section to the
67 superintendent of the new school district in which the pupil has enrolled. Such written
68 notification shall be required again in the event of any subsequent transfer by the pupil.

69 7. As used in this section, the terms "school" and "school district" shall include any
70 charter, private or parochial school or school district, and the term "superintendent" shall include
71 the principal or equivalent chief school officer in the cases of charter, private or parochial
72 schools.

73 8. The superintendent or the designee of the superintendent or other school employee
74 who, in good faith, reports information in accordance with the terms of this section and section
75 160.261 shall not be civilly liable for providing such information.

167.171. 1. The school board in any district, by general rule and for the causes provided
2 in section 167.161, may authorize the summary suspension of pupils by principals of schools for
3 a period not to exceed ten school days and by the superintendent of schools for a period not to
4 exceed one hundred and eighty school days. In case of a suspension by the superintendent for
5 more than ten school days, the pupil, the pupil's parents or others having such pupil's custodial
6 care may appeal the decision of the superintendent to the board or to a committee of board
7 members appointed by the president of the board which shall have full authority to act in lieu of
8 the board. Any suspension by a principal shall be immediately reported to the superintendent
9 who may revoke the suspension at any time. In event of an appeal to the board, the
10 superintendent shall promptly transmit to it a full report in writing of the facts relating to the
11 suspension, the action taken by the superintendent and the reasons therefor and the board, upon
12 request, shall grant a hearing to the appealing party to be conducted as provided in section
13 167.161.

14 2. No pupil shall be suspended unless:

15 (1) The pupil shall be given oral or written notice of the charges against such pupil;

16 (2) If the pupil denies the charges, such pupil shall be given an oral or written
17 explanation of the facts which form the basis of the proposed suspension;

18 (3) The pupil shall be given an opportunity to present such pupil's version of the
19 incident; and

20 (4) In the event of a suspension for more than ten school days, where the pupil gives
21 notice that such pupil wishes to appeal the suspension to the board, the suspension shall be

22 stayed until the board renders its decision, unless in the judgment of the superintendent of
23 schools, or of the district superintendent, the pupil's presence poses a continuing danger to
24 persons or property or an ongoing threat of disrupting the academic process, in which case the
25 pupil may be immediately removed from school, and the notice and hearing shall follow as soon
26 as practicable.

27 3. No school board shall readmit or enroll a pupil properly suspended for more than ten
28 consecutive school days for an act of school violence as defined in subsection 2 of section
29 160.261 regardless of whether or not such act was committed at a public school or at a private
30 school in this state, provided that such act shall have resulted in the suspension or expulsion of
31 such pupil in the case of a private school, or otherwise permit such pupil to attend school without
32 first holding a conference to review the conduct that resulted in the expulsion or suspension and
33 any remedial actions needed to prevent any future occurrences of such or related conduct. The
34 conference shall include the appropriate school officials including any teacher employed in that
35 school or district directly involved with the conduct that resulted in the suspension or expulsion,
36 the pupil, the parent or guardian of the pupil or any agency having legal jurisdiction, care,
37 custody or control of the pupil. The school board shall notify in writing the parents or guardians
38 and all other parties of the time, place, and agenda of any such conference. Failure of any party
39 to attend this conference shall not preclude holding the conference. Notwithstanding any
40 provision of this subsection to the contrary, no pupil shall be readmitted or enrolled to a regular
41 program of instruction if:

42 (1) Such pupil has been convicted of; or

43 (2) An indictment or information has been filed alleging that the pupil has committed
44 one of the acts enumerated in subdivision (4) of this subsection to which there has been no final
45 judgment; or

46 (3) A petition has been filed pursuant to section 211.091 alleging that the pupil has
47 committed one of the acts enumerated in subdivision (4) of this subsection to which there has
48 been no final judgment; or

49 (4) The pupil has been adjudicated to have committed an act which if committed by an
50 adult would be one of the following:

51 (a) First degree murder under section 565.020;

52 (b) Second degree murder under section 565.021;

53 (c) First degree assault under section 565.050;

54 (d) Forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape
55 in the first degree under section 566.030;

56 (e) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013, or
57 sodomy in the first degree under section 566.060;

- 58 (f) Statutory rape under section 566.032;
59 (g) Statutory sodomy under section 566.062;
60 (h) Robbery in the first degree under section 569.020 **as it existed prior to January 1,**
61 **2017, or robbery in the first degree under section 570.023;**
62 (i) Distribution of drugs to a minor under section 195.212 **as it existed prior to January**
63 **1, 2017, or delivery of a controlled substance under section 579.020;**
64 (j) Arson in the first degree under section 569.040;
65 (k) Kidnapping **or kidnapping in the first degree**, when classified as a class A felony
66 under section 565.110.

67

68 Nothing in this subsection shall prohibit the readmittance or enrollment of any pupil if a petition
69 has been dismissed, or when a pupil has been acquitted or adjudicated not to have committed any
70 of the above acts. This subsection shall not apply to a student with a disability, as identified
71 under state eligibility criteria, who is convicted or adjudicated guilty as a result of an action
72 related to the student's disability. Nothing in this subsection shall be construed to prohibit a
73 school district which provides an alternative education program from enrolling a pupil in an
74 alternative education program if the district determines such enrollment is appropriate.

75 4. If a pupil is attempting to enroll in a school district during a suspension or expulsion
76 from another in-state or out-of-state school district including a private, charter or parochial
77 school or school district, a conference with the superintendent or the superintendent's designee
78 may be held at the request of the parent, court-appointed legal guardian, someone acting as a
79 parent as defined by rule in the case of a special education student, or the pupil to consider if the
80 conduct of the pupil would have resulted in a suspension or expulsion in the district in which the
81 pupil is enrolling. Upon a determination by the superintendent or the superintendent's designee
82 that such conduct would have resulted in a suspension or expulsion in the district in which the
83 pupil is enrolling or attempting to enroll, the school district may make such suspension or
84 expulsion from another school or district effective in the district in which the pupil is enrolling
85 or attempting to enroll. Upon a determination by the superintendent or the superintendent's
86 designee that such conduct would not have resulted in a suspension or expulsion in the district
87 in which the student is enrolling or attempting to enroll, the school district shall not make such
88 suspension or expulsion effective in its district in which the student is enrolling or attempting
89 to enroll.

188.030. 1. Except in the case of a medical emergency, no abortion of a viable unborn
2 child shall be performed or induced unless the abortion is necessary to preserve the life of the
3 pregnant woman whose life is endangered by a physical disorder, physical illness, or physical
4 injury, including a life-endangering physical condition caused by or arising from the pregnancy

5 itself, or when continuation of the pregnancy will create a serious risk of substantial and
6 irreversible physical impairment of a major bodily function of the pregnant woman. For
7 purposes of this section, "major bodily function" includes, but is not limited to, functions of the
8 immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory,
9 circulatory, endocrine, and reproductive functions.

10 2. Except in the case of a medical emergency:

11 (1) Prior to performing or inducing an abortion upon a woman, the physician shall
12 determine the gestational age of the unborn child in a manner consistent with accepted obstetrical
13 and neonatal practices and standards. In making such determination, the physician shall make
14 such inquiries of the pregnant woman and perform or cause to be performed such medical
15 examinations, imaging studies, and tests as a reasonably prudent physician, knowledgeable about
16 the medical facts and conditions of both the woman and the unborn child involved, would
17 consider necessary to perform and consider in making an accurate diagnosis with respect to
18 gestational age;

19 (2) If the physician determines that the gestational age of the unborn child is twenty
20 weeks or more, prior to performing or inducing an abortion upon the woman, the physician shall
21 determine if the unborn child is viable by using and exercising that degree of care, skill, and
22 proficiency commonly exercised by a skillful, careful, and prudent physician. In making this
23 determination of viability, the physician shall perform or cause to be performed such medical
24 examinations and tests as are necessary to make a finding of the gestational age, weight, and lung
25 maturity of the unborn child and shall enter such findings and determination of viability in the
26 medical record of the woman;

27 (3) If the physician determines that the gestational age of the unborn child is twenty
28 weeks or more, and further determines that the unborn child is not viable and performs or
29 induces an abortion upon the woman, the physician shall report such findings and determinations
30 and the reasons for such determinations to the health care facility in which the abortion is
31 performed and to the state board of registration for the healing arts, and shall enter such findings
32 and determinations in the medical records of the woman and in the individual abortion report
33 submitted to the department under section 188.052;

34 (4) (a) If the physician determines that the unborn child is viable, the physician shall not
35 perform or induce an abortion upon the woman unless the abortion is necessary to preserve the
36 life of the pregnant woman or that a continuation of the pregnancy will create a serious risk of
37 substantial and irreversible physical impairment of a major bodily function of the woman.

38 (b) Before a physician may proceed with performing or inducing an abortion upon a
39 woman when it has been determined that the unborn child is viable, the physician shall first
40 certify in writing the medical threat posed to the life of the pregnant woman, or the medical

41 reasons that continuation of the pregnancy would cause a serious risk of substantial and
42 irreversible physical impairment of a major bodily function of the pregnant woman. Upon
43 completion of the abortion, the physician shall report the reasons and determinations for the
44 abortion of a viable unborn child to the health care facility in which the abortion is performed
45 and to the state board of registration for the healing arts, and shall enter such findings and
46 determinations in the medical record of the woman and in the individual abortion report
47 submitted to the department under section 188.052.

48 (c) Before a physician may proceed with performing or inducing an abortion upon a
49 woman when it has been determined that the unborn child is viable, the physician who is to
50 perform the abortion shall obtain the agreement of a second physician with knowledge of
51 accepted obstetrical and neonatal practices and standards who shall concur that the abortion is
52 necessary to preserve the life of the pregnant woman, or that continuation of the pregnancy
53 would cause a serious risk of substantial and irreversible physical impairment of a major bodily
54 function of the pregnant woman. This second physician shall also report such reasons and
55 determinations to the health care facility in which the abortion is to be performed and to the state
56 board of registration for the healing arts, and shall enter such findings and determinations in the
57 medical record of the woman and the individual abortion report submitted to the department
58 under section 188.052. The second physician shall not have any legal or financial affiliation or
59 relationship with the physician performing or inducing the abortion, except that such prohibition
60 shall not apply to physicians whose legal or financial affiliation or relationship is a result of
61 being employed by or having staff privileges at the same hospital as the term "hospital" is
62 defined in section 197.020.

63 (d) Any physician who performs or induces an abortion upon a woman when it has been
64 determined that the unborn child is viable shall utilize the available method or technique of
65 abortion most likely to preserve the life or health of the unborn child. In cases where the method
66 or technique of abortion most likely to preserve the life or health of the unborn child would
67 present a greater risk to the life or health of the woman than another legally permitted and
68 available method or technique, the physician may utilize such other method or technique. In all
69 cases where the physician performs an abortion upon a viable unborn child, the physician shall
70 certify in writing the available method or techniques considered and the reasons for choosing the
71 method or technique employed.

72 (e) No physician shall perform or induce an abortion upon a woman when it has been
73 determined that the unborn child is viable unless there is in attendance a physician other than the
74 physician performing or inducing the abortion who shall take control of and provide immediate
75 medical care for a child born as a result of the abortion. During the performance of the abortion,
76 the physician performing it, and subsequent to the abortion, the physician required to be in

77 attendance, shall take all reasonable steps in keeping with good medical practice, consistent with
78 the procedure used, to preserve the life or health of the viable unborn child; provided that it does
79 not pose an increased risk to the life of the woman or does not pose an increased risk of
80 substantial and irreversible physical impairment of a major bodily function of the woman.

81 3. Any person who knowingly performs or induces an abortion of an unborn child in
82 violation of the provisions of this section is guilty of a class [C] **D** felony, and, upon a finding
83 of guilt or plea of guilty, shall be imprisoned for a term of not less than one year, and,
84 notwithstanding the provisions of section [560.011] **558.002**, shall be fined not less than ten
85 thousand nor more than fifty thousand dollars.

86 4. Any physician who pleads guilty to or is found guilty of performing or inducing an
87 abortion of an unborn child in violation of this section shall be subject to suspension or
88 revocation of his or her license to practice medicine in the state of Missouri by the state board
89 of registration for the healing arts under the provisions of sections 334.100 and 334.103.

90 5. Any hospital licensed in the state of Missouri that knowingly allows an abortion of
91 an unborn child to be performed or induced in violation of this section may be subject to
92 suspension or revocation of its license under the provisions of section 197.070.

93 6. Any ambulatory surgical center licensed in the state of Missouri that knowingly allows
94 an abortion of an unborn child to be performed or induced in violation of this section may be
95 subject to suspension or revocation of its license under the provisions of section 197.220.

96 7. A woman upon whom an abortion is performed or induced in violation of this section
97 shall not be prosecuted for a conspiracy to violate the provisions of this section.

98 8. Nothing in this section shall be construed as creating or recognizing a right to
99 abortion, nor is it the intention of this section to make lawful any abortion that is currently
100 unlawful.

101 9. It is the intent of the legislature that this section be severable as noted in section 1.140.
102 In the event that any section, subsection, subdivision, paragraph, sentence, or clause of this
103 section be declared invalid under the Constitution of the United States or the Constitution of the
104 State of Missouri, it is the intent of the legislature that the remaining provisions of this section
105 remain in force and effect as far as capable of being carried into execution as intended by the
106 legislature.

107 10. The general assembly may, by concurrent resolution, appoint one or more of its
108 members who sponsored or co-sponsored this act in his or her official capacity to intervene as
109 a matter of right in any case in which the constitutionality of this law is challenged.

[660.315.] **197.1036.** 1. After an investigation and a determination has been made to
2 place a person's name on the employee disqualification list, that person shall be notified in
3 writing mailed to his or her last known address that:

4 (1) An allegation has been made against the person, the substance of the allegation and
5 that an investigation has been conducted which tends to substantiate the allegation;

6 (2) The person's name will be included in the employee disqualification list of the
7 department;

8 (3) The consequences of being so listed including the length of time to be listed; and

9 (4) The person's rights and the procedure to challenge the allegation.

10 2. If no reply has been received within thirty days of mailing the notice, the department
11 may include the name of such person on its list. The length of time the person's name shall
12 appear on the employee disqualification list shall be determined by the director or the director's
13 designee, based upon the criteria contained in subsection 9 of this section.

14 3. If the person so notified wishes to challenge the allegation, such person may file an
15 application for a hearing with the department. The department shall grant the application within
16 thirty days after receipt by the department and set the matter for hearing, or the department shall
17 notify the applicant that, after review, the allegation has been held to be unfounded and the
18 applicant's name will not be listed.

19 4. If a person's name is included on the employee disqualification list without the
20 department providing notice as required under subsection 1 of this section, such person may file
21 a request with the department for removal of the name or for a hearing. Within thirty days after
22 receipt of the request, the department shall either remove the name from the list or grant a
23 hearing and set a date therefor.

24 5. Any hearing shall be conducted in the county of the person's residence by the director
25 of the department or the director's designee. The provisions of chapter 536 for a contested case
26 except those provisions or amendments which are in conflict with this section shall apply to and
27 govern the proceedings contained in this section and the rights and duties of the parties involved.
28 The person appealing such an action shall be entitled to present evidence, pursuant to the
29 provisions of chapter 536, relevant to the allegations.

30 6. Upon the record made at the hearing, the director of the department or the director's
31 designee shall determine all questions presented and shall determine whether the person shall
32 be listed on the employee disqualification list. The director of the department or the director's
33 designee shall clearly state the reasons for his or her decision and shall include a statement of
34 findings of fact and conclusions of law pertinent to the questions in issue.

35 7. A person aggrieved by the decision following the hearing shall be informed of his or
36 her right to seek judicial review as provided under chapter 536. If the person fails to appeal the
37 director's findings, those findings shall constitute a final determination that the person shall be
38 placed on the employee disqualification list.

39 8. A decision by the director shall be inadmissible in any civil action brought against a
40 facility or the in-home services provider agency and arising out of the facts and circumstances
41 which brought about the employment disqualification proceeding, unless the civil action is
42 brought against the facility or the in-home services provider agency by the department of health
43 and senior services or one of its divisions.

44 9. The length of time the person's name shall appear on the employee disqualification
45 list shall be determined by the director of the department of health and senior services or the
46 director's designee, based upon the following:

47 (1) Whether the person acted recklessly or knowingly, as defined in chapter 562;

48 (2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the
49 imminent danger to the health, safety or welfare of a resident or in-home services client;

50 (3) The degree of misappropriation of the property or funds, or falsification of any
51 documents for service delivery of an in-home services client;

52 (4) Whether the person has previously been listed on the employee disqualification list;

53 (5) Any mitigating circumstances;

54 (6) Any aggravating circumstances; and

55 (7) Whether alternative sanctions resulting in conditions of continued employment are
56 appropriate in lieu of placing a person's name on the employee disqualification list. Such
57 conditions of employment may include, but are not limited to, additional training and employee
58 counseling. Conditional employment shall terminate upon the expiration of the designated
59 length of time and the person's submitting documentation which fulfills the department of health
60 and senior services' requirements.

61 10. The removal of any person's name from the list under this section shall not prevent
62 the director from keeping records of all acts finally determined to have occurred under this
63 section.

64 11. The department shall provide the list maintained pursuant to this section to other
65 state departments upon request and to any person, corporation, organization, or association who:

66 (1) Is licensed as an operator under chapter 198;

67 (2) Provides in-home services under contract with the department;

68 (3) Employs nurses and nursing assistants for temporary or intermittent placement in
69 health care facilities;

70 (4) Is approved by the department to issue certificates for nursing assistants training;

71 (5) Is an entity licensed under **this** chapter [197];

72 (6) Is a recognized school of nursing, medicine, or other health profession for the
73 purpose of determining whether students scheduled to participate in clinical rotations with

74 entities described in subdivision (1), (2), or (5) of this subsection are included in the employee
75 disqualification list; or

76 (7) Is a consumer reporting agency regulated by the federal Fair Credit Reporting Act
77 that conducts employee background checks on behalf of entities listed in subdivisions (1), (2),
78 (5), or (6) of this subsection. Such a consumer reporting agency shall conduct the employee
79 disqualification list check only upon the initiative or request of an entity described in
80 subdivisions (1), (2), (5), or (6) of this subsection when the entity is fulfilling its duties required
81 under this section. The information shall be disclosed only to the requesting entity. The
82 department shall inform any person listed above who inquires of the department whether or not
83 a particular name is on the list. The department may require that the request be made in writing.
84 No person, corporation, organization, or association who is entitled to access the employee
85 disqualification list may disclose the information to any person, corporation, organization, or
86 association who is not entitled to access the list. Any person, corporation, organization, or
87 association who is entitled to access the employee disqualification list who discloses the
88 information to any person, corporation, organization, or association who is not entitled to access
89 the list shall be guilty of an infraction.

90 12. No person, corporation, organization, or association who received the employee
91 disqualification list under subdivisions (1) to (7) of subsection 11 of this section shall knowingly
92 employ any person who is on the employee disqualification list. Any person, corporation,
93 organization, or association who received the employee disqualification list under subdivisions
94 (1) to (7) of subsection 11 of this section, or any person responsible for providing health care
95 service, who declines to employ or terminates a person whose name is listed in this section shall
96 be immune from suit by that person or anyone else acting for or in behalf of that person for the
97 failure to employ or for the termination of the person whose name is listed on the employee
98 disqualification list.

99 13. Any employer or vendor as defined in sections 197.250, 197.400, 198.006, 208.900,
100 or [660.250] **197.1000** required to deny employment to an applicant or to discharge an employee,
101 provisional or otherwise, as a result of information obtained through any portion of the
102 background screening and employment eligibility determination process under section 210.903,
103 or subsequent, periodic screenings, shall not be liable in any action brought by the applicant or
104 employee relating to discharge where the employer is required by law to terminate the employee,
105 provisional or otherwise, and shall not be charged for unemployment insurance benefits based
106 on wages paid to the employee for work prior to the date of discharge, pursuant to section
107 288.100, if the employer terminated the employee because the employee:

108 (1) Has been found guilty, pled guilty or nolo contendere in this state or any other state
109 of a crime as listed in subsection 6 of section [660.317] **197.1038**;

110 (2) Was placed on the employee disqualification list under this section after the date of
111 hire;

112 (3) Was placed on the employee disqualification registry maintained by the department
113 of mental health after the date of hire;

114 (4) Has a disqualifying finding under this section, section [660.317] **197.1038**, or is on
115 any of the background check lists in the family care safety registry under sections 210.900 to
116 210.936; or

117 (5) Was denied a good cause waiver as provided for in subsection 10 of section
118 [660.317] **197.1038**.

119 14. Any person who has been listed on the employee disqualification list may request
120 that the director remove his or her name from the employee disqualification list. The request
121 shall be written and may not be made more than once every twelve months. The request will be
122 granted by the director upon a clear showing, by written submission only, that the person will
123 not commit additional acts of abuse, neglect, misappropriation of the property or funds, or the
124 falsification of any documents of service delivery to an in-home services client. The director
125 may make conditional the removal of a person's name from the list on any terms that the director
126 deems appropriate, and failure to comply with such terms may result in the person's name being
127 relisted. The director's determination of whether to remove the person's name from the list is not
128 subject to appeal.

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, **566.031**, 566.032, [566.040,] 566.060,
5 **566.061**, 566.062, 566.064, 566.067, 566.068, [566.070,] **566.069**, **566.071**, 566.083, [566.090,]
6 566.100, **566.101**, 566.111, 566.151, 566.203, 566.206, 566.209, [566.212] **566.211**, or 566.215;

7 (2) A violation of section 568.020;

8 (3) [A violation of subdivision (2) of subsection 1 of section 568.060] **Abuse of a child**
9 **under section 568.060 when such abuse is sexual in nature;**

10 (4) A violation of section 568.065;

11 (5) A violation of section [568.080] **573.200**;

12 (6) A violation of section [568.090] **573.205**; or

13 (7) A violation of section 568.175;

14 (8) **A violation of section 566.040, 566.070, or 566.090 as such sections existed prior**
15 **to August 28, 2013; or**

16 (9) **A violation of section 566.212, 568.080, or 568.090 as such sections existed prior**
17 **to January 1, 2017.**

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

24 3. In any case where the children's division determines based on a substantiated report
25 of child abuse that a child has abused another child, the abusing child shall be prohibited from
26 returning to or residing in any residence, facility, or school within one thousand feet of the
27 residence of the abused child or any child care facility or school that the abused child attends,
28 unless and until a court of competent jurisdiction determines that the alleged abuse did not occur
29 or the abused child reaches the age of eighteen, whichever earlier occurs. The provisions of this
30 subsection shall not apply when the abusing child and the abused child are siblings or children
31 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, **566.031**, 566.032, [566.040,] 566.060,
5 **566.061**, 566.062, 566.064, 566.067, 566.068, [566.070,] **566.069**, **566.071**, 566.083, [566.090,]
6 566.100, **566.101**, 566.111, 566.151, 566.203, 566.206, 566.209, [566.212] **566.211**, or 566.215;

7 (2) A violation of section 568.020;

8 (3) [A violation of subdivision (2) of subsection 1 of section 568.060] **Abuse of a child**
9 **under section 568.060 when such abuse is sexual in nature;**

10 (4) A violation of section 568.065;

11 (5) A violation of section [568.080] **573.200**;

12 (6) A violation of section [568.090] **573.205**; or

13 (7) A violation of section 568.175;

14 **(8) A violation of section 566.040, 566.070, or 566.090 as such sections existed prior**
15 **to August 28, 2013; or**

16 **(9) A violation of section 566.212, 568.080, or 568.090 as such sections existed prior**
17 **to January 1, 2017.**

18 2. For all other violations of offenses in chapters 566 and 568 not specifically listed in
19 subsection 1 of this section or for a violation of an offense committed in another state when a
20 child is the victim that would be a violation of chapter 566 or 568 if committed in Missouri, the
21 juvenile court may exercise its discretion regarding the placement of a child under the

jurisdiction of the juvenile court in a home in which a parent or any person residing in the home has been found guilty of, or pled guilty to, any such offense.

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

217.010. As used in this chapter and chapter 558, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Administrative segregation unit", a cell for the segregation of offenders from the general population of a facility for relatively extensive periods of time;

(2) "Board", the board of probation and parole;

(3) "Chief administrative officer", the institutional head of any correctional facility or his designee;

(4) "Correctional center", any premises or institution where incarceration, evaluation, care, treatment, or rehabilitation is provided to persons who are under the department's authority;

(5) "Department", the department of corrections of the state of Missouri;

(6) "Director", the director of the department of corrections or his designee;

(7) "Disciplinary segregation", a cell for the segregation of offenders from the general population of a correctional center because the offender has been found to have committed a violation of a division or facility rule and other available means are inadequate to regulate the offender's behavior;

(8) "Division", a statutorily created agency within the department or an agency created by the departmental organizational plan;

(9) "Division director", the director of a division of the department or his designee;

(10) "Local volunteer community board", a board of qualified local community volunteers selected by the court for the purpose of working in partnership with the court and the department of corrections in a reparative probation program;

(11) "Nonviolent offender", any offender who is convicted of a crime other than murder in the first or second degree, involuntary manslaughter, **involuntary manslaughter in the first or second degree**, kidnapping, **kidnapping in the first degree**, rape in the first degree, forcible rape, sodomy in the first degree, forcible sodomy, robbery in the first degree or assault in the first degree;

(12) "Offender", a person under supervision or an inmate in the custody of the department;

29 (13) "Probation", a procedure under which a defendant found guilty of a crime upon
30 verdict or plea is released by the court without imprisonment, subject to conditions imposed by
31 the court and subject to the supervision of the board;

32 (14) "Volunteer", any person who, of his own free will, performs any assigned duties for
33 the department or its divisions with no monetary or material compensation.

217.703. 1. The division of probation and parole shall award earned compliance credits
2 to any offender who is:

3 (1) Not subject to lifetime supervision under sections 217.735 and 559.106 or otherwise
4 found to be ineligible to earn credits by a court pursuant to subsection 2 of this section;

5 (2) On probation, parole, or conditional release for an offense listed in chapter [195] **579,**
6 **or an offense previously listed in chapter 195,** or for a class [C or] D **or E** felony, excluding
7 the offenses of [aggravated] stalking **in the first degree,** rape in the second degree, sexual
8 assault, sodomy in the second degree, deviate sexual assault, assault in the second degree under
9 subdivision (2) of subsection 1 of section [565.060] **565.052,** sexual misconduct involving a
10 child, endangering the welfare of a child in the first degree under subdivision (2) of subsection
11 1 of section 568.045, incest, invasion of privacy, [and] abuse of a child, **and any offense of**
12 **aggravated stalking or assault in the second degree under subdivision (2) of subsection 1**
13 **of section 565.060 as such offenses existed prior to January 1, 2017;**

14 (3) Supervised by the board; and

15 (4) In compliance with the conditions of supervision imposed by the sentencing court
16 or board.

17 2. If an offender was placed on probation, parole, or conditional release for an offense
18 of:

19 (1) [Involuntary manslaughter in the first degree;

20 (2)] Involuntary manslaughter in the second degree;

21 [(3)] **(2)** Assault in the second degree except under subdivision (2) of subsection 1 of
22 section [565.060] **565.052 or section 565.060 as it existed prior to January 1, 2017;**

23 [(4)] **(3)** Domestic assault in the second degree;

24 [(5)] **(4)** Assault [of a law enforcement officer in the second] **in the third degree when**
25 **the victim is a special victim or assault of a law enforcement officer in the second degree**
26 **as it existed prior to January 1, 2017;**

27 [(6)] **(5)** Statutory rape in the second degree;

28 [(7)] **(6)** Statutory sodomy in the second degree;

29 [(8)] **(7)** Endangering the welfare of a child in the first degree under subdivision (1) of
30 subsection 1 of section 568.045; or

31 [(9)] **(8)** Any case in which the defendant is found guilty of a felony offense under
32 chapter 571[,] ;

33

34 the sentencing court may, upon its own motion or a motion of the prosecuting or circuit attorney,
35 make a finding that the offender is ineligible to earn compliance credits because the nature and
36 circumstances of the offense or the history and character of the offender indicate that a longer
37 term of probation, parole, or conditional release is necessary for the protection of the public or
38 the guidance of the offender. The motion may be made any time prior to the first month in which
39 the person may earn compliance credits under this section. The offender's ability to earn credits
40 shall be suspended until the court or board makes its finding. If the court or board finds that the
41 offender is eligible for earned compliance credits, the credits shall begin to accrue on the first
42 day of the next calendar month following the issuance of the decision.

43 3. Earned compliance credits shall reduce the term of probation, parole, or conditional
44 release by thirty days for each full calendar month of compliance with the terms of supervision.
45 Credits shall begin to accrue for eligible offenders after the first full calendar month of
46 supervision or on October 1, 2012, if the offender began a term of probation, parole, or
47 conditional release before September 1, 2012.

48 4. For the purposes of this section, the term "compliance" shall mean the absence of an
49 initial violation report submitted by a probation or parole officer during a calendar month, or a
50 motion to revoke or motion to suspend filed by a prosecuting or circuit attorney, against the
51 offender.

52 5. Credits shall not accrue during any calendar month in which a violation report has
53 been submitted or a motion to revoke or motion to suspend has been filed, and shall be
54 suspended pending the outcome of a hearing, if a hearing is held. If no hearing is held or the
55 court or board finds that the violation did not occur, then the offender shall be deemed to be in
56 compliance and shall begin earning credits on the first day of the next calendar month following
57 the month in which the report was submitted or the motion was filed. All earned credits shall
58 be rescinded if the court or board revokes the probation or parole or the court places the offender
59 in a department program under subsection 4 of section 559.036. Earned credits shall continue
60 to be suspended for a period of time during which the court or board has suspended the term of
61 probation, parole, or release, and shall begin to accrue on the first day of the next calendar month
62 following the lifting of the suspension.

63 6. Offenders who are deemed by the division to be absconders shall not earn credits. For
64 purposes of this subsection, "absconder" shall mean an offender under supervision who has left
65 such offender's place of residency without the permission of the offender's supervising officer

66 for the purpose of avoiding supervision. An offender shall no longer be deemed an absconder
67 when such offender is available for active supervision.

68 7. Notwithstanding subsection 2 of section 217.730 to the contrary, once the combination
69 of time served in custody, if applicable, time served on probation, parole, or conditional release,
70 and earned compliance credits satisfy the total term of probation, parole, or conditional release,
71 the board or sentencing court shall order final discharge of the offender, so long as the offender
72 has completed at least two years of his or her probation or parole, which shall include any time
73 served in custody under section 217.718 and sections 559.036 and 559.115.

74 8. The award or rescission of any credits earned under this section shall not be subject
75 to appeal or any motion for postconviction relief.

76 9. At least twice a year, the division shall calculate the number of months the offender
77 has remaining on his or her term of probation, parole, or conditional release, taking into
78 consideration any earned compliance credits, and notify the offender of the length of the
79 remaining term.

80 10. No less than sixty days before the date of final discharge, the division shall notify
81 the sentencing court, the board, and, for probation cases, the circuit or prosecuting attorney of
82 the impending discharge. If the sentencing court, the board, or the circuit or prosecuting attorney
83 upon receiving such notice does not take any action under subsection 5 of this section, the
84 offender shall be discharged under subsection 7 of this section.

85 **11. Any offender who was sentenced prior to January 1, 2017, to an offense that**
86 **was eligible for earned compliance credits under subsection 1 or 2 of this section at the time**
87 **of sentencing shall continue to remain eligible for earned compliance credits so long as the**
88 **offender meets all the other requirements provided under this section.**

260.211. 1. A person commits the offense of criminal disposition of demolition waste
2 if he purposely or knowingly disposes of or causes the disposal of more than two thousand
3 pounds or four hundred cubic feet of such waste on property in this state other than in a solid
4 waste processing facility or solid waste disposal area having a permit as required by section
5 260.205; provided that, this subsection shall not prohibit the use or require a solid waste permit
6 for the use of solid wastes in normal farming operations or in the processing or manufacturing
7 of other products in a manner that will not create a public nuisance or adversely affect public
8 health and shall not prohibit the disposal of or require a solid waste permit for the disposal by
9 an individual of solid wastes resulting from his or her own residential activities on property
10 owned or lawfully occupied by him or her when such wastes do not thereby create a public
11 nuisance or adversely affect the public health. Demolition waste shall not include clean fill or
12 vegetation. Criminal disposition of demolition waste is a class [D] E felony. In addition to other
13 penalties prescribed by law, a person convicted of criminal disposition of demolition waste is

14 subject to a fine not to exceed twenty thousand dollars, except as provided below. The
15 magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human
16 health and the environment posed by the violation, but shall not exceed twenty thousand dollars,
17 except that if a court of competent jurisdiction determines that the person responsible for illegal
18 disposal of demolition waste under this subsection did so for remuneration as a part of an
19 ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential
20 threat to human health and the environment which at least equals the economic gain obtained by
21 the person, and such fine may exceed the maximum established herein.

22 2. Any person who purposely or knowingly disposes of or causes the disposal of more
23 than two thousand pounds or four hundred cubic feet of his or her personal construction or
24 demolition waste on his or her own property shall be guilty of a class [C] **D** misdemeanor. If
25 such person receives any amount of money, goods, or services in connection with permitting any
26 other person to dispose of construction or demolition waste on his or her property, such person
27 shall be guilty of a class [D] **E** felony.

28 3. The court shall order any person convicted of illegally disposing of demolition waste
29 upon his **or her** own property for remuneration to clean up such waste and, if he **or she** fails to
30 clean up the waste or if he **or she** is unable to clean up the waste, the court may notify the county
31 recorder of the county containing the illegal disposal site. The notice shall be designed to be
32 recorded on the record.

33 4. The court may order restitution by requiring any person convicted under this section
34 to clean up any demolition waste he illegally dumped and the court may require any such person
35 to perform additional community service by cleaning up and properly disposing of demolition
36 waste illegally dumped by other persons.

37 5. The prosecutor of any county or circuit attorney of any city not within a county may,
38 by information or indictment, institute a prosecution for any violation of the provisions of this
39 section.

40 6. Any person shall be guilty of conspiracy as defined in section [564.016] **562.014** if
41 he or she knows or should have known that his or her agent or employee has committed the acts
42 described in sections 260.210 to 260.212 while engaged in the course of employment.

260.212. 1. A person commits the offense of criminal disposition of solid waste if he
2 purposely or knowingly disposes of or causes the disposal of more than five hundred pounds or
3 one hundred cubic feet of commercial or residential solid waste on property in this state other
4 than a solid waste processing facility or solid waste disposal area having a permit as required by
5 section 260.205; provided that, this subsection shall not prohibit the use or require a solid waste
6 permit for the use of solid wastes in normal farming operations or in the processing or
7 manufacturing of other products in a manner that will not create a public nuisance or adversely

8 affect public health and shall not prohibit the disposal of or require a solid waste permit for the
9 disposal by an individual of solid wastes resulting from his or her own residential activities on
10 property owned or lawfully occupied by him or her when such wastes do not thereby create a
11 public nuisance or adversely affect the public health. Criminal disposition of solid waste is a
12 class [D] **E** felony. In addition to other penalties prescribed by law, a person convicted of
13 criminal disposition of solid waste is subject to a fine, and the magnitude of the fine shall reflect
14 the seriousness or potential seriousness of the threat to human health and the environment posed
15 by the violation, but shall not exceed twenty thousand dollars, except that if a court of competent
16 jurisdiction determines that the person responsible for illegal disposal of solid waste under this
17 subsection did so for remuneration as a part of an ongoing commercial activity, the court shall
18 set a fine which reflects the seriousness or potential threat to human health and the environment
19 which at least equals the economic gain obtained by the person, and such fine may exceed the
20 maximum established herein.

21 2. The court shall order any person convicted of illegally disposing of solid waste upon
22 his **or her** own property for remuneration to clean up such waste and, if he **or she** fails to clean
23 up the waste or if he **or she** is unable to clean up the waste, the court may notify the county
24 recorder of the county containing the illegal disposal site. The notice shall be designed to be
25 recorded on the record.

26 3. The court may order restitution by requiring any person convicted under this section
27 to clean up any commercial or residential solid waste he illegally dumped and the court may
28 require any such person to perform additional community service by cleaning up commercial or
29 residential solid waste illegally dumped by other persons.

30 4. The prosecutor of any county or circuit attorney of any city not within a county may,
31 by information or indictment, institute a prosecution for any violation of the provisions of this
32 section.

33 5. Any person shall be guilty of conspiracy as defined in section [564.016] **562.014** if
34 he knows or should have known that his **or her** agent or employee has committed the acts
35 described in sections 260.210 to 260.212 while engaged in the course of employment.

476.055. 1. There is hereby established in the state treasury the "Statewide Court
2 Automation Fund". All moneys collected pursuant to section 488.027, as well as gifts,
3 contributions, devises, bequests, and grants received relating to automation of judicial record
4 keeping, and moneys received by the judicial system for the dissemination of information and
5 sales of publications developed relating to automation of judicial record keeping, shall be
6 credited to the fund. Moneys credited to this fund may only be used for the purposes set forth
7 in this section and as appropriated by the general assembly. Any unexpended balance remaining
8 in the statewide court automation fund at the end of each biennium shall not be subject to the

9 provisions of section 33.080 requiring the transfer of such unexpended balance to general
10 revenue; except that, any unexpended balance remaining in the fund on September 1, 2018, shall
11 be transferred to general revenue.

12 2. The statewide court automation fund shall be administered by a court automation
13 committee consisting of the following: the chief justice of the supreme court, a judge from the
14 court of appeals, four circuit judges, four associate circuit judges, four employees of the circuit
15 court, the commissioner of administration, two members of the house of representatives
16 appointed by the speaker of the house, two members of the senate appointed by the president pro
17 tem of the senate and two members of the Missouri Bar. The judge members and employee
18 members shall be appointed by the chief justice. The commissioner of administration shall serve
19 ex officio. The members of the Missouri Bar shall be appointed by the board of governors of the
20 Missouri Bar. Any member of the committee may designate another person to serve on the
21 committee in place of the committee member.

22 3. The committee shall develop and implement a plan for a statewide court automation
23 system. The committee shall have the authority to hire consultants, review systems in other
24 jurisdictions and purchase goods and services to administer the provisions of this section. The
25 committee may implement one or more pilot projects in the state for the purposes of determining
26 the feasibility of developing and implementing such plan. The members of the committee shall
27 be reimbursed from the court automation fund for their actual expenses in performing their
28 official duties on the committee.

29 4. Any purchase of computer software or computer hardware that exceeds five thousand
30 dollars shall be made pursuant to the requirements of the office of administration for lowest and
31 best bid. Such bids shall be subject to acceptance by the office of administration. The court
32 automation committee shall determine the specifications for such bids.

33 5. The court automation committee shall not require any circuit court to change any
34 operating system in such court, unless the committee provides all necessary personnel, funds and
35 equipment necessary to effectuate the required changes. No judicial circuit or county may be
36 reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or
37 county has the approval of the court automation committee prior to incurring the specific cost.

38 6. Any court automation system, including any pilot project, shall be implemented,
39 operated and maintained in accordance with strict standards for the security and privacy of
40 confidential judicial records. Any person who knowingly releases information from a
41 confidential judicial record is guilty of a class B misdemeanor. Any person who, knowing that
42 a judicial record is confidential, uses information from such confidential record for financial gain
43 is guilty of a class [D] E felony.

44 7. On the first day of February, May, August and November of each year, the court
45 automation committee shall file a report on the progress of the statewide automation system with
46 [the joint legislative committee on court automation. Such committee shall consist of the
47 following]:

- 48 (1) The chair of the house budget committee;
- 49 (2) The chair of the senate appropriations committee;
- 50 (3) The chair of the house judiciary committee; **and**
- 51 (4) The chair of the senate judiciary committee[;
- 52 (5) One member of the minority party of the house appointed by the speaker of the house
53 of representatives; and
- 54 (6) One member of the minority party of the senate appointed by the president pro
55 tempore of the senate.

56 8. The members of the joint legislative committee shall be reimbursed from the court
57 automation fund for their actual expenses incurred in the performance of their official duties as
58 members of the joint legislative committee on court automation].

59 [9.] **8.** Section 488.027 shall expire on September 1, 2018. The court automation
60 committee established pursuant to this section may continue to function until completion of its
61 duties prescribed by this section, but shall complete its duties prior to September 1, 2020.

62 [10.] **9.** This section shall expire on September 1, 2020.

2 [476.055. 1. There is hereby established in the state treasury the
3 "Statewide Court Automation Fund". All moneys collected pursuant to section
4 488.027, as well as gifts, contributions, devises, bequests, and grants received
5 relating to automation of judicial record keeping, and moneys received by the
6 judicial system for the dissemination of information and sales of publications
7 developed relating to automation of judicial record keeping, shall be credited to
8 the fund. Moneys credited to this fund may only be used for the purposes set
9 forth in this section and as appropriated by the general assembly. Any
10 unexpended balance remaining in the statewide court automation fund at the end
11 of each biennium shall not be subject to the provisions of section 33.080
12 requiring the transfer of such unexpended balance to general revenue; except that,
13 any unexpended balance remaining in the fund on September 1, 2015, shall be
14 transferred to general revenue.

15 2. The statewide court automation fund shall be administered by a court
16 automation committee consisting of the following: the chief justice of the
17 supreme court, a judge from the court of appeals, four circuit judges, four
18 associate circuit judges, four employees of the circuit court, the commissioner of
19 administration, two members of the house of representatives appointed by the
20 speaker of the house, two members of the senate appointed by the president pro
tem of the senate and two members of the Missouri Bar. The judge members and

employee members shall be appointed by the chief justice. The commissioner of administration shall serve ex officio. The members of the Missouri Bar shall be appointed by the board of governors of the Missouri Bar. Any member of the committee may designate another person to serve on the committee in place of the committee member.

3. The committee shall develop and implement a plan for a statewide court automation system. The committee shall have the authority to hire consultants, review systems in other jurisdictions and purchase goods and services to administer the provisions of this section. The committee may implement one or more pilot projects in the state for the purposes of determining the feasibility of developing and implementing such plan. The members of the committee shall be reimbursed from the court automation fund for their actual expenses in performing their official duties on the committee.

4. Any purchase of computer software or computer hardware that exceeds five thousand dollars shall be made pursuant to the requirements of the office of administration for lowest and best bid. Such bids shall be subject to acceptance by the office of administration. The court automation committee shall determine the specifications for such bids.

5. The court automation committee shall not require any circuit court to change any operating system in such court, unless the committee provides all necessary personnel, funds and equipment necessary to effectuate the required changes. No judicial circuit or county may be reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or county has the approval of the court automation committee prior to incurring the specific cost.

6. Any court automation system, including any pilot project, shall be implemented, operated and maintained in accordance with strict standards for the security and privacy of confidential judicial records. Any person who knowingly releases information from a confidential judicial record is guilty of a class B misdemeanor. Any person who, knowing that a judicial record is confidential, uses information from such confidential record for financial gain is guilty of a class D felony.

7. On the first day of February, May, August and November of each year, the court automation committee shall file a report on the progress of the statewide automation system with the joint legislative committee on court automation. Such committee shall consist of the following:

- (1) The chair of the house budget committee;
- (2) The chair of the senate appropriations committee;
- (3) The chair of the house judiciary committee;
- (4) The chair of the senate judiciary committee;
- (5) One member of the minority party of the house appointed by the speaker of the house of representatives; and
- (6) One member of the minority party of the senate appointed by the president pro tempore of the senate.

64 8. The members of the joint legislative committee shall be reimbursed
65 from the court automation fund for their actual expenses incurred in the
66 performance of their official duties as members of the joint legislative committee
67 on court automation.

68 9. Section 488.027 shall expire on September 1, 2015. The court
69 automation committee established pursuant to this section may continue to
70 function until completion of its duties prescribed by this section, but shall
71 complete its duties prior to September 1, 2017.

72 10. This section shall expire on September 1, 2017.]

 [566.135.] **545.940.** 1. Pursuant to a motion filed by the prosecuting attorney or circuit
2 attorney with notice given to the defense attorney and for good cause shown, in any criminal case
3 in which a defendant has been charged by the prosecuting attorney's office or circuit attorney's
4 office with any offense under [this chapter or pursuant to section 575.150, 567.020, 565.050,
5 565.060, 565.070,] **chapter 566 or section 565.050, assault in the first degree; section**
6 **565.052 or 565.060, assault in the second degree; section 565.054 or 565.070, assault in the**
7 **third degree; section 565.056, assault in the fourth degree; section 565.072, domestic assault**
8 **in the first degree; section 565.073, domestic assault in the second degree; section 565.074,**
9 **[565.075, 565.081, 565.082, 565.083,] domestic assault in the third degree; section 565.075,**
10 **assault while on school property; section 565.076, domestic assault in the fourth degree;**
11 **section 565.081, 565.082, or 565.083, assault of a law enforcement officer, corrections**
12 **officer, emergency personnel, highway worker in a construction zone or work zone, utility**
13 **worker, cable worker, or probation and parole officer in the first, second, or third degree;**
14 **section 567.020, prostitution; section 568.045, endangering the welfare of a child in the first**
15 **degree; section 568.050, [or] endangering the welfare of a child in the second degree;**
16 **section 568.060, abuse of a child; section 575.150, resisting or interfering with an arrest;**
17 or paragraph (a), (b), or (c), of subdivision (2) of subsection 1 of section 191.677, **recklessly**
18 **exposing a person to HIV**, the court may order that the defendant be conveyed to a state-, city-,
19 or county-operated HIV clinic for testing for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea,
20 and chlamydia. The results of [the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea,
21 and chlamydia] **such** tests shall be released to the victim and his or her parent or legal guardian
22 if the victim is a minor. The results of [the defendant's HIV, hepatitis B, hepatitis C, syphilis,
23 gonorrhea, and chlamydia] **such** tests shall also be released to the prosecuting attorney or circuit
24 attorney and the defendant's attorney. The state's motion to obtain said testing, the court's order
25 of the same, and the test results shall be sealed in the court file.

26 2. As used in this section, "HIV" means the human immunodeficiency virus that causes
27 acquired immunodeficiency syndrome.

556.061. In this code, unless the context requires a different definition, the following

[shall apply] **terms shall mean:**

(1) **"Access", to instruct, communicate with, store data in, retrieve or extract data from, or otherwise make any use of any resources of, a computer, computer system, or computer network;**

(2) **"Affirmative defense" [has the meaning specified in section 556.056] :**

(a) **The defense referred to is not submitted to the trier of fact unless supported by evidence; and**

(b) **If the defense is submitted to the trier of fact the defendant has the burden of persuasion that the defense is more probably true than not;**

[(2)] (3) **"Burden of injecting the issue" [has the meaning specified in section 556.051] :**

(a) **The issue referred to is not submitted to the trier of fact unless supported by evidence; and**

(b) **If the issue is submitted to the trier of fact any reasonable doubt on the issue requires a finding for the defendant on that issue;**

[(3)] (4) **"Commercial film and photographic print processor", any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term commercial film and photographic print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency;**

(5) **"Computer", the box that houses the central processing unit (cpu), along with any internal storage devices, such as internal hard drives, and internal communication devices, such as internal modems capable of sending or receiving electronic mail or fax cards, along with any other hardware stored or housed internally. Thus, computer refers to hardware, software and data contained in the main unit. Printers, external modems attached by cable to the main unit, monitors, and other external attachments will be referred to collectively as peripherals and discussed individually when appropriate. When the computer and all peripherals are referred to as a package, the term "computer system" is used. Information refers to all the information on a computer system including both software applications and data;**

(6) **"Computer equipment", computers, terminals, data storage devices, and all other computer hardware associated with a computer system or network;**

(7) **"Computer hardware", all equipment which can collect, analyze, create, display, convert, store, conceal or transmit electronic, magnetic, optical or similar computer impulses or data. Hardware includes, but is not limited to, any data processing**

37 devices, such as central processing units, memory typewriters and self-contained laptop or
38 notebook computers; internal and peripheral storage devices, transistor-like binary devices
39 and other memory storage devices, such as floppy disks, removable disks, compact disks,
40 digital video disks, magnetic tape, hard drive, optical disks and digital memory; local area
41 networks, such as two or more computers connected together to a central computer server
42 via cable or modem; peripheral input or output devices, such as keyboards, printers,
43 scanners, plotters, video display monitors and optical readers; and related communication
44 devices, such as modems, cables and connections, recording equipment, RAM or ROM
45 units, acoustic couplers, automatic dialers, speed dialers, programmable telephone dialing
46 or signaling devices and electronic tone-generating devices; as well as any devices,
47 mechanisms or parts that can be used to restrict access to computer hardware, such as
48 physical keys and locks;

49 (8) "Computer network", two or more interconnected computers or computer
50 systems;

51 (9) "Computer program", a set of instructions, statements, or related data that
52 directs or is intended to direct a computer to perform certain functions;

53 (10) "Computer software", digital information which can be interpreted by a
54 computer and any of its related components to direct the way they work. Software is
55 stored in electronic, magnetic, optical or other digital form. The term commonly includes
56 programs to run operating systems and applications, such as word processing, graphic, or
57 spreadsheet programs, utilities, compilers, interpreters and communications programs;

58 (11) "Computer-related documentation", written, recorded, printed or
59 electronically stored material which explains or illustrates how to configure or use
60 computer hardware, software or other related items;

61 (12) "Computer system", a set of related, connected or unconnected, computer
62 equipment, data, or software;

63 [(4)] (13) "Confinement":

64 (a) A person is in confinement when such person is held in a place of confinement
65 pursuant to arrest or order of a court, and remains in confinement until:

66 a. A court orders the person's release; or

67 b. The person is released on bail, bond, or recognizance, personal or otherwise; or

68 c. A public servant having the legal power and duty to confine the person authorizes his
69 release without guard and without condition that he return to confinement;

70 (b) A person is not in confinement if:

71 a. The person is on probation or parole, temporary or otherwise; or

72 b. The person is under sentence to serve a term of confinement which is not continuous,
73 or is serving a sentence under a work-release program, and in either such case is not being held
74 in a place of confinement or is not being held under guard by a person having the legal power
75 and duty to transport the person to or from a place of confinement;

76 [(5)] **(14) "Consent":** consent or lack of consent may be expressed or implied. Assent
77 does not constitute consent if:

78 (a) It is given by a person who lacks the mental capacity to authorize the conduct charged
79 to constitute the offense and such mental incapacity is manifest or known to the actor; or

80 (b) It is given by a person who by reason of youth, mental disease or defect, intoxication,
81 a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable
82 to make a reasonable judgment as to the nature or harmfulness of the conduct charged to
83 constitute the offense; or

84 (c) It is induced by force, duress or deception;

85 **(15) "Controlled substance", a drug, substance, or immediate precursor in**
86 **schedules I through V as defined in chapter 195;**

87 [(6)] **(16) "Criminal negligence"** [has the meaning specified in section 562.016] , **failure**
88 **to be aware of a substantial and unjustifiable risk that circumstances exist or a result will**
89 **follow, and such failure constitutes a gross deviation from the standard of care which a**
90 **reasonable person would exercise in the situation;**

91 [(7)] **(17) "Custody",** a person is in custody when [the person] **he or she** has been
92 arrested but has not been delivered to a place of confinement;

93 **(18) "Damage", when used in relation to a computer system or network, means any**
94 **alteration, deletion, or destruction of any part of the computer system or network;**

95 [(8)] **(19) "Dangerous felony"** [means] , the felonies of arson in the first degree, assault
96 in the first degree, attempted rape in the first degree if physical injury results, attempted forcible
97 rape if physical injury results, attempted sodomy in the first degree if physical injury results,
98 attempted forcible sodomy if physical injury results, rape in the first degree, forcible rape,
99 sodomy in the first degree, forcible sodomy, **assault in the second degree if the victim of such**
100 **assault is a special victim as defined in subdivision (14) of section 565.002, kidnapping in**
101 **the first degree,** kidnapping, murder in the second degree, assault of a law enforcement officer
102 in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in
103 the first degree, statutory rape in the first degree when the victim is a child less than twelve years
104 of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the
105 first degree when the victim is a child less than twelve years of age at the time of the commission
106 of the act giving rise to the offense, [and,] **child molestation in the first or second degree,**
107 **abuse of a child if the child dies as a result of injuries sustained from conduct chargeable under**

section 568.060, child kidnapping, [and] parental kidnapping committed by detaining or concealing the whereabouts of the child for not less than one hundred twenty days under section 565.153, and an **"intoxication-related traffic offense" or "intoxication-related boating offense" if the person is found to be a "habitual offender" or "habitual boating offender" as such terms are defined in section 577.001;**

[(9)] **(20) "Dangerous instrument" [means] , any instrument, article or substance, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury;**

(21) "Data", a representation of information, facts, knowledge, concepts, or instructions prepared in a formalized or other manner and intended for use in a computer or computer network. Data may be in any form including, but not limited to, printouts, microfiche, magnetic storage media, punched cards and as may be stored in the memory of a computer;

[(10)] **(22) "Deadly weapon" [means] , any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a switchblade knife, dagger, billy club, blackjack or metal knuckles;**

(23) "Digital camera", a camera that records images in a format which enables the images to be downloaded into a computer;

(24) "Disability", a mental, physical, or developmental impairment that substantially limits one or more major life activities or the ability to provide adequately for one's care or protection, whether the impairment is congenital or acquired by accident, injury or disease, where such impairment is verified by medical findings;

(25) "Elderly person", a person sixty years of age or older;

[(11)] **(26) "Felony" [has the meaning specified in section 556.016] , an offense so designated or an offense for which persons found guilty thereof may be sentenced to death or imprisonment for a term of more than one year;**

[(12)] **(27) "Forcible compulsion" [means] either:**

(a) Physical force that overcomes reasonable resistance; or

(b) A threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person;

[(13)] **(28) "Incapacitated" [means that] , a temporary or permanent physical or mental condition[, temporary or permanent,] in which a person is unconscious, unable to appraise the nature of [such person's] his or her conduct, or unable to communicate unwillingness to an act;**

[(14)] **(29) "Infraction" [has the meaning specified in section 556.021] , a violation defined by this code or by any other statute of this state if it is so designated or if no**

143 **sentence other than a fine, or fine and forfeiture or other civil penalty, is authorized upon**
144 **conviction;**

145 [(15)] (30) "Inhabitable structure" [has the meaning specified in section 569.010] , a
146 **vehicle, vessel or structure:**

147 (a) **Where any person lives or carries on business or other calling; or**

148 (b) **Where people assemble for purposes of business, government, education,**
149 **religion, entertainment, or public transportation; or**

150 (c) **Which is used for overnight accommodation of persons. Any such vehicle,**
151 **vessel, or structure is "inhabitable" regardless of whether a person is actually present.**

152 **If a building or structure is divided into separately occupied units, any unit not occupied**
153 **by the actor is an "inhabitable structure of another";**

154 [(16)] (31) "Knowingly" [has the meaning specified in section 562.016] , **when used**
155 **with respect to:**

156 (a) **Conduct or attendant circumstances, means a person is aware of the nature of**
157 **his or her conduct or that those circumstances exist; or**

158 (b) **A result of conduct, means a person is aware that his or her conduct is**
159 **practically certain to cause that result;**

160 [(17)] (32) "Law enforcement officer" [means] , any public servant having both the
161 power and duty to make arrests for violations of the laws of this state, and federal law
162 enforcement officers authorized to carry firearms and to make arrests for violations of the laws
163 of the United States;

164 [(18)] (33) "Misdemeanor" [has the meaning specified in section 556.016] , **an offense**
165 **so designated or an offense for which persons found guilty thereof may be sentenced to**
166 **imprisonment for a term of which the maximum is one year or less;**

167 (34) **"Of another", property that any entity, including but not limited to any**
168 **natural person, corporation, limited liability company, partnership, association,**
169 **governmental subdivision or instrumentality, other than the actor, has a possessory or**
170 **proprietary interest therein, except that property shall not be deemed property of another**
171 **who has only a security interest therein, even if legal title is in the creditor pursuant to a**
172 **conditional sales contract or other security arrangement;**

173 [(19)] (35) "Offense" [means] , any felony[,] or misdemeanor [or infraction];

174 [(20)] (36) "Physical injury" [means physical pain, illness, or any impairment of physical
175 condition] , **slight impairment of any function of the body or temporary loss of use of any**
176 **part of the body;**

177 [(21)] (37) "Place of confinement" [means] , any building or facility and the grounds
178 thereof wherein a court is legally authorized to order that a person charged with or convicted of
179 a crime be held;

180 [(22)] (38) "Possess" or "possessed" [means] , having actual or constructive possession
181 of an object with knowledge of its presence. A person has actual possession if such person has
182 the object on his or her person or within easy reach and convenient control. A person has
183 constructive possession if such person has the power and the intention at a given time to exercise
184 dominion or control over the object either directly or through another person or persons.
185 Possession may also be sole or joint. If one person alone has possession of an object, possession
186 is sole. If two or more persons share possession of an object, possession is joint;

187 (39) "Property", anything of value, whether real or personal, tangible or intangible,
188 in possession or in action;

189 [(23)] (40) "Public servant" [means] , any person employed in any way by a government
190 of this state who is compensated by the government by reason of such person's employment, any
191 person appointed to a position with any government of this state, or any person elected to a
192 position with any government of this state. It includes, but is not limited to, legislators, jurors,
193 members of the judiciary and law enforcement officers. It does not include witnesses;

194 [(24)] (41) "Purposely" [has the meaning specified in section 562.016] , **when used with**
195 **respect to a person's conduct or to a result thereof, means when it is his or her conscious**
196 **object to engage in that conduct or to cause that result;**

197 [(25)] (42) "Recklessly" [has the meaning specified in section 562.016] , **consciously**
198 **disregarding a substantial and unjustifiable risk that circumstances exist or that a result**
199 **will follow, and such disregard constitutes a gross deviation from the standard of care**
200 **which a reasonable person would exercise in the situation;**

201 [(26) "Ritual" or "ceremony" means an act or series of acts performed by two or more
202 persons as part of an established or prescribed pattern of activity;

203 (27)] (43) "Serious emotional injury", an injury that creates a substantial risk of
204 temporary or permanent medical or psychological damage, manifested by impairment of a
205 behavioral, cognitive or physical condition. Serious emotional injury shall be established by
206 testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable
207 degree of medical or psychological certainty;

208 [(28)] (44) "Serious physical injury" [means] , physical injury that creates a substantial
209 risk of death or that causes serious disfigurement or protracted loss or impairment of the function
210 of any part of the body;

211 [(29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse;
212 sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area,
213 buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;

214 (30) "Sexual contact" means any touching of the genitals or anus of any person, or the
215 breast of any female person, or any such touching through the clothing, for the purpose of
216 arousing or gratifying sexual desire of any person;

217 (31) "Sexual performance", any performance, or part thereof, which includes sexual
218 conduct by a child who is less than seventeen years of age;]

219 **(45) "Services", when used in relation to a computer system or network, means use**
220 **of a computer, computer system, or computer network and includes, but is not limited to,**
221 **computer time, data processing, and storage or retrieval functions;**

222 **(46) "Sexual orientation", male or female heterosexuality, homosexuality or**
223 **bisexuality by inclination, practice, identity or expression, or having a self-image or**
224 **identity not traditionally associated with one's gender;**

225 **(47) "Vehicle", a self-propelled mechanical device designed to carry a person or**
226 **persons, excluding vessels or aircraft;**

227 **(48) "Vessel", any boat or craft propelled by a motor or by machinery, whether or**
228 **not such motor or machinery is a principal source of propulsion used or capable of being**
229 **used as a means of transportation on water, or any boat or craft more than twelve feet in**
230 **length which is powered by sail alone or by a combination of sail and machinery, and used**
231 **or capable of being used as a means of transportation on water, but not any boat or craft**
232 **having, as the only means of propulsion, a paddle or oars;**

233 [(32)] **(49) "Voluntary act" [has the meaning specified in section 562.011] :**

234 **(a) A bodily movement performed while conscious as a result of effort or**
235 **determination. Possession is a voluntary act if the possessor knowingly procures or**
236 **receives the thing possessed, or having acquired control of it was aware of his or her**
237 **control for a sufficient time to have enabled him or her to dispose of it or terminate his or**
238 **her control; or**

239 **(b) An omission to perform an act of which the actor is physically capable. A**
240 **person is not guilty of an offense based solely upon an omission to perform an act unless**
241 **the law defining the offense expressly so provides, or a duty to perform the omitted act is**
242 **otherwise imposed by law;**

243 **(50) "Vulnerable person", any person in the custody, care, or control of the**
244 **department of mental health who is receiving services from an operated, funded, licensed,**
245 **or certified program.**

558.019. 1. This section shall not be construed to affect the powers of the governor under article IV, section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020, section [558.018] **566.125**, or section 571.015, which set minimum terms of sentences, or the provisions of section 559.115, relating to probation.

2. The provisions of subsections 2 to 5 of this section shall be applicable to all classes of felonies except those set forth in chapter [195] **579, or in chapter 195 prior to January 1, 2017**, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of an offender after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include [commitment to a regimented discipline program established pursuant to section 217.378] **an offender's first incarceration prior to release on probation under section 217.362 or 559.115**. Other provisions of the law to the contrary notwithstanding, any offender who has [pleaded guilty to or has] been found guilty of a felony other than a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve the following minimum prison terms:

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

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

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

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

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

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

38 (2) Any sentence either alone or in the aggregate with other consecutive sentences for
39 [crimes] **offenses** committed at or near the same time which is over seventy-five years shall be
40 calculated to be seventy-five years.

41 5. For purposes of this section, the term "minimum prison term" shall mean time
42 required to be served by the offender before he or she is eligible for parole, conditional release
43 or other early release by the department of corrections.

44 6. (1) A sentencing advisory commission is hereby created to consist of eleven
45 members. One member shall be appointed by the speaker of the house. One member shall be
46 appointed by the president pro tem of the senate. One member shall be the director of the
47 department of corrections. Six members shall be appointed by and serve at the pleasure of the
48 governor from among the following: the public defender commission; private citizens; a private
49 member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members
50 shall be appointed by the supreme court, one from a metropolitan area and one from a rural area.
51 All members shall be appointed to a four-year term. All members of the sentencing commission
52 appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory
53 commission at the pleasure of the governor.

54 (2) The commission shall study sentencing practices in the circuit courts throughout the
55 state for the purpose of determining whether and to what extent disparities exist among the
56 various circuit courts with respect to the length of sentences imposed and the use of probation
57 for offenders convicted of the same or similar [crimes] **offenses** and with similar criminal
58 histories. The commission shall also study and examine whether and to what extent sentencing
59 disparity among economic and social classes exists in relation to the sentence of death and if so,
60 the reasons therefor, **if** sentences are comparable to other states, if the length of the sentence is
61 appropriate, and the rate of rehabilitation based on sentence. It shall compile statistics, examine
62 cases, draw conclusions, and perform other duties relevant to the research and investigation of
63 disparities in death penalty sentencing among economic and social classes.

64 (3) The commission shall study alternative sentences, prison work programs, work
65 release, home-based incarceration, probation and parole options, and any other programs and
66 report the feasibility of these options in Missouri.

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

69 (5) The members of the commission shall not receive compensation for their duties on
70 the commission, but shall be reimbursed for actual and necessary expenses incurred in the
71 performance of these duties and for which they are not reimbursed by reason of their other paid
72 positions.

73 (6) The circuit and associate circuit courts of this state, the office of the state courts
74 administrator, the department of public safety, and the department of corrections shall cooperate
75 with the commission by providing information or access to information needed by the
76 commission. The office of the state courts administrator will provide needed staffing resources.

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

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

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

85 (2) Offender treatment programs;

86 (3) Mandatory community service;

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

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

89 9. The provisions of this section shall apply only to offenses occurring on or after August
90 28, 2003.

91 10. Pursuant to subdivision (1) of subsection 8 of this section, the court may order the
92 assessment and payment of a designated amount of restitution to a county law enforcement
93 restitution fund established by the county commission pursuant to section 50.565. Such
94 contribution shall not exceed three hundred dollars for any charged offense. Any restitution
95 moneys deposited into the county law enforcement restitution fund pursuant to this section shall
96 only be expended pursuant to the provisions of section 50.565.

97 11. A judge may order payment to a restitution fund only if such fund had been created
98 by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall
99 not have any direct supervisory authority or administrative control over any fund to which the
100 judge is ordering a [defendant] **person** to make payment.

101 12. A [defendant] **person** who fails to make a payment to a county law enforcement
102 restitution fund may not have his or her probation revoked solely for failing to make such
103 payment unless the judge, after evidentiary hearing, makes a finding supported by a
104 preponderance of the evidence that the [defendant] **person** either willfully refused to make the
105 payment or that the [defendant] **person** willfully, intentionally, and purposefully failed to make
106 sufficient bona fide efforts to acquire the resources to pay.

107 13. Nothing in this section shall be construed to allow the sentencing advisory
108 commission to issue recommended sentences in specific cases pending in the courts of this state.

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

2. The court may terminate a period of probation and discharge the defendant at any time before completion of the specific term fixed under section 559.016 if warranted by the conduct of the defendant and the ends of justice. The court may extend the term of the probation, but no more than one extension of any probation may be ordered except that the court may extend the term of probation by one additional year by order of the court if the defendant admits he or she has violated the conditions of probation or is found by the court to have violated the conditions of his or her probation. Total time on any probation term, including any extension shall not exceed the maximum term established in section 559.016. Procedures for termination, discharge and extension may be established by rule of court.

3. If the defendant violates a condition of probation at any time prior to the expiration or termination of the probation term, the court may continue him **or her** on the existing conditions, with or without modifying or enlarging the conditions or extending the term.

4. (1) Unless the defendant consents to the revocation of probation, if a continuation, modification, enlargement or extension is not appropriate under this section, the court shall order placement of the offender in one of the department of corrections' one hundred twenty-day programs so long as:

(a) The underlying offense for the probation is a class [C or] D **or E** felony or an offense listed in chapter [195] **579 or an offense previously listed in chapter 195**; except that, the court may, upon its own motion or a motion of the prosecuting or circuit attorney, make a finding that an offender is not eligible if the underlying offense is [involuntary manslaughter in the first degree,] involuntary manslaughter in the second degree, [aggravated] stalking **in the first degree**, assault in the second degree, sexual assault, rape in the second degree, domestic assault in the second degree, assault [of a law enforcement officer in the second degree] **in the third degree when the victim is a special victim**, statutory rape in the second degree, statutory sodomy in the second degree, deviate sexual assault, sodomy in the second degree, sexual misconduct involving a child, incest, endangering the welfare of a child in the first degree under subdivision (1) or (2) of subsection 1 of section 568.045, abuse of a child, invasion of privacy [or] , any case in which the defendant is found guilty of a felony offense under chapter 571, **or an offense of aggravated stalking or assault of a law enforcement officer in the second degree as such offenses existed prior to January 1, 2017**;

36 (b) The probation violation is not the result of the defendant being an absconder or being
37 found guilty of, pleading guilty to, or being arrested on suspicion of any felony, misdemeanor,
38 or infraction. For purposes of this subsection, "absconder" shall mean an offender under
39 supervision who has left such offender's place of residency without the permission of the
40 offender's supervising officer for the purpose of avoiding supervision;

41 (c) The defendant has not violated any conditions of probation involving the possession
42 or use of weapons, or a stay-away condition prohibiting the defendant from contacting a certain
43 individual; and

44 (d) The defendant has not already been placed in one of the programs by the court for
45 the same underlying offense or during the same probation term.

46 (2) Upon receiving the order, the department of corrections shall conduct an assessment
47 of the offender and place such offender in the appropriate one hundred twenty-day program
48 under subsection 3 of section 559.115.

49 (3) Notwithstanding any of the provisions of subsection 3 of section 559.115 to the
50 contrary, once the defendant has successfully completed the program under this subsection, the
51 court shall release the defendant to continue to serve the term of probation, which shall not be
52 modified, enlarged, or extended based on the same incident of violation. Time served in the
53 program shall be credited as time served on any sentence imposed for the underlying offense.

54 5. If the defendant consents to the revocation of probation or if the defendant is not
55 eligible under subsection 4 of this section for placement in a program and a continuation,
56 modification, enlargement, or extension of the term under this section is not appropriate, the
57 court may revoke probation and order that any sentence previously imposed be executed. If
58 imposition of sentence was suspended, the court may revoke probation and impose any sentence
59 available under section 557.011. The court may mitigate any sentence of imprisonment by
60 reducing the prison or jail term by all or part of the time the defendant was on probation. The
61 court may, upon revocation of probation, place an offender on a second term of probation. Such
62 probation shall be for a term of probation as provided by section 559.016, notwithstanding any
63 amount of time served by the offender on the first term of probation.

64 6. Probation shall not be revoked without giving the probationer notice and an
65 opportunity to be heard on the issues of whether such probationer violated a condition of
66 probation and, if a condition was violated, whether revocation is warranted under all the
67 circumstances. Not less than five business days prior to the date set for a hearing on the
68 violation, except for a good cause shown, the judge shall inform the probationer that he or she
69 may have the right to request the appointment of counsel if the probationer is unable to retain
70 counsel. If the probationer requests counsel, the judge shall determine whether counsel is

71 necessary to protect the probationer's due process rights. If the judge determines that counsel is
72 not necessary, the judge shall state the grounds for the decision in the record.

73 7. The prosecuting or circuit attorney may file a motion to revoke probation or at any
74 time during the term of probation, the court may issue a notice to the probationer to appear to
75 answer a charge of a violation, and the court may issue a warrant of arrest for the violation. Such
76 notice shall be personally served upon the probationer. The warrant shall authorize the return
77 of the probationer to the custody of the court or to any suitable detention facility designated by
78 the court. Upon the filing of the prosecutor's or circuit attorney's motion or on the court's own
79 motion, the court may immediately enter an order suspending the period of probation and may
80 order a warrant for the defendant's arrest. The probation shall remain suspended until the court
81 rules on the prosecutor's or circuit attorney's motion, or until the court otherwise orders the
82 probation reinstated.

83 8. The power of the court to revoke probation shall extend for the duration of the term
84 of probation designated by the court and for any further period which is reasonably necessary for
85 the adjudication of matters arising before its expiration, provided that some affirmative
86 manifestation of an intent to conduct a revocation hearing occurs prior to the expiration of the
87 period and that every reasonable effort is made to notify the probationer and to conduct the
88 hearing prior to the expiration of the period.

89 **9. A defendant who was sentenced prior to January 1, 2017 to an offense that was**
90 **eligible at the time of sentencing under paragraph (a) of subdivision (1) of subsection 4 of**
91 **this section for the court ordered detention sanction shall continue to remain eligible for**
92 **the sanction so long as the defendant meets all the other requirements provided under**
93 **subsection 4 of this section.**

559.106. 1. Notwithstanding any statutory provision to the contrary, when a court grants
2 probation to an offender who has [pleaded guilty to or has] been found guilty of an offense in:

3 **(1) Section 566.030, 566.032, 566.060, [or] 566.062, [based on an act committed on or**
4 **after August 28, 2006, or the offender has pleaded guilty to or has been found guilty of an**
5 **offense under section] 566.067, 566.083, 566.100, 566.151, 566.212, 566.213, 568.020, 568.080,**
6 **or 568.090, based on an act committed on or after August 28, 2006[,] ; or**

7 **(2) Section 566.068, 566.069, 566.210, 566.211, 573.200, or 573.205 based on an act**
8 **committed on or after January 1, 2017, against a victim who was less than fourteen years [old]**
9 **of age and the offender is a prior sex offender as defined in subsection 2 of this section[,] ;**
10

11 the court shall order that the offender be supervised by the board of probation and parole for the
12 duration of his or her natural life.

13 2. For the purpose of this section, a prior sex offender is a person who has previously
14 [pleaded guilty to or has] been found guilty of an offense contained in chapter 566, or violating
15 section 568.020, when the person had sexual intercourse or deviate sexual intercourse with the
16 victim, or of violating subdivision (2) of subsection 1 of section 568.045.

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

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

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

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

12 3. The court may recommend placement of an offender in a department of corrections
13 one hundred twenty-day program under this subsection or order such placement under subsection
14 4 of section 559.036. Upon the recommendation or order of the court, the department of
15 corrections shall assess each offender to determine the appropriate one hundred twenty-day
16 program in which to place the offender, which may include placement in the shock incarceration
17 program or institutional treatment program. When the court recommends and receives placement
18 of an offender in a department of corrections one hundred twenty-day program, the offender shall
19 be released on probation if the department of corrections determines that the offender has
20 successfully completed the program except as follows. Upon successful completion of a
21 program under this subsection, the board of probation and parole shall advise the sentencing
22 court of an offender's probationary release date thirty days prior to release. The court shall
23 follow the recommendation of the department unless the court determines that probation is not
24 appropriate. If the court determines that probation is not appropriate, the court may order the
25 execution of the offender's sentence only after conducting a hearing on the matter within ninety

26 to one hundred twenty days from the date the offender was delivered to the department of
27 corrections. If the department determines the offender has not successfully completed a one
28 hundred twenty-day program under this subsection, the offender shall be removed from the
29 program and the court shall be advised of the removal. The department shall report on the
30 offender's participation in the program and may provide recommendations for terms and
31 conditions of an offender's probation. The court shall then have the power to grant probation or
32 order the execution of the offender's sentence.

33 4. If the court is advised that an offender is not eligible for placement in a one hundred
34 twenty-day program under subsection 3 of this section, the court shall consider other authorized
35 dispositions. If the department of corrections one hundred twenty-day program under subsection
36 3 of this section is full, the court may place the offender in a private program approved by the
37 department of corrections or the court, the expenses of such program to be paid by the offender,
38 or in an available program offered by another organization. If the offender is convicted of a class
39 C [or] , class D, or class E nonviolent felony, the court may order probation while awaiting
40 appointment to treatment.

41 5. Except when the offender has been found to be a predatory sexual offender pursuant
42 to section [558.018] **566.125**, the court shall request the department of corrections to conduct a
43 sexual offender assessment if the defendant [has pleaded guilty to or] has been found guilty of
44 sexual abuse when classified as a class B felony. Upon completion of the assessment, the
45 department shall provide to the court a report on the offender and may provide recommendations
46 for terms and conditions of an offender's probation. The assessment shall not be considered a
47 one hundred twenty-day program as provided under subsection 3 of this section. The process
48 for granting probation to an offender who has completed the assessment shall be as provided
49 under subsections 2 and 6 of this section.

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

57 7. An offender's first incarceration under this section prior to release on probation shall
58 not be considered a previous prison commitment for the purpose of determining a minimum
59 prison term under the provisions of section 558.019.

60 8. Notwithstanding any other provision of law, probation may not be granted pursuant
61 to this section to offenders who have been convicted of murder in the second degree pursuant

62 to section 565.021; forcible rape pursuant to section 566.030 as it existed prior to August 28,
63 2013; rape in the first degree under section 566.030; forcible sodomy pursuant to section 566.060
64 as it existed prior to August 28, 2013; sodomy in the first degree under section 566.060; statutory
65 rape in the first degree pursuant to section 566.032; statutory sodomy in the first degree pursuant
66 to section 566.062; child molestation in the first degree pursuant to section 566.067 when
67 classified as a class A felony; abuse of a child pursuant to section 568.060 when classified as a
68 class A felony; **or** an offender who has been found to be a predatory sexual offender pursuant
69 to section [558.018] **566.125**; or any offense in which there exists a statutory prohibition against
70 either probation or parole.

559.633. 1. Upon [a plea of guilty or] a finding of [guilty for a commission of] **guilt for**
2 a felony offense pursuant to chapter 195 **or 579**, except for those offenses in which there exists
3 a statutory prohibition against either probation or parole, when placing the person on probation,
4 the court shall order the person to begin a required educational assessment and community
5 treatment program within the first sixty days of probation as a condition of probation. Persons
6 who are placed on probation after a period of incarceration pursuant to section 559.115 may not
7 be required to participate in a required educational assessment and community treatment
8 program.

9 2. The fees for the required educational assessment and community treatment program,
10 or a portion of such fees, to be determined by the department of corrections, shall be paid by the
11 person receiving the assessment. Any person who is assessed shall pay, in addition to any fee
12 charged for the assessment, a supplemental fee of sixty dollars. The administrator of the
13 program shall remit to the department of corrections the supplemental fees for all persons
14 assessed, less two percent for administrative costs. The supplemental fees received by the
15 department of corrections pursuant to this section shall be deposited in the correctional substance
16 abuse earnings fund created pursuant to section 559.635.

565.002. As used in this chapter, unless a different meaning is otherwise plainly required
2 **the following terms mean:**

3 (1) "Adequate cause" [means] , cause that would reasonably produce a degree of passion
4 in a person of ordinary temperament sufficient to substantially impair an ordinary person's
5 capacity for self-control;

6 (2) **"Child", a person under seventeen years of age;**

7 (3) "Conduct", includes any act or omission;

8 (4) **"Course of conduct", a pattern of conduct composed of two or more acts, which**
9 **may include communication by any means, over a period of time, however short,**
10 **evidencing a continuity of purpose. Constitutionally protected activity is not included**

11 **within the meaning of course of conduct. Such constitutionally protected activity includes**
12 **picketing or other organized protests;**

13 [3)] (5) "Deliberation" means cool reflection for any length of time no matter how brief;

14 [(4) "Intoxicated condition" means under the influence of alcohol, a controlled substance,
15 or drug, or any combination thereof;

16 (5) "Operates" means physically driving or operating or being in actual physical control
17 of a motor vehicle;

18 (6) "Serious physical injury" means physical injury that creates a substantial risk of death
19 or that causes serious disfigurement or protracted loss or impairment of the function of any part
20 of the body;]

21 (6) "Domestic victim", a household or family member as the term "family" or
22 "household member" is defined in section 455.010, including any child who is a member
23 of the household or family;

24 (7) "Emotional distress", something markedly greater than the level of uneasiness,
25 nervousness, unhappiness, or the like which are commonly experienced in day-to-day
26 living;

27 (8) "Full or partial nudity", the showing of all or any part of the human genitals,
28 pubic area, buttock, or any part of the nipple of the breast of any female person, with less
29 than a fully opaque covering;

30 (9) "Legal custody", the right to the care, custody and control of a child;

31 (10) "Parent", either a biological parent or a parent by adoption;

32 (11) "Person having a right of custody", a parent or legal guardian of the child;

33 (12) "Photographs" or "films", the making of any photograph, motion picture film,
34 videotape, or any other recording or transmission of the image of a person;

35 (13) "Place where a person would have a reasonable expectation of privacy", any
36 place where a reasonable person would believe that a person could disrobe in privacy,
37 without being concerned that the person's undressing was being viewed, photographed or
38 filmed by another;

39 (14) "Special victim", any of the following:

40 (a) A law enforcement officer assaulted in the performance of his or her official
41 duties or as a direct result of such official duties;

42 (b) Emergency personnel, any paid or volunteer firefighter, emergency room or
43 trauma center personnel, or emergency medical technician, assaulted in the performance
44 of his or her official duties or as a direct result of such official duties;

45 (c) A probation and parole officer assaulted in the performance of his or her official
46 duties or as a direct result of such official duties;

- 47 (d) **An elderly person;**
48 (e) **A person with a disability;**
49 (f) **A vulnerable person;**
50 (g) **Any jailer or corrections officer of the state or one of its political subdivisions**
51 **assaulted in the performance of his or her official duties or as a direct result of such official**
52 **duties;**
53 (h) **A highway worker in a construction or work zone as the terms "highway**
54 **worker", "construction zone", and "work zone" are defined under section 304.580;**
55 (i) **Any utility worker, meaning any employee of a utility that provides gas, heat,**
56 **electricity, water, steam, telecommunications services, or sewer services, whether privately,**
57 **municipally, or cooperatively owned, while in the performance of his or her job duties,**
58 **including any person employed under a contract;**
59 (j) **Any cable worker, meaning any employee of a cable operator, as such term is**
60 **defined in section 67.2677, including any person employed under contract, while in the**
61 **performance of his or her job duties; and**
62 (k) **Any employee of a mass transit system, including any employee of public bus**
63 **or light rail companies, while in the performance of his or her job duties;**
64 [(7)] **(15) "Sudden passion" [means] , passion directly caused by and arising out of**
65 **provocation by the victim or another acting with the victim which passion arises at the time of**
66 **the offense and is not solely the result of former provocation;**
67 [(8)] **(16) "Trier" [means] , the judge or jurors to whom issues of fact, guilt or innocence,**
68 **or the assessment and declaration of punishment are submitted for decision;**
69 **(17) "Views", the looking upon of another person, with the unaided eye or with any**
70 **device designed or intended to improve visual acuity, for the purpose of arousing or**
71 **gratifying the sexual desire of any person.**
- 565.073. 1. A person commits the [crime] **offense** of domestic assault in the second
2 degree if the act involves a [family or household member, including any child who is a member
3 of the family or household, as defined in section 455.010] **domestic victim, as the term**
4 **"domestic victim" is defined under section 565.002**, and he or she:
5 (1) [Attempts to cause or] **Knowingly causes physical injury to such [family or**
6 **household member] domestic victim by any means, including but not limited to, [by] use of a**
7 **deadly weapon or dangerous instrument, or by choking or strangulation; or**
8 (2) **Recklessly causes serious physical injury to such [family or household member]**
9 **domestic victim; or**
10 (3) **Recklessly causes physical injury to such [family or household member] domestic**
11 **victim by means of any deadly weapon.**

12 2. **The offense of** domestic assault in the second degree is a class [C] **D** felony.

566.147. 1. Any person who, since July 1, 1979, has been or hereafter has [pleaded
2 guilty or nolo contendere to, or been convicted of, or] been found guilty of:

3 (1) Violating any of the provisions of this chapter or the provisions of [subsection 2 of]
4 section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree;
5 subsection 2 of section 568.080 **as it existed prior to January 1, 2017, or section 573.200**, use
6 of a child in a sexual performance; section 568.090 **as it existed prior to January 1, 2017, or**
7 **section 573.205**, promoting a sexual performance by a child; section 573.023, sexual
8 exploitation of a minor; section 573.025, promoting child pornography in the first degree; section
9 573.035, promoting child pornography in the second degree; section 573.037, possession of child
10 pornography, or section 573.040, furnishing pornographic material to minors; or

11 (2) Any offense in any other [state or foreign country, or under federal, tribal, or military]
12 jurisdiction which, if committed in this state, would be a violation listed in this section;

13

14 shall not reside within one thousand feet of any public school as defined in section 160.011, any
15 private school giving instruction in a grade or grades not higher than the twelfth grade, **or** any
16 child care facility that is licensed under chapter 210, or any child care facility as defined in
17 section 210.201 that is exempt from state licensure but subject to state regulation under section
18 210.252 and holds itself out to be a child care facility, where the school or facility is in existence
19 at the time the individual begins to reside at the location.

20 2. If such person has already established a residence and a public school, a private
21 school, or child care facility is subsequently built or placed within one thousand feet of such
22 person's residence, then such person shall, within one week of the opening of such public school,
23 private school, or child care facility, notify the county sheriff where such public school, private
24 school, or child care facility is located that he or she is now residing within one thousand feet of
25 such public school, private school, or child care facility and shall provide verifiable proof to the
26 sheriff that he or she resided there prior to the opening of such public school, private school, or
27 child care facility.

28 3. For purposes of this section, "resides" means sleeps in a residence, which may include
29 more than one location and may be mobile or transitory.

30 4. Violation of the provisions of subsection 1 of this section is a class [D] **E** felony
31 except that the second or any subsequent violation is a class B felony. Violation of the
32 provisions of subsection 2 of this section is a class A misdemeanor except that the second or
33 subsequent violation is a class [D] **E** felony.

566.148. 1. Any person who has [pleaded guilty or nolo contendere to, or been
2 convicted of, or] been found guilty of:

3 (1) Violating any of the provisions of this chapter or the provisions of [subsection 2 of]
4 section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree;
5 subsection 2 of section 568.080 **as it existed prior to January 1, 2017, or section 573.200**, use
6 of a child in a sexual performance; section 568.090 **as it existed prior to January 1, 2017, or**
7 **section 573.205**, promoting a sexual performance by a child; section 573.023, sexual
8 exploitation of a minor; section 573.025, promoting child pornography in the first degree; section
9 573.035, promoting child pornography in the second degree; section 573.037, possession of child
10 pornography, or section 573.040, furnishing pornographic material to minors; or

11 (2) Any offense in any other [state or foreign country, or under federal, tribal, or military]
12 jurisdiction which, if committed in this state, would be a violation listed in this section;

13

14 shall not knowingly be physically present in or loiter within five hundred feet of or to approach,
15 contact, or communicate with any child under eighteen years of age in any child care facility
16 building, on the real property comprising any child care facility when persons under the age of
17 eighteen are present in the building, on the grounds, or in the conveyance, unless the offender
18 is a parent, legal guardian, or custodian of a student present in the building or on the grounds.

19 2. For purposes of this section, "child care facility" shall [have the same meaning as such
20 term is defined in section 210.201] **include any child care facility licensed under chapter 210,**
21 **or any child care facility that is exempt from state licensure but subject to state regulation**
22 **under section 210.252 and holds itself out to be a child care facility.**

23 3. [Any person who violates] **Violation of** the provisions of this section is [guilty of] a
24 class A misdemeanor.

566.149. 1. Any person who has [pleaded guilty or nolo contendere to, or been
2 convicted of, or] been found guilty of:

3 (1) Violating any of the provisions of this chapter or the provisions [of subsection 2] of
4 section 568.020, incest; section 568.045, endangering the welfare of a child in the first degree;
5 subsection 2 of section 568.080 **as it existed prior to January 1, 2017, or section 573.200**, use
6 of a child in a sexual performance; section 568.090 **as it existed prior to January 1, 2017, or**
7 **section 573.205**, promoting a sexual performance by a child; section 573.023, sexual
8 exploitation of a minor; section 573.025, promoting child pornography; or section 573.040,
9 furnishing pornographic material to minors; or

10 (2) Any offense in any other [state or foreign country, or under tribal, federal, or military]
11 jurisdiction which, if committed in this state, would be a violation listed in this section;

12

13 shall not be present in or loiter within five hundred feet of any school building, on real property
14 comprising any school, or in any conveyance owned, leased, or contracted by a school to

15 transport students to or from school or a school-related activity when persons under the age of
16 eighteen are present in the building, on the grounds, or in the conveyance, unless the offender
17 is a parent, legal guardian, or custodian of a student present in the building and has met the
18 conditions set forth in subsection 2 of this section.

19 2. No parent, legal guardian, or custodian who has [pleaded guilty or nolo contendere
20 to, or been convicted of, or] been found guilty of violating any of the offenses listed in subsection
21 1 of this section shall be present in any school building, on real property comprising any school,
22 or in any conveyance owned, leased, or contracted by a school to transport students to or from
23 school or a school-related activity when persons under the age of eighteen are present in the
24 building, on the grounds or in the conveyance unless the parent, legal guardian, or custodian has
25 permission to be present from the superintendent or school board or in the case of a private
26 school from the principal. In the case of a public school, if permission is granted, the
27 superintendent or school board president must inform the principal of the school where the sex
28 offender will be present. Permission may be granted by the superintendent, school board, or in
29 the case of a private school from the principal for more than one event at a time, such as a series
30 of events, however, the parent, legal guardian, or custodian must obtain permission for any other
31 event he or she wishes to attend for which he or she has not yet had permission granted.

32 3. Regardless of the person's knowledge of his or her proximity to school property or a
33 school-related activity, violation of the provisions of this section [shall be] **is** a class A
34 misdemeanor.

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

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

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

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

11 5. As used in this chapter, "substance abuse traffic offender program" means a program
12 certified by the division of alcohol and drug abuse of the department of mental health to provide
13 education or rehabilitation services pursuant to a professional assessment screening to identify
14 the individual needs of the person who has been referred to the program as the result of an
15 alcohol- or drug-related traffic offense. Successful completion of such a program includes
16 participation in any education or rehabilitation program required to meet the needs identified in

17 the assessment screening. The assignment recommendations based upon such assessment shall
18 be subject to judicial review as provided in subsection 7 of section 577.041] **the following terms**
19 **mean:**

20 **(1) "Aggravated offender", a person who has been found guilty of:**

21 **(a) Three or more intoxication-related traffic offenses committed on separate**
22 **occasions; or**

23 **(b) Two or more intoxication-related traffic offenses committed on separate**
24 **occasions where at least one of the intoxication-related traffic offenses is an offense**
25 **committed in violation of any state law, county or municipal ordinance, any federal offense,**
26 **or any military offense in which the defendant was operating a vehicle while intoxicated**
27 **and another person was injured or killed;**

28 **(2) "Aggravated boating offender", a person who has been found guilty of:**

29 **(a) Three or more intoxication-related boating offenses; or**

30 **(b) Has been found guilty of one or more intoxication-related boating offenses**
31 **committed on separate occasions where at least one of the intoxication-related traffic**
32 **offenses is an offense committed in violation of any state law, county or municipal**
33 **ordinance, any federal offense, or any military offense in which the defendant was**
34 **operating a vessel while intoxicated and another person was injured or killed;**

35 **(3) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively**
36 **for off-highway use which is fifty inches or less in width, with an unladen dry weight of one**
37 **thousand pounds or less, traveling on three, four or more low pressure tires, with a seat**
38 **designed to be straddled by the operator, or with a seat designed to carry more than one**
39 **person, and handlebars for steering control;**

40 **(4) "Court", any circuit, associate circuit, or municipal court, including traffic**
41 **court, but not any juvenile court or drug court;**

42 **(5) "Chronic offender", a person who has been found guilty of:**

43 **(a) Four or more intoxication-related traffic offenses committed on separate**
44 **occasions; or**

45 **(b) Three or more intoxication-related traffic offenses committed on separate**
46 **occasions where at least one of the intoxication-related traffic offenses is an offense**
47 **committed in violation of any state law, county or municipal ordinance, any federal offense,**
48 **or any military offense in which the defendant was operating a vehicle while intoxicated**
49 **and another person was injured or killed; or**

50 **(c) Two or more intoxication-related traffic offenses committed on separate**
51 **occasions where both intoxication-related traffic offenses were offenses committed in**
52 **violation of any state law, county or municipal ordinance, any federal offense, or any**

53 **military offense in which the defendant was operating a vehicle while intoxicated and**
54 **another person was injured or killed;**

55 **(6) "Chronic boating offender", a person who has been found guilty of:**

56 **(a) Four or more intoxication-related boating offenses; or**

57 **(b) Three or more intoxication-related boating offenses committed on separate**
58 **occasions where at least one of the intoxication-related boating offenses is an offense**
59 **committed in violation of any state law, county or municipal ordinance, any federal offense,**
60 **or any military offense in which the defendant was operating a vessel while intoxicated and**
61 **another person was injured or killed; or**

62 **(c) Two or more intoxication-related boating offenses committed on separate**
63 **occasions where both intoxication-related boating offenses were offenses committed in**
64 **violation of any state law, county or municipal ordinance, any federal offense, or any**
65 **military offense in which the defendant was operating a vessel while intoxicated and**
66 **another person was injured or killed;**

67 **(7) "Controlled substance", a drug, substance, or immediate precursor in schedules**
68 **I to V listed in section 195.017;**

69 **(8) "Drive", "driving", "operates" or "operating", means physically driving or**
70 **operating a vehicle or vessel;**

71 **(9) "Flight crew member", the pilot in command, copilots, flight engineers, and**
72 **flight navigators;**

73 **(10) "Habitual offender", a person who has been found guilty of:**

74 **(a) Five or more intoxication-related traffic offenses committed on separate**
75 **occasions; or**

76 **(b) Four or more intoxication-related traffic offenses committed on separate**
77 **occasions where at least one of the intoxication-related traffic offenses is an offense**
78 **committed in violation of any state law, county or municipal ordinance, any federal offense,**
79 **or any military offense in which the defendant was operating a vehicle while intoxicated**
80 **and another person was injured or killed; or**

81 **(c) Three or more intoxication-related traffic offenses committed on separate**
82 **occasions where at least two of the intoxication-related traffic offenses were offenses**
83 **committed in violation of any state law, county or municipal ordinance, any federal offense,**
84 **or any military offense in which the defendant was operating a vehicle while intoxicated**
85 **and another person was injured or killed; or**

86 **(d) While driving while intoxicated, the defendant acted with criminal negligence**
87 **to:**

- 88 a. Cause the death of any person not a passenger in the vehicle operated by the
89 defendant, including the death of an individual that results from the defendant's vehicle
90 leaving a highway, as defined by section 301.010, or the highway's right-of-way; or
91 b. Cause the death of two or more persons; or
92 c. Cause the death of any person while he or she has a blood alcohol content of at
93 least eighteen-hundredths of one percent by weight of alcohol in such person's blood;
94 (11) "Habitual boating offender", a person who has been found guilty of:
95 (a) Five or more intoxication-related boating offenses; or
96 (b) Four or more intoxication-related boating offenses committed on separate
97 occasions where at least one of the intoxication-related boating offenses is an offense
98 committed in violation of any state law, county or municipal ordinance, any federal offense,
99 or any military offense in which the defendant was operating a vessel while intoxicated and
100 another person was injured or killed; or
101 (c) Three or more intoxication-related boating offenses committed on separate
102 occasions where at least two of the intoxication-related boating offenses were offenses
103 committed in violation of any state law, county or municipal ordinance, any federal offense,
104 or any military offense in which the defendant was operating a vessel while intoxicated and
105 another person was injured or killed; or
106 (d) While boating while intoxicated, the defendant acted with criminal negligence
107 to:
108 a. Cause the death of any person not a passenger in the vessel operated by the
109 defendant, including the death of an individual that results from the defendant's vessel
110 leaving the water; or
111 b. Cause the death of two or more persons; or
112 c. Cause the death of any person while he or she has a blood alcohol content of at
113 least eighteen-hundredths of one percent by weight of alcohol in such person's blood;
114 (12) "Intoxicated" or "intoxicated condition", when a person is under the influence
115 of alcohol, a controlled substance, or drug, or any combination thereof;
116 (13) "Intoxication-related boating offense", operating a vessel while intoxicated;
117 boating while intoxicated; operating a vessel with excessive blood alcohol content or an
118 offense in which the defendant was operating a vessel while intoxicated and another person
119 was injured or killed in violation of any state law, county or municipal ordinance, any
120 federal offense, or any military offense;
121 (14) "Intoxication-related traffic offense", driving while intoxicated, driving with
122 excessive blood alcohol content or an offense in which the defendant was operating a

vehicle while intoxicated and another person was injured or killed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense;

(15) "Law enforcement officer" or "arresting officer", includes the definition of law enforcement officer in section 556.061 and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state of Missouri;

(16) "Operate a vessel", to physically control the movement of a vessel in motion under mechanical or sail power in water;

(17) "Persistent offender", a person who has been found guilty of two or more intoxication-related traffic offenses committed on separate occasions;

(18) "Persistent boating offender", a person who has been found guilty of two or more intoxication-related boating offenses committed on separate occasions;

(19) "Prior offender", a person who has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged;

(20) "Prior boating offender", a person who has been found guilty of one intoxication-related boating offense, where such prior offense occurred within five years of the occurrence of the intoxication-related boating offense for which the person is charged.

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

2. The offense of driving while intoxicated is [for the first offense, a class B misdemeanor. No person convicted of or pleading guilty to the offense of driving while intoxicated shall be granted a suspended imposition of sentence for such offense, unless such person shall be placed on probation for a minimum of two years] :

(1) A class B misdemeanor;

(2) A class A misdemeanor if:

(a) The defendant is a prior offender; or

(b) A person less than seventeen years of age is present in the vehicle;

(3) A class E felony if:

(a) The defendant is a persistent offender; or

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to another person;

(4) A class D felony if:

(a) The defendant is an aggravated offender;

17 **(b) While driving while intoxicated, the defendant acts with criminal negligence to**
18 **cause physical injury to a law enforcement officer or emergency personnel; or**

19 **(c) While driving while intoxicated, the defendant acts with criminal negligence to**
20 **cause serious physical injury to another person;**

21 **(5) A class C felony if:**

22 **(a) The defendant is a chronic offender;**

23 **(b) While driving while intoxicated, the defendant acts with criminal negligence to**
24 **cause serious physical injury to a law enforcement officer or emergency personnel; or**

25 **(c) While driving while intoxicated, the defendant acts with criminal negligence to**
26 **cause the death of another person;**

27 **(6) A class B felony if:**

28 **(a) The defendant is a habitual offender; or**

29 **(b) While driving while intoxicated, the defendant acts with criminal negligence to**
30 **cause the death of a law enforcement officer or emergency personnel;**

31 **(7) A class A felony if the defendant is a habitual offender as a result of being found**
32 **guilty of an act described under paragraph (d) of subdivision (10) of section 577.001 and**
33 **is found guilty of a subsequent violation of such paragraph.**

34 3. Notwithstanding the provisions of subsection 2 of this section, [in a circuit where a
35 DWI court or docket created under section 478.007 or other court-ordered treatment program is
36 available, no person who operated a motor vehicle with fifteen-hundredths of one percent or
37 more by weight of alcohol in such person's blood shall be granted a suspended imposition of
38 sentence unless the individual participates and successfully completes a program under such
39 DWI court or docket or other court-ordered treatment program] **a person found guilty of the**
40 **offense of driving while intoxicated as a first offense shall not be granted a suspended**
41 **imposition of sentence:**

42 **(1) Unless such person shall be placed on probation for a minimum of two years;**
43 **or**

44 **(2) In a circuit where a DWI court or docket created under section 478.007 or other**
45 **court-ordered treatment program is available, and where the offense was committed with**
46 **fifteen-hundredths of one percent or more by weight of alcohol in such person's blood,**
47 **unless the individual participates and successfully completes a program under such DWI**
48 **court or docket or other court-ordered treatment program.**

49 4. If a person is not granted a suspended imposition of sentence for the reasons described
50 in subsection 3 of this section [for such first offense]:

51 (1) If the individual operated the [motor] vehicle with fifteen-hundredths to
52 twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term
53 of imprisonment shall be not less than forty-eight hours;

54 (2) If the individual operated the [motor] vehicle with greater than twenty-hundredths
55 of one percent by weight of alcohol in such person's blood, the required term of imprisonment
56 shall be not less than five days.

57 **5. A person found guilty of the offense of driving while intoxicated:**

58 (1) As a prior offender, persistent offender, aggravated offender, chronic offender,
59 or habitual offender shall not be granted a suspended imposition of sentence or be
60 sentenced to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary
61 notwithstanding;

62 (2) As a prior offender shall not be granted parole or probation until he or she has
63 served a minimum of ten days imprisonment:

64 (a) Unless as a condition of such parole or probation such person performs at least
65 thirty days of community service under the supervision of the court in those jurisdictions
66 which have a recognized program for community service; or

67 (b) The offender participates in and successfully completes a program established
68 under section 478.007 or other court-ordered treatment program, if available, and as part
69 of either program, the offender performs at least thirty days of community service under
70 the supervision of the court;

71 (3) As a persistent offender shall not be eligible for parole or probation until he or
72 she has served a minimum of thirty days imprisonment:

73 (a) Unless as a condition of such parole or probation such person performs at least
74 sixty days of community service under the supervision of the court in those jurisdictions
75 which have a recognized program for community service; or

76 (b) The offender participates in and successfully completes a program established
77 under section 478.007 or other court-ordered treatment program, if available, and as part
78 of either program, the offender performs at least sixty days of community service under
79 the supervision of the court;

80 (4) As an aggravated offender shall not be eligible for parole or probation until he
81 or she has served a minimum of sixty days imprisonment;

82 (5) As a chronic offender shall not be eligible for parole or probation until he or she
83 has served a minimum of two years imprisonment.

2 **577.013. 1. A person commits the offense of boating while intoxicated if he or she**
operates a vessel while in an intoxicated condition.

3 **2. The offense of boating while intoxicated is:**

- 4 **(1) A class B misdemeanor;**
5 **(2) A class A misdemeanor if:**
6 **(a) The defendant is a prior boating offender; or**
7 **(b) A person less than seventeen years of age is present in the vessel;**
8 **(3) A class E felony if:**
9 **(a) The defendant is a persistent boating offender; or**
10 **(b) While boating while intoxicated, the defendant acts with criminal negligence to**
11 **cause physical injury to another person;**
12 **(4) A class D felony if:**
13 **(a) The defendant is an aggravated boating offender;**
14 **(b) While boating while intoxicated, the defendant acts with criminal negligence to**
15 **cause physical injury to a law enforcement officer or emergency personnel; or**
16 **(c) While boating while intoxicated, the defendant acts with criminal negligence to**
17 **cause serious physical injury to another person;**
18 **(5) A class C felony if:**
19 **(a) The defendant is a chronic boating offender;**
20 **(b) While boating while intoxicated, the defendant acts with criminal negligence to**
21 **cause serious physical injury to a law enforcement officer or emergency personnel; or**
22 **(c) While boating while intoxicated, the defendant acts with criminal negligence to**
23 **cause the death of another person;**
24 **(6) A class B felony if:**
25 **(a) The defendant is a habitual boating offender; or**
26 **(b) While boating while intoxicated, the defendant acts with criminal negligence to**
27 **cause the death of a law enforcement officer or emergency personnel;**
28 **(7) A class A felony if the defendant is a habitual offender as a result of being found**
29 **guilty of an act described under paragraph (d) of subdivision (11) of section 577.001 and**
30 **is found guilty of a subsequent violation of such paragraph.**
31 **3. Notwithstanding the provisions of subsection 2 of this section, a person found**
32 **guilty of the offense of boating while intoxicated as a first offense shall not be granted a**
33 **suspended imposition of sentence:**
34 **(1) Unless such person shall be placed on probation for a minimum of two years;**
35 **or**
36 **(2) In a circuit where a DWI court or docket created under section 478.007 or other**
37 **court-ordered treatment program is available, and where the offense was committed with**
38 **fifteen-hundredths of one percent or more by weight of alcohol in such person's blood,**

39 unless the individual participates in and successfully completes a program under such DWI
40 court or docket or other court-ordered treatment program.

41 4. If a person is not granted a suspended imposition of sentence for the reasons
42 described in subsection 3 of this section:

43 (1) If the individual operated the vessel with fifteen-hundredths to twenty-
44 hundredths of one percent by weight of alcohol in such person's blood, the required term
45 of imprisonment shall be not less than forty-eight hours;

46 (2) If the individual operated the vessel with greater than twenty-hundredths of one
47 percent by weight of alcohol in such person's blood, the required term of imprisonment
48 shall be not less than five days.

49 5. A person found guilty of the offense of boating while intoxicated:

50 (1) As a prior boating offender, persistent boating offender, aggravated boating
51 offender, chronic boating offender or habitual boating offender shall not be granted a
52 suspended imposition of sentence or be sentenced to pay a fine in lieu of a term of
53 imprisonment, section 557.011 to the contrary notwithstanding;

54 (2) As a prior boating offender shall not be granted parole or probation until he or
55 she has served a minimum of ten days imprisonment;

56 (a) Unless as a condition of such parole or probation such person performs at least
57 two hundred forty hours of community service under the supervision of the court in those
58 jurisdictions which have a recognized program for community service; or

59 (b) The offender participates in and successfully completes a program established
60 under section 478.007 or other court-ordered treatment program, if available;

61 (3) As a persistent offender shall not be eligible for parole or probation until he or
62 she has served a minimum of thirty days imprisonment:

63 (a) Unless as a condition of such parole or probation such person performs at least
64 four hundred eighty hours of community service under the supervision of the court in those
65 jurisdictions which have a recognized program for community service; or

66 (b) The offender participates in and successfully completes a program established
67 under section 478.007 or other court-ordered treatment program, if available;

68 (4) As an aggravated boating offender shall not be eligible for parole or probation
69 until he or she has served a minimum of sixty days imprisonment;

70 (5) As a chronic boating offender shall not be eligible for parole or probation until
71 he or she has served a minimum of two years imprisonment.

577.020. 1. Any person who operates a [motor] vehicle upon the public highways of this
2 state, a vessel, or any aircraft, or acts as a flight crew member of an aircraft shall be deemed
3 to have given consent [to], subject to the provisions of sections 577.019 to 577.041, to a

4 chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining
5 the alcohol or drug content of the person's blood pursuant to the following 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]
8 **operating a vehicle or a vessel** while in an intoxicated [or drugged] condition; [or]

9 (2) **If the person is detained for any offense of operating an aircraft while**
10 **intoxicated under section 577.015 or operating an aircraft with excessive blood alcohol**
11 **content under section 577.016;**

12 (3) If the person is under the age of twenty-one, has been stopped by a law enforcement
13 officer, and the law enforcement officer has reasonable grounds to believe that such person was
14 [driving a motor] **operating a vehicle or a vessel** with a blood alcohol content of
15 two-hundredths of one percent or more by weight; [or]

16 [(3)] (4) If the person is under the age of twenty-one, has been stopped by a law
17 enforcement officer, and the law enforcement officer has reasonable grounds to believe that such
18 person has committed a violation of the traffic laws of the state, or any political subdivision of
19 the state, and such officer has reasonable grounds to believe, after making such stop, that such
20 person has a blood alcohol content of two-hundredths of one percent or greater;

21 [(4)] (5) If the person is under the age of twenty-one, has been stopped at a sobriety
22 checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that
23 such person has a blood alcohol content of two-hundredths of one percent or greater; **or**

24 [(5)] (6) If the person, while operating a [motor] vehicle, has been involved in a [motor
25 vehicle] collision **or accident** which resulted in a fatality or a readily apparent serious physical
26 injury as defined in section [565.002] **556.061**, or has been arrested as evidenced by the issuance
27 of a uniform traffic ticket for the violation of any state law or county or municipal ordinance with
28 the exception of equipment violations contained in [chapter] **chapters 306 and 307**, or similar
29 provisions contained in county or municipal ordinances[; or] .

30 [(6)] If the person, while operating a motor vehicle, has been involved in a motor vehicle
31 collision which resulted in a fatality or serious physical injury as defined in section 565.002.]

32
33 The test shall be administered at the direction of the law enforcement officer whenever the
34 person has been [arrested or] stopped, **detained, or arrested** for any reason.

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

38 3. **To be considered valid**, chemical analysis of the person's breath, blood, saliva, or
39 urine [to be considered valid pursuant to the provisions of sections 577.019 to 577.041] shall be

40 performed, according to methods approved by the state department of health and senior services,
41 by licensed medical personnel or by a person possessing a valid permit issued by the state
42 department of health and senior services for this purpose.

43 4. The state department of health and senior services shall approve satisfactory
44 techniques, devices, equipment, or methods to be [considered valid] **used in the chemical test**
45 pursuant to the provisions of sections 577.019 to 577.041 [and] . **The department shall also**
46 establish standards to ascertain the qualifications and competence of individuals to conduct **such**
47 analyses and [to] issue permits which shall be subject to termination or revocation by the state
48 department of health and senior services.

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

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

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

57 (2) The time of the collection of the blood [or] , breath [sample] , or urine **sample**
58 analyzed;

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

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

63 (5) If the test was administered by means of a breath-testing instrument, the date [of
64 performance] of the most recent [required] maintenance of such instrument. Full information
65 does not include manuals, schematics, or software of the instrument used to test the person or
66 any other material that is not in the actual possession of the state. Additionally, full information
67 does not include information in the possession of the manufacturer of the test instrument.

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

577.037. 1. Upon the trial of any person for [violation of any of the provisions of section
2 565.024, or section 565.060, or section 577.010 or 577.012, or upon the trial of any criminal

3 action] **any criminal offense** or violations of county or municipal ordinances, or in any license
4 suspension or revocation proceeding pursuant to the provisions of chapter 302, arising out of acts
5 alleged to have been committed by any person while [driving] **operating** a [motor] vehicle,
6 **vessel, or aircraft, or acting as a flight crew member of any aircraft**, while in an intoxicated
7 condition **or with an excessive blood alcohol content**, the amount of alcohol in the person's
8 blood at the time of the act [alleged] , as shown by any chemical analysis of the person's blood,
9 breath, saliva, or urine, is admissible in evidence and the provisions of subdivision (5) of section
10 491.060 shall not prevent the admissibility or introduction of such evidence if otherwise
11 admissible. [If there was eight-hundredths of one percent or more by weight of alcohol in the
12 person's blood, this shall be prima facie evidence that the person was intoxicated at the time the
13 specimen was taken.]

14 2. **If a chemical analysis of the defendant's breath, blood, saliva, or urine**
15 **demonstrates there was eight-hundredths of one percent or more by weight of alcohol in**
16 **the person's blood, this shall be prima facie evidence that the person was intoxicated at the**
17 **time the specimen was taken. If a chemical analysis of the defendant's breath, blood,**
18 **saliva, or urine demonstrates that there was less than eight-hundredths of one percent of**
19 **alcohol in the defendant's blood, any charge alleging a criminal offense related to the**
20 **operation of a vehicle, vessel, or aircraft while in an intoxicated condition or with an**
21 **excessive blood alcohol content shall be dismissed with prejudice unless one or more of the**
22 **following considerations cause the court to find a dismissal unwarranted:**

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

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

28 (3) **There is substantial evidence of intoxication from physical observations of**
29 **witnesses or admissions of the defendant.**

30 3. **Percent by weight of alcohol in the blood shall be based upon grams of alcohol per**
31 **one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.**

32 [3.] 4. **The foregoing provisions of this section shall not be construed as limiting the**
33 **introduction of any other competent evidence bearing upon the question of whether the person**
34 **was intoxicated.**

35 [4.] 5. **A chemical analysis of a person's breath, blood, saliva or urine, in order to give**
36 **rise to the presumption or to have the effect provided for in subsection [1] 2 of this section, shall**
37 **have been performed as provided in sections 577.020 to 577.041 and in accordance with methods**
38 **and standards approved by the state department of health and senior services.**

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

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

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

51 (3) There is substantial evidence of intoxication from physical observations of witnesses
52 or admissions of the defendant.]

577.041. 1. If a person under arrest, or who has been **detained pursuant to subdivision**
2 **(2) of subsection 1 of section 577.020, or** stopped pursuant to subdivision [(2) or] (3) **or (4)** of
3 subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test
4 allowed pursuant to section 577.020, then evidence of the refusal shall be admissible in [a] **any**
5 proceeding [pursuant to section 565.024, 565.060, or 565.082, or section 577.010 or 577.012]
6 **related to the acts resulting in such detention, stop, or arrest.**

7 2. The request of the officer **to submit to any chemical test** shall include the reasons
8 of the officer for requesting the person to submit to a test and also shall inform the person that
9 evidence of refusal to take the test may be used against such person [and that the person's] . **If**
10 **such person was operating a vehicle prior to such detention, stop, or arrest, he or she shall**
11 **further be informed that his or her** license shall be immediately revoked upon refusal to take
12 the test.

13 3. If a person when requested to submit to any test allowed pursuant to section 577.020
14 requests to speak to an attorney, the person shall be granted twenty minutes in which to attempt
15 to contact an attorney. If, upon the completion of the twenty-minute period the person continues
16 to refuse to submit to any test, it shall be deemed a refusal. [In this event, the officer shall, on
17 behalf of the director of revenue, serve the notice of license revocation personally upon the
18 person and shall take possession of any license to operate a motor vehicle issued by this state
19 which is held by that person. The officer shall issue a temporary permit, on behalf of the director
20 of revenue, which is valid for fifteen days and shall also give the person a notice of such person's
21 right to file a petition for review to contest the license revocation.

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

25 (1) That the officer has:

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

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

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

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

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

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

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

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

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

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

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

59 (2) Whether or not the officer had:

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

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

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

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

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

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

74 7. No person who has had a license to operate a motor vehicle suspended or revoked
75 pursuant to the provisions of this section shall have that license reinstated until such person has
76 participated in and successfully completed a substance abuse traffic offender program defined
77 in section 577.001, or a program determined to be comparable by the department of mental
78 health or the court. Assignment recommendations, based upon the needs assessment as
79 described in subdivision (24) of section 302.010, shall be delivered in writing to the person with
80 written notice that the person is entitled to have such assignment recommendations reviewed by
81 the court if the person objects to the recommendations. The person may file a motion in the
82 associate division of the circuit court of the county in which such assignment was given, on a
83 printed form provided by the state courts administrator, to have the court hear and determine
84 such motion pursuant to the provisions of chapter 517. The motion shall name the person or
85 entity making the needs assessment as the respondent and a copy of the motion shall be served
86 upon the respondent in any manner allowed by law. Upon hearing the motion, the court may
87 modify or waive any assignment recommendation that the court determines to be unwarranted
88 based upon a review of the needs assessment, the person's driving record, the circumstances
89 surrounding the offense, and the likelihood of the person committing a like offense in the future,
90 except that the court may modify but may not waive the assignment to an education or
91 rehabilitation program of a person determined to be a prior or persistent offender as defined in
92 section 577.023, or of a person determined to have operated a motor vehicle with
93 fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with

94 the court determination of the motion shall satisfy the provisions of this section for the purpose
95 of reinstating such person's license to operate a motor vehicle. The respondent's personal
96 appearance at any hearing conducted pursuant to this subsection shall not be necessary unless
97 directed by the court.

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

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

120 10. Any person who has had a license to operate a motor vehicle revoked under this
121 section and who has a prior alcohol-related enforcement contact, as defined in section 302.525,
122 shall be required to file proof with the director of revenue that any motor vehicle operated by the
123 person is equipped with a functioning, certified ignition interlock device as a required condition
124 of license reinstatement. Such ignition interlock device shall further be required to be
125 maintained on all motor vehicles operated by the person for a period of not less than six months
126 immediately following the date of reinstatement. If the monthly monitoring reports show that
127 the ignition interlock device has registered any confirmed blood alcohol concentration readings
128 above the alcohol setpoint established by the department of transportation or that the person has
129 tampered with or circumvented the ignition interlock device, then the period for which the person

130 must maintain the ignition interlock device following the date of reinstatement shall be extended
131 for an additional six months. If the person fails to maintain such proof with the director as
132 required by this section, the license shall be rerevoked and the person shall be guilty of a class
133 A misdemeanor.

134 11. The revocation period of any person whose license and driving privilege has been
135 revoked under this section and who has filed proof of financial responsibility with the
136 department of revenue in accordance with chapter 303 and is otherwise eligible, shall be
137 terminated by a notice from the director of revenue after one year from the effective date of the
138 revocation. Unless proof of financial responsibility is filed with the department of revenue, the
139 revocation shall remain in effect for a period of two years from its effective date. If the person
140 fails to maintain proof of financial responsibility in accordance with chapter 303, the person's
141 license and driving privilege shall be rerevoked and the person shall be guilty of a class A
142 misdemeanor.]

**579.060. 1. A person commits the offense of unlawful sale, distribution, or purchase
2 of over-the-counter methamphetamine precursor drugs if he or she knowingly:**

3 **(1) Sells, distributes, dispenses, or otherwise provides any number of packages of**
4 **any drug product containing detectable amounts of ephedrine, phenylpropanolamine, or**
5 **pseudoephedrine, or any of their salts, optical isomers, or salts of optical isomers, in a total**
6 **amount greater than nine grams to the same individual within a thirty-day period, unless**
7 **the amount is dispensed, sold, or distributed pursuant to a valid prescription; or**

8 **(2) Purchases, receives, or otherwise acquires within a thirty-day period any**
9 **number of packages of any drug product containing any detectable amount of ephedrine,**
10 **phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts**
11 **of optical isomers in a total amount greater than nine grams, without regard to the number**
12 **of transactions, unless the amount is purchased, received, or acquired pursuant to a valid**
13 **prescription; or**

14 **(3) Purchases, receives, or otherwise acquires within a twenty-four-hour period any**
15 **number of packages of any drug product containing any detectable amount of ephedrine,**
16 **phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts**
17 **of optical isomers in a total amount greater than three and six-tenths grams, without**
18 **regard to the number of transactions, unless the amount is purchased, received, or**
19 **acquired pursuant to a valid prescription; or**

20 **(4) Dispenses or offers drug products that are not excluded from Schedule V in**
21 **subsection 17 or 18 of section 195.017 and that contain detectable amounts of ephedrine,**
22 **phenylpropanolamine, or pseudoephedrine, or any of their salts, optical isomers, or salts**
23 **of optical isomers, without ensuring that such products are located behind a pharmacy**

24 counter where the public is not permitted and that such products are dispensed by a
25 registered pharmacist or pharmacy technician under subsection 11 of section 195.017; or

26 (5) Holds a retail sales license issued under chapter 144 and knowingly sells or
27 dispenses packages that do not conform to the packaging requirements of section 195.418.

28 2. A pharmacist, intern pharmacist, or registered pharmacy technician commits the
29 offense of unlawful sale, distribution, or purchase of over-the-counter methamphetamine
30 precursor drugs if he or she knowingly:

31 (1) Sells, distributes, dispenses, or otherwise provides any number of packages of
32 any drug product containing detectable amounts of ephedrine, phenylpropanolamine, or
33 pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, in a
34 total amount greater than three and six-tenth grams to the same individual within a
35 twenty-four hour period, unless the amount is dispensed, sold, or distributed pursuant to
36 a valid prescription; or

37 (2) Fails to submit information under subsection 13 of section 195.017 and
38 subsection 5 of section 195.417 about the sales of any compound, mixture, or preparation
39 of products containing detectable amounts of ephedrine, phenylpropanolamine, or
40 pseudoephedrine, or any of their salts, optical isomers, or salts of optical isomers, in
41 accordance with transmission methods and frequency established by the department of
42 health and senior services; or

43 (3) Fails to implement and maintain an electronic log, as required by subsection 12
44 of section 195.017, of each transaction involving any detectable quantity of
45 pseudoephedrine, its salts, isomers, or salts of optical isomers or ephedrine, its salts, optical
46 isomers, or salts of optical isomers; or

47 (4) Sells, distributes, dispenses or otherwise provides to an individual under
48 eighteen years of age without a valid prescription any number of packages of any drug
49 product containing any detectable quantity of pseudoephedrine, its salts, isomers, or salts
50 of optical isomers, or ephedrine, its salts or optical isomers, or salts of optical isomers.

51 3. Any person who violates the packaging requirements of section 195.418 and is
52 considered the general owner or operator of the outlet where ephedrine, pseudoephedrine,
53 or phenylpropanolamine products are available for sale shall not be penalized if he or she
54 documents that an employee training program was in place to provide the employee who
55 made the unlawful retail sale with information on the state and federal regulations
56 regarding ephedrine, pseudoephedrine, or phenylpropanolamine.

57 4. The offense of unlawful sale, distribution, or purchase of over-the-counter
58 methamphetamine precursor drugs is a class A misdemeanor.

[195.130.] **579.105.** 1. [Any room, building, structure or inhabitable structure as defined in section 569.010 which is used for the illegal use, keeping or selling of controlled substances is a "public nuisance". No person shall keep or maintain such a public nuisance.

2. The attorney general, circuit attorney or prosecuting attorney may, in addition to any criminal prosecutions, prosecute a suit in equity to enjoin the public nuisance. If the court finds that the owner of the room, building, structure or inhabitable structure knew that the premises were being used for the illegal use, keeping or selling of controlled substances, the court may order that the premises shall not be occupied or used for such period as the court may determine, not to exceed one year.

3. All persons, including owners, lessees, officers, agents, inmates or employees, aiding or facilitating such a nuisance may be made defendants in any suit to enjoin the nuisance.

4. It is unlawful for a person to keep or maintain such a public nuisance.] **A person commits the offense of keeping or maintaining a public nuisance if he or she knowingly keeps or maintains:**

(1) Any room, building, structure or inhabitable structure, as defined in section 556.061, which is used for the illegal manufacture, distribution, storage, or sale of any amount of a controlled substance, except thirty-five grams or less of marijuana or thirty-five grams or less of any synthetic cannabinoid; or

(2) Any room, building, structure or inhabitable structure, as defined in section 556.061, where on three or more separate occasions within the period of a year, two or more persons, who were not residents of the room, building, structure, or inhabitable structure, gathered for the principal purpose of unlawfully ingesting, injecting, inhaling or using any amount of a controlled substance, except thirty-five grams or less of marijuana or thirty-five grams or less of any synthetic cannabinoid.

2. In addition to any other criminal prosecutions, the prosecuting attorney or circuit attorney may by information or indictment charge the owner or the occupant, or both the owner and the occupant of the room, building, structure, or inhabitable structure with the [crime] offense of keeping or maintaining a public nuisance. [Keeping or maintaining a public nuisance is a class C felony.]

3. The offense of keeping or maintaining a public nuisance is a class E felony.

[5.] 4. Upon the conviction of the owner pursuant to [subsection 4 of] this section, the room, building, structure, or inhabitable structure is subject to the provisions of sections 513.600 to 513.645.

[160.261. 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and

corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to all teachers at the attendance center and, in addition, to other school district employees with a need to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002 to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

- (1) First degree murder under section 565.020;
- (2) Second degree murder under section 565.021;
- (3) Kidnapping **in the first degree** under section 565.110;
- (4) First degree assault under section 565.050;
- (5) Rape in the first degree under section 566.030;
- (6) Sodomy in the first degree under section 566.060;
- (7) Burglary in the first degree under section 569.160;
- (8) Burglary in the second degree under section 569.170;
- (9) Robbery in the first degree under section [569.020] **570.023**;
- (10) [Distribution of drugs] **Manufacture of a controlled substance** under section [195.211] **579.055**;
- (11) [Distribution of drugs to a minor] **Delivery of a controlled substance** under section [195.212] **579.020**;
- (12) Arson in the first degree under section 569.040;
- (13) Voluntary manslaughter under section 565.023;
- (14) Involuntary manslaughter under section 565.024;
- (15) Second degree assault under section [565.060] **565.052**;
- (16) Rape in the second degree under section 566.031;

(17) [Felonious restraint] **Kidnapping in the second degree** under section 565.120;

(18) Property damage in the first degree under section 569.100;

(19) The possession of a weapon under chapter 571;

(20) Child molestation in the first, **second, or third** degree pursuant to section 566.067, **566.068, or 566.069**;

(21) Sodomy in the second degree pursuant to section 566.061;

(22) Sexual misconduct involving a child pursuant to section 566.083;

(23) Sexual abuse in the first degree pursuant to section 566.100;

(24) Harassment **in the first degree** under section 565.090; or

(25) Stalking **in the first degree** under section 565.225;

committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any school property in the school district where such student attended school or any activity of that district, regardless of whether or not the activity takes place on district property unless:

(1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian and the superintendent or the superintendent's designee has authorized the student to be on school property;

(2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student and the superintendent or the superintendent's designee has authorized the student to be on school property;

(3) Such student is enrolled in and attending an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or

(4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such

student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights. This section shall not limit a school district's ability to:

(1) Prohibit all students who are suspended from being on school property or attending an activity while on suspension;

(2) Discipline students for off-campus conduct that negatively affects the educational environment to the extent allowed by law.

5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent or, in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. 921 and the following items, as defined in section 571.010: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

7. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus

going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

8. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by the school district, shall not be civilly liable when acting in conformity with the established policies developed by each board, including but not limited to policies of student discipline or when reporting to his or her supervisor or other person as mandated by state law acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. "Acts of violence" as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020 to any school district in which the student subsequently attempts to enroll.

10. Spanking, when administered by certificated personnel and in the presence of a witness who is an employee of the school district, or the use of reasonable force to protect persons or property, when administered by personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210. The provisions of sections 210.110 to 210.165 notwithstanding, the children's division shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to the use of reasonable force to protect persons or property when administered by personnel of a school district or any spanking administered in a reasonable manner by any certificated school personnel in the presence of a witness who is an employee of the school district pursuant to a written policy of discipline established by the board of education of the school district, as long as no allegation of sexual misconduct arises from the spanking or use of force.

11. If a student reports alleged sexual misconduct on the part of a teacher or other school employee to a person employed in a school facility who is required to report such misconduct to the children's division under section

210.115, such person and the superintendent of the school district shall report the allegation to the children's division as set forth in section 210.115. Reports made to the children's division under this subsection shall be investigated by the division in accordance with the provisions of sections 210.145 to 210.153 and shall not be investigated by the school district under subsections 12 to 20 of this section for purposes of determining whether the allegations should or should not be substantiated. The district may investigate the allegations for the purpose of making any decision regarding the employment of the accused employee.

12. Upon receipt of any reports of child abuse by the children's division other than reports provided under subsection 11 of this section, pursuant to sections 210.110 to 210.165 which allegedly involve personnel of a school district, the children's division shall notify the superintendent of schools of the district or, if the person named in the alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred.

13. If, after an initial investigation, the superintendent of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking by certificated school personnel or the use of reasonable force to protect persons or property when administered by school personnel pursuant to a written policy of discipline or that the report was made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the children's division and take no further action. In all matters referred back to the children's division, the division shall treat the report in the same manner as other reports of alleged child abuse received by the division.

14. If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel or the use of reasonable force to protect persons or property when administered by personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the law enforcement in the county in which the alleged incident occurred.

15. The report shall be jointly investigated by the law enforcement officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by a law enforcement officer and the president of the school board or such president's designee.

16. The investigation shall begin no later than forty-eight hours after notification from the children's division is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the

investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident.

17. The law enforcement officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the children's division.

18. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated.

19. The school board shall consider the separate reports referred to in subsection 17 of this section and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

(1) The report of the alleged child abuse is unsubstantiated. The law enforcement officer and the investigating school board personnel agree that there was not a preponderance of evidence to substantiate that abuse occurred;

(2) The report of the alleged child abuse is substantiated. The law enforcement officer and the investigating school district personnel agree that the preponderance of evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

(3) The issue involved in the alleged incident of child abuse is unresolved. The law enforcement officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

20. The findings and conclusions of the school board under subsection 19 of this section shall be sent to the children's division. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the children's division central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the names of the parties allegedly involved shall not be entered into the central registry of the children's division unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

21. Any superintendent of schools, president of a school board or such person's designee or law enforcement officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any

information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

22. In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.]

[167.115. 1. Notwithstanding any provision of chapter 211 or chapter 610 to the contrary, the juvenile officer, sheriff, chief of police or other appropriate law enforcement authority shall, as soon as reasonably practical, notify the superintendent, or the superintendent's designee, of the school district in which the pupil is enrolled when a petition is filed pursuant to subsection 1 of section 211.031 alleging that the pupil has committed one of the following acts:

- (1) First degree murder under section 565.020;
- (2) Second degree murder under section 565.021;
- (3) Kidnapping under section 565.110 **as it existed prior to January 1, 2017, or kidnapping in the first degree under section 565.110;**
- (4) First degree assault under section 565.050;
- (5) Forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape in the first degree under section 566.030;
- (6) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013, or sodomy in the first degree under section 566.060;
- (7) Burglary in the first degree under section 569.160;
- (8) Robbery in the first degree under section 569.020 **as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023;**
- (9) Distribution of drugs under section 195.211 **as it existed prior to January 1, 2017, or manufacture of a controlled substance under section 579.055;**
- (10) Distribution of drugs to a minor under section 195.212 **as it existed prior to January 1, 2017, or delivery of a controlled substance under section 579.020;**
- (11) Arson in the first degree under section 569.040;
- (12) Voluntary manslaughter under section 565.023;
- (13) Involuntary manslaughter under section 565.024;
- (14) Second degree assault under section 565.060 **as it existed prior to January 1, 2017, or second degree assault under section 565.052;**
- (15) Sexual assault under section 566.040 as it existed prior to August 28, 2013, or rape in the second degree under section 566.031;
- (16) Felonious restraint under section 565.120 **as it existed prior to January 1, 2017, or kidnapping in the second degree for an act committed after December 31, 2016;**
- (17) Property damage in the first degree under section 569.100;

(18) The possession of a weapon under chapter 571;

(19) Child molestation in the first degree pursuant to section 566.067 **as it existed prior to January 1, 2017;**

(20) **Child molestation in the first, second, or third degree pursuant to sections 566.067, 566.068, or 566.069 for an act committed after December 31, 2016;**

(21) Deviate sexual assault pursuant to section 566.070 as it existed prior to August 28, 2013, or sodomy in the second degree under section 566.061;

[(21)] (22) Sexual misconduct involving a child pursuant to section 566.083; or

[(22)] (23) Sexual abuse pursuant to section 566.100 as it existed prior to August 28, 2013, or sexual abuse in the first degree under section 566.100.

2. The notification shall be made orally or in writing, in a timely manner, no later than five days following the filing of the petition. If the report is made orally, written notice shall follow in a timely manner. The notification shall include a complete description of the conduct the pupil is alleged to have committed and the dates the conduct occurred but shall not include the name of any victim. Upon the disposition of any such case, the juvenile office or prosecuting attorney or their designee shall send a second notification to the superintendent providing the disposition of the case, including a brief summary of the relevant finding of facts, no later than five days following the disposition of the case.

3. The superintendent or the designee of the superintendent shall report such information to teachers and other school district employees with a need to know while acting within the scope of their assigned duties. Any information received by school district officials pursuant to this section shall be received in confidence and used for the limited purpose of assuring that good order and discipline is maintained in the school. This information shall not be used as the sole basis for not providing educational services to a public school pupil.

4. The superintendent shall notify the appropriate division of the juvenile or family court upon any pupil's suspension for more than ten days or expulsion of any pupil that the school district is aware is under the jurisdiction of the court.

5. The superintendent or the superintendent's designee may be called to serve in a consultant capacity at any dispositional proceedings pursuant to section 211.031 which may involve reference to a pupil's academic treatment plan.

6. Upon the transfer of any pupil described in this section to any other school district in this state, the superintendent or the superintendent's designee shall forward the written notification given to the superintendent pursuant to subsection 2 of this section to the superintendent of the new school district in which the pupil has enrolled. Such written notification shall be required again in the event of any subsequent transfer by the pupil.

7. As used in this section, the terms "school" and "school district" shall include any charter, private or parochial school or school district, and the term

"superintendent" shall include the principal or equivalent chief school officer in the cases of charter, private or parochial schools.

8. The superintendent or the designee of the superintendent or other school employee who, in good faith, reports information in accordance with the terms of this section and section 160.261 shall not be civilly liable for providing such information.]

[167.171. 1. The school board in any district, by general rule and for the causes provided in section 167.161, may authorize the summary suspension of pupils by principals of schools for a period not to exceed ten school days and by the superintendent of schools for a period not to exceed one hundred and eighty school days. In case of a suspension by the superintendent for more than ten school days, the pupil, the pupil's parents or others having such pupil's custodial care may appeal the decision of the superintendent to the board or to a committee of board members appointed by the president of the board which shall have full authority to act in lieu of the board. Any suspension by a principal shall be immediately reported to the superintendent who may revoke the suspension at any time. In event of an appeal to the board, the superintendent shall promptly transmit to it a full report in writing of the facts relating to the suspension, the action taken by the superintendent and the reasons therefor and the board, upon request, shall grant a hearing to the appealing party to be conducted as provided in section 167.161.

2. No pupil shall be suspended unless:

(1) The pupil shall be given oral or written notice of the charges against such pupil;

(2) If the pupil denies the charges, such pupil shall be given an oral or written explanation of the facts which form the basis of the proposed suspension;

(3) The pupil shall be given an opportunity to present such pupil's version of the incident; and

(4) In the event of a suspension for more than ten school days, where the pupil gives notice that such pupil wishes to appeal the suspension to the board, the suspension shall be stayed until the board renders its decision, unless in the judgment of the superintendent of schools, or of the district superintendent, the pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the pupil may be immediately removed from school, and the notice and hearing shall follow as soon as practicable.

3. No school board shall readmit or enroll a pupil properly suspended for more than ten consecutive school days for an act of school violence as defined in subsection 2 of section 160.261 regardless of whether or not such act was committed at a public school or at a private school in this state, provided that such act shall have resulted in the suspension or expulsion of such pupil in the case of a private school, or otherwise permit such pupil to attend school without

first holding a conference to review the conduct that resulted in the expulsion or suspension and any remedial actions needed to prevent any future occurrences of such or related conduct. The conference shall include the appropriate school officials including any teacher employed in that school or district directly involved with the conduct that resulted in the suspension or expulsion, the pupil, the parent or guardian of the pupil or any agency having legal jurisdiction, care, custody or control of the pupil. The school board shall notify in writing the parents or guardians and all other parties of the time, place, and agenda of any such conference. Failure of any party to attend this conference shall not preclude holding the conference. Notwithstanding any provision of this subsection to the contrary, no pupil shall be readmitted or enrolled to a regular program of instruction if:

- (1) Such pupil has been convicted of; or
- (2) An indictment or information has been filed alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or
- (3) A petition has been filed pursuant to section 211.091 alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or
- (4) The pupil has been adjudicated to have committed an act which if committed by an adult would be one of the following:
 - (a) First degree murder under section 565.020;
 - (b) Second degree murder under section 565.021;
 - (c) First degree assault under section 565.050;
 - (d) Forcible rape under section 566.030 as it existed prior to August 28, 2013, or rape in the first degree under section 566.030;
 - (e) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013, or sodomy in the first degree under section 566.060;
 - (f) Statutory rape under section 566.032;
 - (g) Statutory sodomy under section 566.062;
 - (h) Robbery in the first degree under section 569.020 **as it existed prior to January 1, 2017, or robbery in the first degree under section 570.023;**
 - (i) Distribution of drugs to a minor under section 195.212;
 - (j) Arson in the first degree under section 569.040;
 - (k) Kidnapping **or kidnapping in the first degree**, when classified as a class A felony under section 565.110.

Nothing in this subsection shall prohibit the readmittance or enrollment of any pupil if a petition has been dismissed, or when a pupil has been acquitted or adjudicated not to have committed any of the above acts. This subsection shall not apply to a student with a disability, as identified under state eligibility criteria, who is convicted or adjudicated guilty as a result of an action related to the student's disability. Nothing in this subsection shall be construed to prohibit a school district which provides an alternative education program from enrolling

80 a pupil in an alternative education program if the district determines such
81 enrollment is appropriate.

82 4. If a pupil is attempting to enroll in a school district during a suspension
83 or expulsion from another in-state or out-of-state school district including a
84 private, charter or parochial school or school district, a conference with the
85 superintendent or the superintendent's designee may be held at the request of the
86 parent, court-appointed legal guardian, someone acting as a parent as defined by
87 rule in the case of a special education student, or the pupil to consider if the
88 conduct of the pupil would have resulted in a suspension or expulsion in the
89 district in which the pupil is enrolling. Upon a determination by the
90 superintendent or the superintendent's designee that such conduct would have
91 resulted in a suspension or expulsion in the district in which the pupil is enrolling
92 or attempting to enroll, the school district may make such suspension or
93 expulsion from another school or district effective in the district in which the
94 pupil is enrolling or attempting to enroll. Upon a determination by the
95 superintendent or the superintendent's designee that such conduct would not have
96 resulted in a suspension or expulsion in the district in which the student is
97 enrolling or attempting to enroll, the school district shall not make such
98 suspension or expulsion effective in its district in which the student is enrolling
99 or attempting to enroll.]

100 [188.030. 1. Except in the case of a medical emergency, no abortion of
2 a viable unborn child shall be performed or induced unless the abortion is
3 necessary to preserve the life of the pregnant woman whose life is endangered by
4 a physical disorder, physical illness, or physical injury, including a
5 life-endangering physical condition caused by or arising from the pregnancy
6 itself, or when continuation of the pregnancy will create a serious risk of
7 substantial and irreversible physical impairment of a major bodily function of the
8 pregnant woman. For purposes of this section, "major bodily function" includes,
9 but is not limited to, functions of the immune system, normal cell growth,
10 digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine,
11 and reproductive functions.

12 2. Except in the case of a medical emergency:

13 (1) Prior to performing or inducing an abortion upon a woman, the
14 physician shall determine the gestational age of the unborn child in a manner
15 consistent with accepted obstetrical and neonatal practices and standards. In
16 making such determination, the physician shall make such inquiries of the
17 pregnant woman and perform or cause to be performed such medical
18 examinations, imaging studies, and tests as a reasonably prudent physician,
19 knowledgeable about the medical facts and conditions of both the woman and the
20 unborn child involved, would consider necessary to perform and consider in
21 making an accurate diagnosis with respect to gestational age;

22 (2) If the physician determines that the gestational age of the unborn
23 child is twenty weeks or more, prior to performing or inducing an abortion upon
24 the woman, the physician shall determine if the unborn child is viable by using
25 and exercising that degree of care, skill, and proficiency commonly exercised by
26 a skillful, careful, and prudent physician. In making this determination of
27 viability, the physician shall perform or cause to be performed such medical
28 examinations and tests as are necessary to make a finding of the gestational age,
29 weight, and lung maturity of the unborn child and shall enter such findings and
30 determination of viability in the medical record of the woman;

31 (3) If the physician determines that the gestational age of the unborn
32 child is twenty weeks or more, and further determines that the unborn child is not
33 viable and performs or induces an abortion upon the woman, the physician shall
34 report such findings and determinations and the reasons for such determinations
35 to the health care facility in which the abortion is performed and to the state
36 board of registration for the healing arts, and shall enter such findings and
37 determinations in the medical records of the woman and in the individual
38 abortion report submitted to the department under section 188.052;

39 (4) (a) If the physician determines that the unborn child is viable, the
40 physician shall not perform or induce an abortion upon the woman unless the
41 abortion is necessary to preserve the life of the pregnant woman or that a
42 continuation of the pregnancy will create a serious risk of substantial and
43 irreversible physical impairment of a major bodily function of the woman.

44 (b) Before a physician may proceed with performing or inducing an
45 abortion upon a woman when it has been determined that the unborn child is
46 viable, the physician shall first certify in writing the medical threat posed to the
47 life of the pregnant woman, or the medical reasons that continuation of the
48 pregnancy would cause a serious risk of substantial and irreversible physical
49 impairment of a major bodily function of the pregnant woman. Upon completion
50 of the abortion, the physician shall report the reasons and determinations for the
51 abortion of a viable unborn child to the health care facility in which the abortion
52 is performed and to the state board of registration for the healing arts, and shall
53 enter such findings and determinations in the medical record of the woman and
54 in the individual abortion report submitted to the department under section
55 188.052.

56 (c) Before a physician may proceed with performing or inducing an
57 abortion upon a woman when it has been determined that the unborn child is
58 viable, the physician who is to perform the abortion shall obtain the agreement
59 of a second physician with knowledge of accepted obstetrical and neonatal
60 practices and standards who shall concur that the abortion is necessary to
61 preserve the life of the pregnant woman, or that continuation of the pregnancy
62 would cause a serious risk of substantial and irreversible physical impairment of
63 a major bodily function of the pregnant woman. This second physician shall also
64 report such reasons and determinations to the health care facility in which the

65 abortion is to be performed and to the state board of registration for the healing
66 arts, and shall enter such findings and determinations in the medical record of the
67 woman and the individual abortion report submitted to the department under
68 section 188.052. The second physician shall not have any legal or financial
69 affiliation or relationship with the physician performing or inducing the abortion,
70 except that such prohibition shall not apply to physicians whose legal or financial
71 affiliation or relationship is a result of being employed by or having staff
72 privileges at the same hospital as the term "hospital" is defined in section
73 197.020.

74 (d) Any physician who performs or induces an abortion upon a woman
75 when it has been determined that the unborn child is viable shall utilize the
76 available method or technique of abortion most likely to preserve the life or
77 health of the unborn child. In cases where the method or technique of abortion
78 most likely to preserve the life or health of the unborn child would present a
79 greater risk to the life or health of the woman than another legally permitted and
80 available method or technique, the physician may utilize such other method or
81 technique. In all cases where the physician performs an abortion upon a viable
82 unborn child, the physician shall certify in writing the available method or
83 techniques considered and the reasons for choosing the method or technique
84 employed.

85 (e) No physician shall perform or induce an abortion upon a woman
86 when it has been determined that the unborn child is viable unless there is in
87 attendance a physician other than the physician performing or inducing the
88 abortion who shall take control of and provide immediate medical care for a child
89 born as a result of the abortion. During the performance of the abortion, the
90 physician performing it, and subsequent to the abortion, the physician required
91 to be in attendance, shall take all reasonable steps in keeping with good medical
92 practice, consistent with the procedure used, to preserve the life or health of the
93 viable unborn child; provided that it does not pose an increased risk to the life of
94 the woman or does not pose an increased risk of substantial and irreversible
95 physical impairment of a major bodily function of the woman.

96 3. Any person who knowingly performs or induces an abortion of an
97 unborn child in violation of the provisions of this section is guilty of a class [C]
98 **D** felony, and, upon a finding of guilt or plea of guilty, shall be imprisoned for
99 a term of not less than one year, and, notwithstanding the provisions of section
100 560.011, shall be fined not less than ten thousand nor more than fifty thousand
101 dollars.

102 4. Any physician who pleads guilty to or is found guilty of performing
103 or inducing an abortion of an unborn child in violation of this section shall be
104 subject to suspension or revocation of his or her license to practice medicine in
105 the state of Missouri by the state board of registration for the healing arts under
106 the provisions of sections 334.100 and 334.103.

5. Any hospital licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.070.

6. Any ambulatory surgical center licensed in the state of Missouri that knowingly allows an abortion of an unborn child to be performed or induced in violation of this section may be subject to suspension or revocation of its license under the provisions of section 197.220.

7. A woman upon whom an abortion is performed or induced in violation of this section shall not be prosecuted for a conspiracy to violate the provisions of this section.

8. Nothing in this section shall be construed as creating or recognizing a right to abortion, nor is it the intention of this section to make lawful any abortion that is currently unlawful.

9. It is the intent of the legislature that this section be severable as noted in section 1.140. In the event that any section, subsection, subdivision, paragraph, sentence, or clause of this section be declared invalid under the Constitution of the United States or the Constitution of the State of Missouri, it is the intent of the legislature that the remaining provisions of this section remain in force and effect as far as capable of being carried into execution as intended by the legislature.

10. The general assembly may, by concurrent resolution, appoint one or more of its members who sponsored or co-sponsored this act in his or her official capacity to intervene as a matter of right in any case in which the constitutionality of this law is challenged.]

[[660.315.] 197.1036. 1. After an investigation and a determination has been made to place a person's name on the employee disqualification list, that person shall be notified in writing mailed to his or her last known address that:

(1) An allegation has been made against the person, the substance of the allegation and that an investigation has been conducted which tends to substantiate the allegation;

(2) The person's name will be included in the employee disqualification list of the department;

(3) The consequences of being so listed including the length of time to be listed; and

(4) The person's rights and the procedure to challenge the allegation.

2. If no reply has been received within thirty days of mailing the notice, the department may include the name of such person on its list. The length of time the person's name shall appear on the employee disqualification list shall be determined by the director or the director's designee, based upon the criteria contained in subsection 9 of this section.

17 3. If the person so notified wishes to challenge the allegation, such person
18 may file an application for a hearing with the department. The department shall
19 grant the application within thirty days after receipt by the department and set the
20 matter for hearing, or the department shall notify the applicant that, after review,
21 the allegation has been held to be unfounded and the applicant's name will not be
22 listed.

23 4. If a person's name is included on the employee disqualification list
24 without the department providing notice as required under subsection 1 of this
25 section, such person may file a request with the department for removal of the
26 name or for a hearing. Within thirty days after receipt of the request, the
27 department shall either remove the name from the list or grant a hearing and set
28 a date therefor.

29 5. Any hearing shall be conducted in the county of the person's residence
30 by the director of the department or the director's designee. The provisions of
31 chapter 536 for a contested case except those provisions or amendments which
32 are in conflict with this section shall apply to and govern the proceedings
33 contained in this section and the rights and duties of the parties involved. The
34 person appealing such an action shall be entitled to present evidence, pursuant to
35 the provisions of chapter 536, relevant to the allegations.

36 6. Upon the record made at the hearing, the director of the department or
37 the director's designee shall determine all questions presented and shall determine
38 whether the person shall be listed on the employee disqualification list. The
39 director of the department or the director's designee shall clearly state the reasons
40 for his or her decision and shall include a statement of findings of fact and
41 conclusions of law pertinent to the questions in issue.

42 7. A person aggrieved by the decision following the hearing shall be
43 informed of his or her right to seek judicial review as provided under chapter 536.
44 If the person fails to appeal the director's findings, those findings shall constitute
45 a final determination that the person shall be placed on the employee
46 disqualification list.

47 8. A decision by the director shall be inadmissible in any civil action
48 brought against a facility or the in-home services provider agency and arising out
49 of the facts and circumstances which brought about the employment
50 disqualification proceeding, unless the civil action is brought against the facility
51 or the in-home services provider agency by the department of health and senior
52 services or one of its divisions.

53 9. The length of time the person's name shall appear on the employee
54 disqualification list shall be determined by the director of the department of
55 health and senior services or the director's designee, based upon the following:

56 (1) Whether the person acted recklessly or knowingly, as defined in
57 chapter 562;

(2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the imminent danger to the health, safety or welfare of a resident or in-home services client;

(3) The degree of misappropriation of the property or funds, or falsification of any documents for service delivery of an in-home services client;

(4) Whether the person has previously been listed on the employee disqualification list;

(5) Any mitigating circumstances;

(6) Any aggravating circumstances; and

(7) Whether alternative sanctions resulting in conditions of continued employment are appropriate in lieu of placing a person's name on the employee disqualification list. Such conditions of employment may include, but are not limited to, additional training and employee counseling. Conditional employment shall terminate upon the expiration of the designated length of time and the person's submitting documentation which fulfills the department of health and senior services' requirements.

10. The removal of any person's name from the list under this section shall not prevent the director from keeping records of all acts finally determined to have occurred under this section.

11. The department shall provide the list maintained pursuant to this section to other state departments upon request and to any person, corporation, organization, or association who:

(1) Is licensed as an operator under chapter 198;

(2) Provides in-home services under contract with the department;

(3) Employs nurses and nursing assistants for temporary or intermittent placement in health care facilities;

(4) Is approved by the department to issue certificates for nursing assistants training;

(5) Is an entity licensed under **this** chapter [197];

(6) Is a recognized school of nursing, medicine, or other health profession for the purpose of determining whether students scheduled to participate in clinical rotations with entities described in subdivision (1), (2), or (5) of this subsection are included in the employee disqualification list; or

(7) Is a consumer reporting agency regulated by the federal Fair Credit Reporting Act that conducts employee background checks on behalf of entities listed in subdivisions (1), (2), (5), or (6) of this subsection. Such a consumer reporting agency shall conduct the employee disqualification list check only upon the initiative or request of an entity described in subdivisions (1), (2), (5), or (6) of this subsection when the entity is fulfilling its duties required under this section. The information shall be disclosed only to the requesting entity. The department shall inform any person listed above who inquires of the department whether or not a particular name is on the list. The department may require that the request be made in writing. No person, corporation, organization, or

association who is entitled to access the employee disqualification list may disclose the information to any person, corporation, organization, or association who is not entitled to access the list. Any person, corporation, organization, or association who is entitled to access the employee disqualification list who discloses the information to any person, corporation, organization, or association who is not entitled to access the list shall be guilty of an infraction.

12. No person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (7) of subsection 11 of this section shall knowingly employ any person who is on the employee disqualification list. Any person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (7) of subsection 11 of this section, or any person responsible for providing health care service, who declines to employ or terminates a person whose name is listed in this section shall be immune from suit by that person or anyone else acting for or in behalf of that person for the failure to employ or for the termination of the person whose name is listed on the employee disqualification list.

13. Any employer or vendor as defined in sections 197.250, 197.400, 198.006, 208.900, or 660.250 required to deny employment to an applicant or to discharge an employee, provisional or otherwise, as a result of information obtained through any portion of the background screening and employment eligibility determination process under section 210.903, or subsequent, periodic screenings, shall not be liable in any action brought by the applicant or employee relating to discharge where the employer is required by law to terminate the employee, provisional or otherwise, and shall not be charged for unemployment insurance benefits based on wages paid to the employee for work prior to the date of discharge, pursuant to section 288.100, if the employer terminated the employee because the employee:

(1) Has been found guilty, pled guilty or nolo contendere in this state or any other state of a crime as listed in subsection 6 of section [660.317] **197.1038**;

(2) Was placed on the employee disqualification list under this section after the date of hire;

(3) Was placed on the employee disqualification registry maintained by the department of mental health after the date of hire;

(4) Has a disqualifying finding under this section, section [660.317] **197.1038**, or is on any of the background check lists in the family care safety registry under sections 210.900 to 210.936; or

(5) Was denied a good cause waiver as provided for in subsection 10 of section [660.317] **197.1038**.

14. Any person who has been listed on the employee disqualification list may request that the director remove his or her name from the employee disqualification list. The request shall be written and may not be made more than once every twelve months. The request will be granted by the director upon a clear showing, by written submission only, that the person will not commit

144 additional acts of abuse, neglect, misappropriation of the property or funds, or the
145 falsification of any documents of service delivery to an in-home services client.
146 The director may make conditional the removal of a person's name from the list
147 on any terms that the director deems appropriate, and failure to comply with such
148 terms may result in the person's name being relisted. The director's determination
149 of whether to remove the person's name from the list is not subject to appeal.]
150

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

6 (1) A felony violation of section 566.030, **566.031**, 566.032, [566.040,]
7 566.060, **566.061**, 566.062, 566.064, 566.067, 566.068, [566.070,] **566.069**,
8 **566.071**, 566.083, [566.090,] 566.100, **566.101**, 566.111, 566.151, 566.203,
9 566.206, 566.209, 566.212, or 566.215;

10 (2) A violation of section 568.020;

11 (3) [A violation of subdivision (2) of subsection 1 of section 568.060]
Abuse of a child under section 568.060 when such abuse is sexual in nature;

12 (4) A violation of section 568.065;

13 (5) A violation of section [568.080] **573.200**;

14 (6) A violation of section [568.090] **573.205**; or

15 (7) A violation of section 568.175;

16 (8) **A violation of section 566.040, 566.070, or 566.090 as such**
17 **sections existed prior to August 28, 2013; or**

18 (9) **A violation of section 568.080 or 568.090 as such sections existed**
19 **prior to January 1, 2017.**

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

27 3. In any case where the children's division determines based on a
28 substantiated report of child abuse that a child has abused another child, the
29 abusing child shall be prohibited from returning to or residing in any residence,
30 facility, or school within one thousand feet of the residence of the abused child
31 or any child care facility or school that the abused child attends, unless and until
32 a court of competent jurisdiction determines that the alleged abuse did not occur
33 or the abused child reaches the age of eighteen, whichever earlier occurs. The
34 provisions of this subsection shall not apply when the abusing child and the
35 abused child are siblings or children living in the same home.]
36

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

(1) A felony violation of section 566.030, **566.031**, 566.032, [566.040,] 566.060, **566.061**, 566.062, 566.064, 566.067, 566.068, [566.070,] **566.069**, **566.071**, 566.083, [566.090,] 566.100, **566.101**, 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215;

(2) A violation of section 568.020;

(3) [A violation of subdivision (2) of subsection 1 of section 568.060] **Abuse of a child under section 568.060 when such abuse is sexual in nature;**

(4) A violation of section 568.065;

(5) A violation of section [568.080] **573.200**;

(6) A violation of section [568.090] **573.205**; or

(7) A violation of section 568.175;

(8) **A violation of section 566.040, 566.070, or 566.090 as such sections existed prior to August 28, 2013; or**

(9) **A violation of section 568.080 or 568.090 as such sections existed prior to January 1, 2017.**

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

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

[217.010. As used in this chapter and chapter 558, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Administrative segregation unit", a cell for the segregation of offenders from the general population of a facility for relatively extensive periods of time;

(2) "Board", the board of probation and parole;

(3) "Chief administrative officer", the institutional head of any correctional facility or his designee;

- 9 (4) "Correctional center", any premises or institution where incarceration,
10 evaluation, care, treatment, or rehabilitation is provided to persons who are under
11 the department's authority;
- 12 (5) "Department", the department of corrections of the state of Missouri;
- 13 (6) "Director", the director of the department of corrections or his
14 designee;
- 15 (7) "Disciplinary segregation", a cell for the segregation of offenders
16 from the general population of a correctional center because the offender has
17 been found to have committed a violation of a division or facility rule and other
18 available means are inadequate to regulate the offender's behavior;
- 19 (8) "Division", a statutorily created agency within the department or an
20 agency created by the departmental organizational plan;
- 21 (9) "Division director", the director of a division of the department or his
22 designee;
- 23 (10) "Local volunteer community board", a board of qualified local
24 community volunteers selected by the court for the purpose of working in
25 partnership with the court and the department of corrections in a reparative
26 probation program;
- 27 (11) "Nonviolent offender", any offender who is convicted of a crime
28 other than murder in the first or second degree, involuntary manslaughter,
29 kidnapping, **kidnapping in the first degree**, rape in the first degree, forcible
30 rape, sodomy in the first degree, forcible sodomy, robbery in the first degree or
31 assault in the first degree;
- 32 (12) "Offender", a person under supervision or an inmate in the custody
33 of the department;
- 34 (13) "Probation", a procedure under which a defendant found guilty of
35 a crime upon verdict or plea is released by the court without imprisonment,
36 subject to conditions imposed by the court and subject to the supervision of the
37 board;
- 38 (14) "Volunteer", any person who, of his own free will, performs any
39 assigned duties for the department or its divisions with no monetary or material
40 compensation.]

41

[217.703. 1. The division of probation and parole shall award earned compliance credits to any offender who is:

- 2 (1) Not subject to lifetime supervision under sections 217.735 and
3 559.106 or otherwise found to be ineligible to earn credits by a court pursuant to
4 subsection 2 of this section;
- 5 (2) On probation, parole, or conditional release for an offense listed in
6 chapter [195] **579, or an offense previously listed in chapter 195**, or for a class
7 [C or] D or E felony, excluding the offenses of [aggravated] **stalking in the first**
8 **degree**, rape in the second degree, sexual assault, sodomy in the second degree,
9 deviate sexual assault, assault in the second degree under subdivision (2) of
10

subsection 1 of section [565.060] **565.052**, sexual misconduct involving a child, endangering the welfare of a child in the first degree under subdivision (2) of subsection 1 of section 568.045, incest, invasion of privacy, [and] abuse of a child, **and any offense of aggravated stalking or assault in the second degree under subdivision (2) of subsection 1 of section 565.060 as such offenses existed prior to January 1, 2017;**

(3) Supervised by the board; and

(4) In compliance with the conditions of supervision imposed by the sentencing court or board.

2. If an offender was placed on probation, parole, or conditional release for an offense of:

(1) Involuntary manslaughter in the first degree;

(2) Involuntary manslaughter in the second degree;

(3) Assault in the second degree except under subdivision (2) of subsection 1 of section [565.060] **565.052 or section 565.060 as it existed prior to January 1, 2017;**

(4) Domestic assault in the second degree;

(5) Assault [of a law enforcement officer in the second] **in the third degree when the victim is a special victim or assault of a law enforcement officer in the second degree as it existed prior to January 1, 2017;**

(6) Statutory rape in the second degree;

(7) Statutory sodomy in the second degree;

(8) Endangering the welfare of a child in the first degree under subdivision (1) of subsection 1 of section 568.045; or

(9) Any case in which the defendant is found guilty of a felony offense under chapter 571, the sentencing court may, upon its own motion or a motion of the prosecuting or circuit attorney, make a finding that the offender is ineligible to earn compliance credits because the nature and circumstances of the offense or the history and character of the offender indicate that a longer term of probation, parole, or conditional release is necessary for the protection of the public or the guidance of the offender. The motion may be made any time prior to the first month in which the person may earn compliance credits under this section. The offender's ability to earn credits shall be suspended until the court or board makes its finding. If the court or board finds that the offender is eligible for earned compliance credits, the credits shall begin to accrue on the first day of the next calendar month following the issuance of the decision.

3. Earned compliance credits shall reduce the term of probation, parole, or conditional release by thirty days for each full calendar month of compliance with the terms of supervision. Credits shall begin to accrue for eligible offenders after the first full calendar month of supervision or on October 1, 2012, if the offender began a term of probation, parole, or conditional release before September 1, 2012.

53 4. For the purposes of this section, the term "compliance" shall mean the
54 absence of an initial violation report submitted by a probation or parole officer
55 during a calendar month, or a motion to revoke or motion to suspend filed by a
56 prosecuting or circuit attorney, against the offender.

57 5. Credits shall not accrue during any calendar month in which a
58 violation report has been submitted or a motion to revoke or motion to suspend
59 has been filed, and shall be suspended pending the outcome of a hearing, if a
60 hearing is held. If no hearing is held or the court or board finds that the violation
61 did not occur, then the offender shall be deemed to be in compliance and shall
62 begin earning credits on the first day of the next calendar month following the
63 month in which the report was submitted or the motion was filed. All earned
64 credits shall be rescinded if the court or board revokes the probation or parole or
65 the court places the offender in a department program under subsection 4 of
66 section 559.036. Earned credits shall continue to be suspended for a period of
67 time during which the court or board has suspended the term of probation, parole,
68 or release, and shall begin to accrue on the first day of the next calendar month
69 following the lifting of the suspension.

70 6. Offenders who are deemed by the division to be absconders shall not
71 earn credits. For purposes of this subsection, "absconder" shall mean an offender
72 under supervision who has left such offender's place of residency without the
73 permission of the offender's supervising officer for the purpose of avoiding
74 supervision. An offender shall no longer be deemed an absconder when such
75 offender is available for active supervision.

76 7. Notwithstanding subsection 2 of section 217.730 to the contrary, once
77 the combination of time served in custody, if applicable, time served on
78 probation, parole, or conditional release, and earned compliance credits satisfy
79 the total term of probation, parole, or conditional release, the board or sentencing
80 court shall order final discharge of the offender, so long as the offender has
81 completed at least two years of his or her probation or parole, which shall include
82 any time served in custody under section 217.718 and sections 559.036 and
83 559.115.

84 8. The award or rescission of any credits earned under this section shall
85 not be subject to appeal or any motion for postconviction relief.

86 9. At least twice a year, the division shall calculate the number of months
87 the offender has remaining on his or her term of probation, parole, or conditional
88 release, taking into consideration any earned compliance credits, and notify the
89 offender of the length of the remaining term.

90 10. No less than sixty days before the date of final discharge, the division
91 shall notify the sentencing court, the board, and, for probation cases, the circuit
92 or prosecuting attorney of the impending discharge. If the sentencing court, the
93 board, or the circuit or prosecuting attorney upon receiving such notice does not
94 take any action under subsection 5 of this section, the offender shall be
95 discharged under subsection 7 of this section.]

[260.211. 1. A person commits the offense of criminal disposition of demolition waste if he purposely or knowingly disposes of or causes the disposal of more than two thousand pounds or four hundred cubic feet of such waste on property in this state other than in a solid waste processing facility or solid waste disposal area having a permit as required by section 260.205; provided that, this subsection shall not prohibit the use or require a solid waste permit for the use of solid wastes in normal farming operations or in the processing or manufacturing of other products in a manner that will not create a public nuisance or adversely affect public health and shall not prohibit the disposal of or require a solid waste permit for the disposal by an individual of solid wastes resulting from his or her own residential activities on property owned or lawfully occupied by him or her when such wastes do not thereby create a public nuisance or adversely affect the public health. Demolition waste shall not include clean fill or vegetation. Criminal disposition of demolition waste is a class [D] E felony. In addition to other penalties prescribed by law, a person convicted of criminal disposition of demolition waste is subject to a fine not to exceed twenty thousand dollars, except as provided below. The magnitude of the fine shall reflect the seriousness or potential seriousness of the threat to human health and the environment posed by the violation, but shall not exceed twenty thousand dollars, except that if a court of competent jurisdiction determines that the person responsible for illegal disposal of demolition waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a fine which reflects the seriousness or potential threat to human health and the environment which at least equals the economic gain obtained by the person, and such fine may exceed the maximum established herein.

2. Any person who purposely or knowingly disposes of or causes the disposal of more than two thousand pounds or four hundred cubic feet of his or her personal construction or demolition waste on his or her own property shall be guilty of a class [C] D misdemeanor. If such person receives any amount of money, goods, or services in connection with permitting any other person to dispose of construction or demolition waste on his or her property, such person shall be guilty of a class [D] E felony.

3. The court shall order any person convicted of illegally disposing of demolition waste upon his **or her** own property for remuneration to clean up such waste and, if he **or she** fails to clean up the waste or if he **or she** is unable to clean up the waste, the court may notify the county recorder of the county containing the illegal disposal site. The notice shall be designed to be recorded on the record.

4. The court may order restitution by requiring any person convicted under this section to clean up any demolition waste he illegally dumped and the court may require any such person to perform additional community service by cleaning up and properly disposing of demolition waste illegally dumped by other persons.

44 5. The prosecutor of any county or circuit attorney of any city not within
45 a county may, by information or indictment, institute a prosecution for any
46 violation of the provisions of this section.

47 6. Any person shall be guilty of conspiracy as defined in section 564.016
48 if he or she knows or should have known that his or her agent or employee has
49 committed the acts described in sections 260.210 to 260.212 while engaged in the
50 course of employment.]
51

2 [260.212. 1. A person commits the offense of criminal disposition of
3 solid waste if he purposely or knowingly disposes of or causes the disposal of
4 more than five hundred pounds or one hundred cubic feet of commercial or
5 residential solid waste on property in this state other than a solid waste processing
6 facility or solid waste disposal area having a permit as required by section
7 260.205; provided that, this subsection shall not prohibit the use or require a solid
8 waste permit for the use of solid wastes in normal farming operations or in the
9 processing or manufacturing of other products in a manner that will not create a
10 public nuisance or adversely affect public health and shall not prohibit the
11 disposal of or require a solid waste permit for the disposal by an individual of
12 solid wastes resulting from his or her own residential activities on property
13 owned or lawfully occupied by him or her when such wastes do not thereby
14 create a public nuisance or adversely affect the public health. Criminal
15 disposition of solid waste is a class [D] E felony. In addition to other penalties
16 prescribed by law, a person convicted of criminal disposition of solid waste is
17 subject to a fine, and the magnitude of the fine shall reflect the seriousness or
18 potential seriousness of the threat to human health and the environment posed by
19 the violation, but shall not exceed twenty thousand dollars, except that if a court
20 of competent jurisdiction determines that the person responsible for illegal
21 disposal of solid waste under this subsection did so for remuneration as a part of
22 an ongoing commercial activity, the court shall set a fine which reflects the
23 seriousness or potential threat to human health and the environment which at
24 least equals the economic gain obtained by the person, and such fine may exceed
25 the maximum established herein.

26 2. The court shall order any person convicted of illegally disposing of
27 solid waste upon his **or her** own property for remuneration to clean up such
28 waste and, if he **or she** fails to clean up the waste or if he **or she** is unable to
29 clean up the waste, the court may notify the county recorder of the county
30 containing the illegal disposal site. The notice shall be designed to be recorded
31 on the record.

32 3. The court may order restitution by requiring any person convicted
33 under this section to clean up any commercial or residential solid waste he
34 illegally dumped and the court may require any such person to perform additional
35 community service by cleaning up commercial or residential solid waste illegally
dumped by other persons.

36 4. The prosecutor of any county or circuit attorney of any city not within
37 a county may, by information or indictment, institute a prosecution for any
38 violation of the provisions of this section.

39 5. Any person shall be guilty of conspiracy as defined in section 564.016
40 if he knows or should have known that his **or her** agent or employee has
41 committed the acts described in sections 260.210 to 260.212 while engaged in the
42 course of employment.]
43

2 [476.055. 1. There is hereby established in the state treasury the
3 "Statewide Court Automation Fund". All moneys collected pursuant to section
4 488.027, as well as gifts, contributions, devises, bequests, and grants received
5 relating to automation of judicial record keeping, and moneys received by the
6 judicial system for the dissemination of information and sales of publications
7 developed relating to automation of judicial record keeping, shall be credited to
8 the fund. Moneys credited to this fund may only be used for the purposes set
9 forth in this section and as appropriated by the general assembly. Any
10 unexpended balance remaining in the statewide court automation fund at the end
11 of each biennium shall not be subject to the provisions of section 33.080
12 requiring the transfer of such unexpended balance to general revenue; except that,
13 any unexpended balance remaining in the fund on September 1, 2018, shall be
14 transferred to general revenue.

15 2. The statewide court automation fund shall be administered by a court
16 automation committee consisting of the following: the chief justice of the
17 supreme court, a judge from the court of appeals, four circuit judges, four
18 associate circuit judges, four employees of the circuit court, the commissioner of
19 administration, two members of the house of representatives appointed by the
20 speaker of the house, two members of the senate appointed by the president pro
21 tem of the senate and two members of the Missouri Bar. The judge members and
22 employee members shall be appointed by the chief justice. The commissioner of
23 administration shall serve ex officio. The members of the Missouri Bar shall be
24 appointed by the board of governors of the Missouri Bar. Any member of the
25 committee may designate another person to serve on the committee in place of
26 the committee member.

27 3. The committee shall develop and implement a plan for a statewide
28 court automation system. The committee shall have the authority to hire
29 consultants, review systems in other jurisdictions and purchase goods and
30 services to administer the provisions of this section. The committee may
31 implement one or more pilot projects in the state for the purposes of determining
32 the feasibility of developing and implementing such plan. The members of the
33 committee shall be reimbursed from the court automation fund for their actual
34 expenses in performing their official duties on the committee.

35 4. Any purchase of computer software or computer hardware that exceeds
five thousand dollars shall be made pursuant to the requirements of the office of

administration for lowest and best bid. Such bids shall be subject to acceptance by the office of administration. The court automation committee shall determine the specifications for such bids.

5. The court automation committee shall not require any circuit court to change any operating system in such court, unless the committee provides all necessary personnel, funds and equipment necessary to effectuate the required changes. No judicial circuit or county may be reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or county has the approval of the court automation committee prior to incurring the specific cost.

6. Any court automation system, including any pilot project, shall be implemented, operated and maintained in accordance with strict standards for the security and privacy of confidential judicial records. Any person who knowingly releases information from a confidential judicial record is guilty of a class B misdemeanor. Any person who, knowing that a judicial record is confidential, uses information from such confidential record for financial gain is guilty of a class [D] E felony.

7. On the first day of February, May, August and November of each year, the court automation committee shall file a report on the progress of the statewide automation system with [the joint legislative committee on court automation. Such committee shall consist of the following]:

- (1) The chair of the house budget committee;
- (2) The chair of the senate appropriations committee;
- (3) The chair of the house judiciary committee; **and**
- (4) The chair of the senate judiciary committee[;
- (5) One member of the minority party of the house appointed by the speaker of the house of representatives; and
- (6) One member of the minority party of the senate appointed by the president pro tempore of the senate.

8. The members of the joint legislative committee shall be reimbursed from the court automation fund for their actual expenses incurred in the performance of their official duties as members of the joint legislative committee on court automation].

[9.] **8.** Section 488.027 shall expire on September 1, 2018. The court automation committee established pursuant to this section may continue to function until completion of its duties prescribed by this section, but shall complete its duties prior to September 1, 2020.

10. This section shall expire on September 1, 2020.]

[[566.135.] **545.940.** 1. Pursuant to a motion filed by the prosecuting attorney or circuit attorney with notice given to the defense attorney and for good cause shown, in any criminal case in which a defendant has been charged by the prosecuting attorney's office or circuit attorney's office with any offense under [this chapter or pursuant to section 575.150, 567.020, 565.050, 565.060,

565.070,] **chapter 566 or section 565.050, assault in the first degree; 565.052, assault in the second degree; 565.054, assault in the third degree; 565.056, assault in the fourth degree; section 565.072, domestic assault in the first degree; section 565.073, domestic assault in the second degree; section 565.074, [565.075, 565.081, 565.082, 565.083,] domestic assault in the third degree; section 565.076, domestic assault in the fourth degree; section 567.020, prostitution; section 568.045, endangering the welfare of a child in the first degree; section 568.050, [or] endangering the welfare of a child in the second degree; section 568.060, abuse of a child; section 575.150, resisting or interfering with an arrest; or paragraph (a), (b), or (c), of subdivision (2) of subsection 1 of section 191.677, **recklessly exposing a person to HIV**, the court may order that the defendant be conveyed to a state-, city-, or county-operated HIV clinic for testing for HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia. The results of [the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia] **such** tests shall be released to the victim and his or her parent or legal guardian if the victim is a minor. The results of [the defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea, and chlamydia] **such** tests shall also be released to the prosecuting attorney or circuit attorney and the defendant's attorney. The state's motion to obtain said testing, the court's order of the same, and the test results shall be sealed in the court file.**

2. As used in this section, "HIV" means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.]

[556.061. In this code, unless the context requires a different definition, the following [shall apply] **terms shall mean:**

(1) **"Access", to instruct, communicate with, store data in, retrieve or extract data from, or otherwise make any use of any resources of, a computer, computer system, or computer network;**

(2) **"Affirmative defense"** [has the meaning specified in section 556.056]
:

(a) **The defense referred to is not submitted to the trier of fact unless supported by evidence; and**

(b) **If the defense is submitted to the trier of fact the defendant has the burden of persuasion that the defense is more probably true than not;**

[(2)] (3) **"Burden of injecting the issue"** [has the meaning specified in section 556.051] :

(a) **The issue referred to is not submitted to the trier of fact unless supported by evidence; and**

(b) **If the issue is submitted to the trier of fact any reasonable doubt on the issue requires a finding for the defendant on that issue;**

[(3)] (4) **"Commercial film and photographic print processor"**, any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term

commercial film and photographic print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency;

(5) "Computer", the box that houses the central processing unit (cpu), along with any internal storage devices, such as internal hard drives, and internal communication devices, such as internal modems capable of sending or receiving electronic mail or fax cards, along with any other hardware stored or housed internally. Thus, computer refers to hardware, software and data contained in the main unit. Printers, external modems attached by cable to the main unit, monitors, and other external attachments will be referred to collectively as peripherals and discussed individually when appropriate. When the computer and all peripherals are referred to as a package, the term "computer system" is used. Information refers to all the information on a computer system including both software applications and data;

(6) "Computer equipment", computers, terminals, data storage devices, and all other computer hardware associated with a computer system or network;

(7) "Computer hardware", all equipment which can collect, analyze, create, display, convert, store, conceal or transmit electronic, magnetic, optical or similar computer impulses or data. Hardware includes, but is not limited to, any data processing devices, such as central processing units, memory typewriters and self-contained laptop or notebook computers; internal and peripheral storage devices, transistor-like binary devices and other memory storage devices, such as floppy disks, removable disks, compact disks, digital video disks, magnetic tape, hard drive, optical disks and digital memory; local area networks, such as two or more computers connected together to a central computer server via cable or modem; peripheral input or output devices, such as keyboards, printers, scanners, plotters, video display monitors and optical readers; and related communication devices, such as modems, cables and connections, recording equipment, RAM or ROM units, acoustic couplers, automatic dialers, speed dialers, programmable telephone dialing or signaling devices and electronic tone-generating devices; as well as any devices, mechanisms or parts that can be used to restrict access to computer hardware, such as physical keys and locks;

(8) "Computer network", two or more interconnected computers or computer systems;

(9) "Computer program", a set of instructions, statements, or related data that directs or is intended to direct a computer to perform certain functions;

(10) "Computer software", digital information which can be interpreted by a computer and any of its related components to direct the

way they work. Software is stored in electronic, magnetic, optical or other digital form. The term commonly includes programs to run operating systems and applications, such as word processing, graphic, or spreadsheet programs, utilities, compilers, interpreters and communications programs;

(11) "Computer-related documentation", written, recorded, printed or electronically stored material which explains or illustrates how to configure or use computer hardware, software or other related items;

(12) "Computer system", a set of related, connected or unconnected, computer equipment, data, or software;

[(4)] (13) "Confinement":

(a) A person is in confinement when such person is held in a place of confinement pursuant to arrest or order of a court, and remains in confinement until:

a. A court orders the person's release; or
b. The person is released on bail, bond, or recognizance, personal or otherwise; or

c. A public servant having the legal power and duty to confine the person authorizes his release without guard and without condition that he return to confinement;

(b) A person is not in confinement if:

a. The person is on probation or parole, temporary or otherwise; or
b. The person is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport the person to or from a place of confinement;

[(5)] (14) "Consent": consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

(a) It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or

(b) It is given by a person who by reason of youth, mental disease or defect, intoxication, a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

(c) It is induced by force, duress or deception;

(15) "Controlled substance", a drug substance, or immediate precursor in schedules I through V as defined in chapter 195;

[(6)] (16) "Criminal negligence" [has the meaning specified in section 562.016] , failure to be aware of a substantial and unjustifiable risk that circumstances exist or a result will follow, and such failure constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation;

107 [(7)] (17) "Custody", a person is in custody when [the person] **he or she**
108 has been arrested but has not been delivered to a place of confinement;

109 (18) **"Damage", when used in relation to a computer system or**
110 **network, means any alteration, deletion, or destruction of any part of the**
111 **computer system or network;**

112 [(8)] (19) "Dangerous felony" [means] , the felonies of arson in the first
113 degree, assault in the first degree, attempted rape in the first degree if physical
114 injury results, attempted forcible rape if physical injury results, attempted sodomy
115 in the first degree if physical injury results, attempted forcible sodomy if physical
116 injury results, rape in the first degree, forcible rape, sodomy in the first degree,
117 forcible sodomy, **assault in the second degree if the victim of such assault is**
118 **a special victim as defined in subdivision (14) of section 565.002, kidnapping**
119 **in the first degree, kidnapping, murder in the second degree, assault of a law**
120 **enforcement officer in the first degree, domestic assault in the first degree, elder**
121 **abuse in the first degree, robbery in the first degree, statutory rape in the first**
122 **degree when the victim is a child less than twelve years of age at the time of the**
123 **commission of the act giving rise to the offense, statutory sodomy in the first**
124 **degree when the victim is a child less than twelve years of age at the time of the**
125 **commission of the act giving rise to the offense, [and,] child molestation in the**
126 **first or second degree, abuse of a child if the child dies as a result of injuries**
127 **sustained from conduct chargeable under section 568.060, child kidnapping,**
128 **[and] parental kidnapping committed by detaining or concealing the whereabouts**
129 **of the child for not less than one hundred twenty days under section 565.153, and**
130 **an "intoxication-related traffic offense" or "intoxication-related boating**
131 **offense" if the person is found to be a "habitual offender" as such terms are**
132 **defined in section 577.001;**

133 [(9)] (20) "Dangerous instrument" [means] , any instrument, article or
134 substance, which, under the circumstances in which it is used, is readily capable
135 of causing death or other serious physical injury;

136 (21) **"Data", a representation of information, facts, knowledge,**
137 **concepts, or instructions prepared in a formalized or other manner and**
138 **intended for use in a computer or computer network. Data may be in any**
139 **form including, but not limited to, printouts, microfiche, magnetic storage**
140 **media, punched cards and as may be stored in the memory of a computer;**

141 [(10)] (22) "Deadly weapon" [means] , any firearm, loaded or unloaded,
142 or any weapon from which a shot, readily capable of producing death or serious
143 physical injury, may be discharged, or a switchblade knife, dagger, billy **club**,
144 blackjack or metal knuckles;

145 (23) **"Digital camera", a camera that records images in a format**
146 **which enables the images to be downloaded into a computer;**

147 (24) **"Disability", a mental, physical, or developmental impairment**
148 **that substantially limits one or more major life activities or the ability to**
149 **provide adequately for one's care or protection, whether the impairment is**

150 **congenital or acquired by accident, injury or disease, where such**
151 **impairment is verified by medical findings;**

152 **(25) "Elderly person", a person sixty years of age or older;**

153 **[(11)] (26) "Felony" [has the meaning specified in section 556.016] , an**
154 **offense so designated or an offense for which persons found guilty thereof**
155 **may be sentenced to death or imprisonment for a term of more than one**
156 **year;**

157 **[(12)] (27) "Forcible compulsion" [means] either:**

158 **(a) Physical force that overcomes reasonable resistance; or**

159 **(b) A threat, express or implied, that places a person in reasonable fear**
160 **of death, serious physical injury or kidnapping of such person or another person;**

161 **[(13)] (28) "Incapacitated" [means that] , a temporary or permanent**
162 **physical or mental condition[, temporary or permanent,] in which a person is**
163 **unconscious, unable to appraise the nature of [such person's] his or her conduct,**
164 **or unable to communicate unwillingness to an act;**

165 **[(14)] (29) "Infraction" [has the meaning specified in section 556.021]**
166 **, a violation defined by this code or by any other statute of this state if it is**
167 **so designated or if no sentence other than a fine, or fine and forfeiture or**
168 **other civil penalty, is authorized upon conviction;**

169 **[(15)] (30) "Inhabitable structure" [has the meaning specified in section**
170 **569.010] , a vehicle, vessel or structure:**

171 **(a) Where any person lives or carries on business or other calling;**
172 **or**

173 **(b) Where people assemble for purposes of business, government,**
174 **education, religion, entertainment, or public transportation; or**

175 **(c) Which is used for overnight accommodation of persons. Any**
176 **such vehicle, vessel, or structure is "inhabitable" regardless of whether a**
177 **person is actually present.**

178 **If a building or structure is divided into separately occupied units, any unit**
179 **not occupied by the actor is an "inhabitable structure of another";**

180 **[(16)] (31) "Knowingly" [has the meaning specified in section 562.016]**
181 **, when used with respect to:**

182 **(a) Conduct or attendant circumstances, means a person is aware of**
183 **the nature of his or her conduct or that those circumstances exist; or**

184 **(b) A result of conduct, means a person is aware that his or her**
185 **conduct is practically certain to cause that result;**

186 **[(17)] (32) "Law enforcement officer" [means] , any public servant**
187 **having both the power and duty to make arrests for violations of the laws of this**
188 **state, and federal law enforcement officers authorized to carry firearms and to**
189 **make arrests for violations of the laws of the United States;**

190 **[(18)] (33) "Misdemeanor" [has the meaning specified in section**
191 **556.016] , an offense so designated or an offense for which persons found**

guilty thereof may be sentenced to imprisonment for a term of which the maximum is one year or less;

(34) "Of another", property that any entity, including but not limited to any natural person, corporation, limited liability company, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein, except that property shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement;

[(19)] (35) "Offense" [means] , any felony[,] or misdemeanor [or infraction];

[(20)] (36) "Physical injury" [means physical pain, illness, or any impairment of physical condition] , slight impairment of any function of the body or temporary loss of use of any part of the body;

[(21)] (37) "Place of confinement" [means] , any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held;

[(22)] (38) "Possess" or "possessed" [means] , having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if such person has the object on his or her person or within easy reach and convenient control. A person has constructive possession if such person has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one person alone has possession of an object, possession is sole. If two or more persons share possession of an object, possession is joint;

(39) "Property", anything of value, whether real or personal, tangible or intangible, in possession or in action;

[(23)] (40) "Public servant" [means] , any person employed in any way by a government of this state who is compensated by the government by reason of such person's employment, any person appointed to a position with any government of this state, or any person elected to a position with any government of this state. It includes, but is not limited to, legislators, jurors, members of the judiciary and law enforcement officers. It does not include witnesses;

[(24)] (41) "Purposely" [has the meaning specified in section 562.016] , when used with respect to a person's conduct or to a result thereof, means when it is his or her conscious object to engage in that conduct or to cause that result;

[(25)] (42) "Recklessly" [has the meaning specified in section 562.016] , consciously disregarding a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation;

235 [(26) "Ritual" or "ceremony" means an act or series of acts performed by
236 two or more persons as part of an established or prescribed pattern of activity;

237 (27)] **(43) "Serious emotional injury"**, an injury that creates a substantial
238 risk of temporary or permanent medical or psychological damage, manifested by
239 impairment of a behavioral, cognitive or physical condition. Serious emotional
240 injury shall be established by testimony of qualified experts upon the reasonable
241 expectation of probable harm to a reasonable degree of medical or psychological
242 certainty;

243 [(28)] **(44) "Serious physical injury"** [means] , physical injury that creates
244 a substantial risk of death or that causes serious disfigurement or protracted loss
245 or impairment of the function of any part of the body;

246 [(29) "Sexual conduct" means acts of human masturbation; deviate
247 sexual intercourse; sexual intercourse; or physical contact with a person's clothed
248 or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of
249 apparent sexual stimulation or gratification;

250 (30) "Sexual contact" means any touching of the genitals or anus of any
251 person, or the breast of any female person, or any such touching through the
252 clothing, for the purpose of arousing or gratifying sexual desire of any person;

253 (31) "Sexual performance", any performance, or part thereof, which
254 includes sexual conduct by a child who is less than seventeen years of age;]

255 **(45) "Services", when used in relation to a computer system or**
256 **network, means use of a computer, computer system, or computer network**
257 **and includes, but is not limited to, computer time, data processing, and**
258 **storage or retrieval functions;**

259 **(46) "Sexual orientation", male or female heterosexuality,**
260 **homosexuality or bisexuality by inclination, practice, identity or expression,**
261 **or having a self-image or identity not traditionally associated with one's**
262 **gender;**

263 **(47) "Vehicle", a self-propelled mechanical device designed to carry**
264 **a person or persons, excluding vessels or aircraft;**

265 **(48) "Vessel", any boat or craft propelled by a motor or by**
266 **machinery, whether or not such motor or machinery is a principal source of**
267 **propulsion used or capable of being used as a means of transportation on**
268 **water, or any boat or craft more than twelve feet in length which is powered**
269 **by sail alone or by a combination of sail and machinery, and used or capable**
270 **of being used as a means of transportation on water, but not any boat or**
271 **craft having, as the only means of propulsion, a paddle or oars;**

272 [(32)] **(49) "Voluntary act"** [has the meaning specified in section
273 562.011] :

274 **(a) A bodily movement performed while conscious as a result of**
275 **effort or determination. Possession is a voluntary act if the possessor**
276 **knowingly procures or receives the thing possessed, or having acquired**

control of it was aware of his or her control for a sufficient time to have enabled him or her to dispose of it or terminate his or her control; or

(b) An omission to perform an act of which the actor is physically capable. A person is not guilty of an offense based solely upon an omission to perform an act unless the law defining the offense expressly so provides, or a duty to perform the omitted act is otherwise imposed by law;

(50) "Vulnerable person", any person in the custody, care, or control of the department of mental health who is receiving services from an operated, funded, licensed, or certified program.]

[558.019. 1. This section shall not be construed to affect the powers of the governor under article IV, section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020, section [558.018] **566.125**, or section 571.015, which set minimum terms of sentences, or the provisions of section 559.115, relating to probation.

2. The provisions of subsections 2 to 5 of this section shall be applicable to all classes of felonies except those set forth in chapter [195] **579**, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of an offender after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include [commitment to a regimented discipline program established pursuant to section 217.378] **an offender's first incarceration prior to release on probation under section 217.362 or an offender's incarceration prior to release on probation under section 559.115**. Other provisions of the law to the contrary notwithstanding, any offender who has [pleaded guilty to or has] been found guilty of a felony other than a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve the following minimum prison terms:

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

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

(3) If the offender has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be eighty percent of

33 his or her sentence or until the offender attains seventy years of age, and has
34 served at least forty percent of the sentence imposed, whichever occurs first.

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

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

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

45 (2) Any sentence either alone or in the aggregate with other consecutive
46 sentences for [crimes] **offenses** committed at or near the same time which is over
47 seventy-five years shall be calculated to be seventy-five years.

48 5. For purposes of this section, the term "minimum prison term" shall
49 mean time required to be served by the offender before he or she is eligible for
50 parole, conditional release or other early release by the department of corrections.

51 6. (1) A sentencing advisory commission is hereby created to consist of
52 eleven members. One member shall be appointed by the speaker of the house.
53 One member shall be appointed by the president pro tem of the senate. One
54 member shall be the director of the department of corrections. Six members shall
55 be appointed by and serve at the pleasure of the governor from among the
56 following: the public defender commission; private citizens; a private member
57 of the Missouri Bar; the board of probation and parole; and a prosecutor. Two
58 members shall be appointed by the supreme court, one from a metropolitan area
59 and one from a rural area. All members shall be appointed to a four-year term.
60 All members of the sentencing commission appointed prior to August 28, 1994,
61 shall continue to serve on the sentencing advisory commission at the pleasure of
62 the governor.

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

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

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

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

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

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

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

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

(2) Offender treatment programs;

(3) Mandatory community service;

(4) Work release programs in local facilities; and

(5) Community-based residential and nonresidential programs.

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

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

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

12. A [defendant] **person** who fails to make a payment to a county law enforcement restitution fund may not have his or her probation revoked solely for

118 failing to make such payment unless the judge, after evidentiary hearing, makes
119 a finding supported by a preponderance of the evidence that the [defendant]
120 **person** either willfully refused to make the payment or that the [defendant]
121 **person** willfully, intentionally, and purposefully failed to make sufficient bona
122 fide efforts to acquire the resources to pay.

123 13. Nothing in this section shall be construed to allow the sentencing
124 advisory commission to issue recommended sentences in specific cases pending
125 in the courts of this state.]
126

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

7 2. The court may terminate a period of probation and discharge the
8 defendant at any time before completion of the specific term fixed under section
9 559.016 if warranted by the conduct of the defendant and the ends of justice. The
10 court may extend the term of the probation, but no more than one extension of
11 any probation may be ordered except that the court may extend the term of
12 probation by one additional year by order of the court if the defendant admits he
13 or she has violated the conditions of probation or is found by the court to have
14 violated the conditions of his or her probation. Total time on any probation term,
15 including any extension shall not exceed the maximum term established in
16 section 559.016. Procedures for termination, discharge and extension may be
17 established by rule of court.

18 3. If the defendant violates a condition of probation at any time prior to
19 the expiration or termination of the probation term, the court may continue him
20 **or her** on the existing conditions, with or without modifying or enlarging the
21 conditions or extending the term.

22 4. (1) Unless the defendant consents to the revocation of probation, if a
23 continuation, modification, enlargement or extension is not appropriate under this
24 section, the court shall order placement of the offender in one of the department
25 of corrections' one hundred twenty-day programs so long as:

26 (a) The underlying offense for the probation is a class [C or] D **or E**
27 felony or an offense listed in chapter [195] **579 or an offense previously listed**
28 **in chapter 195**; except that, the court may, upon its own motion or a motion of
29 the prosecuting or circuit attorney, make a finding that an offender is not eligible
30 if the underlying offense is involuntary manslaughter in the first degree,
31 involuntary manslaughter in the second degree, [aggravated] **stalking in the first**
32 **degree**, assault in the second degree, sexual assault, rape in the second degree,
33 domestic assault in the second degree, assault [of a law enforcement officer in the
34 second degree] **in the third degree when the victim is a special victim,**

35 statutory rape in the second degree, statutory sodomy in the second degree,
36 deviate sexual assault, sodomy in the second degree, sexual misconduct involving
37 a child, incest, endangering the welfare of a child in the first degree under
38 subdivision (1) or (2) of subsection 1 of section 568.045, abuse of a child,
39 invasion of privacy [or] , any case in which the defendant is found guilty of a
40 felony offense under chapter 571, **or an offense of aggravated stalking or**
41 **assault of a law enforcement officer in the second degree as such offenses**
42 **existed prior to January 1, 2017;**

43 (b) The probation violation is not the result of the defendant being an
44 absconder or being found guilty of, pleading guilty to, or being arrested on
45 suspicion of any felony, misdemeanor, or infraction. For purposes of this
46 subsection, "absconder" shall mean an offender under supervision who has left
47 such offender's place of residency without the permission of the offender's
48 supervising officer for the purpose of avoiding supervision;

49 (c) The defendant has not violated any conditions of probation involving
50 the possession or use of weapons, or a stay-away condition prohibiting the
51 defendant from contacting a certain individual; and

52 (d) The defendant has not already been placed in one of the programs by
53 the court for the same underlying offense or during the same probation term.

54 (2) Upon receiving the order, the department of corrections shall conduct
55 an assessment of the offender and place such offender in the appropriate one
56 hundred twenty-day program under subsection 3 of section 559.115.

57 (3) Notwithstanding any of the provisions of subsection 3 of section
58 559.115 to the contrary, once the defendant has successfully completed the
59 program under this subsection, the court shall release the defendant to continue
60 to serve the term of probation, which shall not be modified, enlarged, or extended
61 based on the same incident of violation. Time served in the program shall be
62 credited as time served on any sentence imposed for the underlying offense.

63 5. If the defendant consents to the revocation of probation or if the
64 defendant is not eligible under subsection 4 of this section for placement in a
65 program and a continuation, modification, enlargement, or extension of the term
66 under this section is not appropriate, the court may revoke probation and order
67 that any sentence previously imposed be executed. If imposition of sentence was
68 suspended, the court may revoke probation and impose any sentence available
69 under section 557.011. The court may mitigate any sentence of imprisonment by
70 reducing the prison or jail term by all or part of the time the defendant was on
71 probation. The court may, upon revocation of probation, place an offender on a
72 second term of probation. Such probation shall be for a term of probation as
73 provided by section 559.016, notwithstanding any amount of time served by the
74 offender on the first term of probation.

75 6. Probation shall not be revoked without giving the probationer notice
76 and an opportunity to be heard on the issues of whether such probationer violated
77 a condition of probation and, if a condition was violated, whether revocation is

warranted under all the circumstances. Not less than five business days prior to the date set for a hearing on the violation, except for a good cause shown, the judge shall inform the probationer that he or she may have the right to request the appointment of counsel if the probationer is unable to retain counsel. If the probationer requests counsel, the judge shall determine whether counsel is necessary to protect the probationer's due process rights. If the judge determines that counsel is not necessary, the judge shall state the grounds for the decision in the record.

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

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

[559.106. 1. Notwithstanding any statutory provision to the contrary, when a court grants probation to an offender who has [pleaded guilty to or has] been found guilty of an offense in:

(1) Section 566.030, 566.032, 566.060, [or] 566.062, [based on an act committed on or after August 28, 2006, or the offender has pleaded guilty to or has been found guilty of an offense under section] 566.067, 566.083, 566.100, 566.151, 566.212, 566.213, 568.020, 568.080, or 568.090, based on an act committed on or after August 28, 2006[.] ; or

(2) **Section 566.068, 566.069, 566.210, 566.211, 573.200, or 573.205 based on an act committed on or after January 1, 2017,** against a victim who was less than fourteen years [old] **of age** and the offender is a prior sex offender as defined in subsection 2 of this section, the court shall order that the offender be supervised by the board of probation and parole for the duration of his or her natural life.

15 2. For the purpose of this section, a prior sex offender is a person who
16 has previously [pleaded guilty to or has] been found guilty of an offense
17 contained in chapter 566, or violating section 568.020, when the person had
18 sexual intercourse or deviate sexual intercourse with the victim, or of violating
19 subdivision (2) of subsection 1 of section 568.045.

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

25 4. In appropriate cases as determined by a risk assessment, the court may
26 terminate the probation of an offender who is being supervised under this section
27 when the offender is sixty-five years of age or older.]
28

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

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

13 3. The court may recommend placement of an offender in a department
14 of corrections one hundred twenty-day program under this subsection or order
15 such placement under subsection 4 of section 559.036. Upon the
16 recommendation or order of the court, the department of corrections shall assess
17 each offender to determine the appropriate one hundred twenty-day program in
18 which to place the offender, which may include placement in the shock
19 incarceration program or institutional treatment program. When the court
20 recommends and receives placement of an offender in a department of
21 corrections one hundred twenty-day program, the offender shall be released on
22 probation if the department of corrections determines that the offender has
23 successfully completed the program except as follows. Upon successful
24 completion of a program under this subsection, the board of probation and parole
25 shall advise the sentencing court of an offender's probationary release date thirty
26 days prior to release. The court shall follow the recommendation of the
27 department unless the court determines that probation is not appropriate. If the
28 court determines that probation is not appropriate, the court may order the
29 execution of the offender's sentence only after conducting a hearing on the matter

30 within ninety to one hundred twenty days from the date the offender was
31 delivered to the department of corrections. If the department determines the
32 offender has not successfully completed a one hundred twenty-day program under
33 this subsection, the offender shall be removed from the program and the court
34 shall be advised of the removal. The department shall report on the offender's
35 participation in the program and may provide recommendations for terms and
36 conditions of an offender's probation. The court shall then have the power to
37 grant probation or order the execution of the offender's sentence.

38 4. If the court is advised that an offender is not eligible for placement in
39 a one hundred twenty-day program under subsection 3 of this section, the court
40 shall consider other authorized dispositions. If the department of corrections one
41 hundred twenty-day program under subsection 3 of this section is full, the court
42 may place the offender in a private program approved by the department of
43 corrections or the court, the expenses of such program to be paid by the offender,
44 or in an available program offered by another organization. If the offender is
45 convicted of a class C [or] , class D, **or class E** nonviolent felony, the court may
46 order probation while awaiting appointment to treatment.

47 5. Except when the offender has been found to be a predatory sexual
48 offender pursuant to section [558.018] **566.125**, the court shall request the
49 department of corrections to conduct a sexual offender assessment if the
50 defendant [has pleaded guilty to or] has been found guilty of sexual abuse when
51 classified as a class B felony. Upon completion of the assessment, the
52 department shall provide to the court a report on the offender and may provide
53 recommendations for terms and conditions of an offender's probation. The
54 assessment shall not be considered a one hundred twenty-day program as
55 provided under subsection 3 of this section. The process for granting probation
56 to an offender who has completed the assessment shall be as provided under
57 subsections 2 and 6 of this section.

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

67 7. An offender's [first] incarceration under this section prior to release on
68 probation shall not be considered a previous prison commitment for the purpose
69 of determining a minimum prison term under the provisions of section 558.019.

70 8. Notwithstanding any other provision of law, probation may not be
71 granted pursuant to this section to offenders who have been convicted of murder
72 in the second degree pursuant to section 565.021; forcible rape pursuant to

73 section 566.030 as it existed prior to August 28, 2013; rape in the first degree
74 under section 566.030; forcible sodomy pursuant to section 566.060 as it existed
75 prior to August 28, 2013; sodomy in the first degree under section 566.060;
76 statutory rape in the first degree pursuant to section 566.032; statutory sodomy
77 in the first degree pursuant to section 566.062; child molestation in the first
78 degree pursuant to section 566.067 when classified as a class A felony; abuse of
79 a child pursuant to section 568.060 when classified as a class A felony; **or** an
80 offender who has been found to be a predatory sexual offender pursuant to
81 section [558.018] **566.125**; or any offense in which there exists a statutory
82 prohibition against either probation or parole.]
83

2 [559.633. 1. Upon [a plea of guilty or] a finding of [guilty for a
3 commission of] **guilt for** a felony offense pursuant to chapter [195] **579**, except
4 for those offenses in which there exists a statutory prohibition against either
5 probation or parole, when placing the person on probation, the court shall order
6 the person to begin a required educational assessment and community treatment
7 program within the first sixty days of probation as a condition of probation.
8 Persons who are placed on probation after a period of incarceration pursuant to
9 section 559.115 may not be required to participate in a required educational
assessment and community treatment program.

10 2. The fees for the required educational assessment and community
11 treatment program, or a portion of such fees, to be determined by the department
12 of corrections, shall be paid by the person receiving the assessment. Any person
13 who is assessed shall pay, in addition to any fee charged for the assessment, a
14 supplemental fee of sixty dollars. The administrator of the program shall remit
15 to the department of corrections the supplemental fees for all persons assessed,
16 less two percent for administrative costs. The supplemental fees received by the
17 department of corrections pursuant to this section shall be deposited in the
18 correctional substance abuse earnings fund created pursuant to section 559.635.]
19

2 [565.002. As used in this chapter, unless a different meaning is otherwise
plainly required **the following terms mean**:

3 (1) "Adequate cause" [means] , cause that would reasonably produce a
4 degree of passion in a person of ordinary temperament sufficient to substantially
5 impair an ordinary person's capacity for self-control;

6 (2) "**Child**", a person under seventeen years of age;

7 (3) "Conduct", includes any act or omission;

8 (4) "**Course of conduct**", a pattern of conduct composed of two or
9 more acts, which may include communication by any means, over a period
10 of time, however short, evidencing a continuity of purpose. Constitutionally
11 protected activity is not included within the meaning of course of conduct.
12 Such constitutionally protected activity includes picketing or other
13 organized protests;

- 14 [(3)] **(5) "Deliberation"** means cool reflection for any length of time no
15 matter how brief;
- 16 **[(4) "Intoxicated condition"** means under the influence of alcohol, a
17 controlled substance, or drug, or any combination thereof;
- 18 **(5) "Operates"** means physically driving or operating or being in actual
19 physical control of a motor vehicle;
- 20 **(6) "Serious physical injury"** means physical injury that creates a
21 substantial risk of death or that causes serious disfigurement or protracted loss or
22 impairment of the function of any part of the body;]
- 23 **(6) "Domestic victim", a household or family member as the term**
24 **"family" or "household member" is defined in section 455.010, including**
25 **any child who is a member of the household or family;**
- 26 **(7) "Emotional distress", something markedly greater than the level**
27 **of uneasiness, nervousness, unhappiness, or the like which are commonly**
28 **experienced in day-to-day living;**
- 29 **(8) "Full or partial nudity", the showing of all or any part of the**
30 **human genitals, pubic area, buttock, or any part of the nipple of the breast**
31 **of any female person, with less than a fully opaque covering;**
- 32 **(9) "Legal custody", the right to the care, custody and control of a**
33 **child;**
- 34 **(10) "Parent", either a biological parent or a parent by adoption;**
- 35 **(11) "Person having a right of custody", a parent or legal guardian**
36 **of the child;**
- 37 **(12) "Photographs" or "films", the making of any photograph,**
38 **motion picture film, videotape, or any other recording or transmission of the**
39 **image of a person;**
- 40 **(13) "Place where a person would have a reasonable expectation of**
41 **privacy", any place where a reasonable person would believe that a person**
42 **could disrobe in privacy, without being concerned that the person's**
43 **undressing was being viewed, photographed or filmed by another;**
- 44 **(14) "Special victim", any of the following:**
- 45 **(a) A law enforcement officer assaulted in the performance of official**
46 **duties or as a direct result of such official duties;**
- 47 **(b) Emergency personnel, any paid or volunteer firefighter,**
48 **emergency room or trauma center personnel, or emergency medical**
49 **technician, assaulted in the performance of official duties or as a direct**
50 **result of such official duties;**
- 51 **(c) A probation and parole officer assaulted in the performance of**
52 **official duties or as a direct result of such official duties;**
- 53 **(d) An elderly person;**
- 54 **(e) A person with a disability;**
- 55 **(f) A vulnerable person;**

(g) Any jailer or corrections officer of the state or one of its political subdivisions assaulted in the performance of official duties or as a direct result of such official duties;

(h) A highway worker in a construction or work zone as the terms "highway worker", "construction zone", and "work zone" are defined under section 304.580;

(i) Any utility worker, meaning any employee of a utility that provides gas, heat, electricity, water, steam, telecommunications services, or sewer services, whether privately, municipally, or cooperatively owned, while in the performance of his or her job duties, including any person employed under a contract;

(j) Any cable worker, meaning any employee of a cable operator, as such term is defined in section 67.2677, including any person employed under contract, while in the performance of his or her job duties; and

(k) Any employee of a mass transit system, including any employee of public bus or light rail companies, while in the performance of his or her job duties;

[(7)] (15) "Sudden passion" [means] , passion directly caused by and arising out of provocation by the victim or another acting with the victim which passion arises at the time of the offense and is not solely the result of former provocation;

[(8)] (16) "Trier" [means] , the judge or jurors to whom issues of fact, guilt or innocence, or the assessment and declaration of punishment are submitted for decision;

(17) "Views", the looking upon of another person, with the unaided eye or with any device designed or intended to improve visual acuity, for the purpose of arousing or gratifying the sexual desire of any person.]

[565.073. 1. A person commits the [crime] offense of domestic assault in the second degree if the act involves a [family or household member, including any child who is a member of the family or household, as defined in section 455.010] domestic victim, as the term "domestic victim" is defined under section 565.002, and he or she:

(1) [Attempts to cause or] Knowingly causes physical injury to such family or household member by any means, including but not limited to, [by] use of a deadly weapon or dangerous instrument, or by choking or strangulation; or

(2) Recklessly causes serious physical injury to such family or household member; or

(3) Recklessly causes physical injury to such family or household member by means of any deadly weapon.

2. The offense of domestic assault in the second degree is a class [C] D felony.]

2 [566.147. 1. Any person who, since July 1, 1979, has been or hereafter
3 has [pleaded guilty or nolo contendere to, or been convicted of, or] been found
4 guilty of:

5 (1) Violating any of the provisions of this chapter or the provisions of
6 [subsection 2 of] section 568.020, incest; section 568.045, endangering the
7 welfare of a child in the first degree; [subsection 2 of section 568.080] **section**
8 **573.200**, use of a child in a sexual performance; section [568.090] **573.205**,
9 promoting a sexual performance by a child; section 573.023, sexual exploitation
10 of a minor; section 573.025, promoting child pornography in the first degree;
11 section 573.035, promoting child pornography in the second degree; section
12 573.037, possession of child pornography, or section 573.040, furnishing
13 pornographic material to minors; or

14 (2) Any offense in any other [state or foreign country, or under federal,
15 tribal, or military] jurisdiction which, if committed in this state, would be a
16 violation listed in this section; shall not reside within one thousand feet of any
17 public school as defined in section 160.011, any private school giving instruction
18 in a grade or grades not higher than the twelfth grade, **or** any child care facility
19 that is licensed under chapter 210, or any child care facility as defined in section
20 210.201 that is exempt from state licensure but subject to state regulation under
21 section 210.252 and holds itself out to be a child care facility, where the school
22 or facility is in existence at the time the individual begins to reside at the location.

23 2. If such person has already established a residence and a public school,
24 a private school, or child care facility is subsequently built or placed within one
25 thousand feet of such person's residence, then such person shall, within one week
26 of the opening of such public school, private school, or child care facility, notify
27 the county sheriff where such public school, private school, or child care facility
28 is located that he or she is now residing within one thousand feet of such public
29 school, private school, or child care facility and shall provide verifiable proof to
30 the sheriff that he or she resided there prior to the opening of such public school,
31 private school, or child care facility.

32 3. For purposes of this section, "resides" means sleeps in a residence,
33 which may include more than one location and may be mobile or transitory.

34 4. Violation of the provisions of subsection 1 of this section is a class [D]
35 **E** felony except that the second or any subsequent violation is a class B felony.
36 Violation of the provisions of subsection 2 of this section is a class A
37 misdemeanor except that the second or subsequent violation is a class [D] **E**
38 felony.]

2 [566.148. 1. Any person who has [pleaded guilty or nolo contendere to,
3 or been convicted of, or] been found guilty of:

4 (1) Violating any of the provisions of this chapter or the provisions of
5 [subsection 2 of] section 568.020, incest; section 568.045, endangering the
welfare of a child in the first degree; [subsection 2 of section 568.080] **section**

6 **573.200**, use of a child in a sexual performance; section [568.090] **573.205**,
7 promoting a sexual performance by a child; section 573.023, sexual exploitation
8 of a minor; section 573.025, promoting child pornography in the first degree;
9 section 573.035, promoting child pornography in the second degree; section
10 573.037, possession of child pornography, or section 573.040, furnishing
11 pornographic material to minors; or

12 (2) Any offense in any other [state or foreign country, or under federal,
13 tribal, or military] jurisdiction which, if committed in this state, would be a
14 violation listed in this section; shall not knowingly be physically present in or
15 loiter within five hundred feet of or to approach, contact, or communicate with
16 any child under eighteen years of age in any child care facility building, on the
17 real property comprising any child care facility when persons under the age of
18 eighteen are present in the building, on the grounds, or in the conveyance, unless
19 the offender is a parent, legal guardian, or custodian of a student present in the
20 building or on the grounds.

21 2. For purposes of this section, "child care facility" shall [have the same
22 meaning as such term is defined in section 210.201] **include any child care**
23 **facility licensed under chapter 210, or any child care facility that is exempt**
24 **from state licensure but subject to state regulation under section 210.252**
25 **and holds itself out to be a child care facility.**

26 3. [Any person who violates] **Violation of** the provisions of this section
27 is [guilty of] a class A misdemeanor.]
28

 [566.149. 1. Any person who has [pleaded guilty or nolo contendere to,
2 or been convicted of, or] been found guilty of:

3 (1) Violating any of the provisions of this chapter or the provisions [of
4 subsection 2] of section 568.020, incest; section 568.045, endangering the
5 welfare of a child in the first degree; [subsection 2 of section 568.080] **section**
6 **573.200**, use of a child in a sexual performance; section [568.090] **573.205**,
7 promoting a sexual performance by a child; section 573.023, sexual exploitation
8 of a minor; section 573.025, promoting child pornography; or section 573.040,
9 furnishing pornographic material to minors; or

10 (2) Any offense in any other [state or foreign country, or under tribal,
11 federal, or military] jurisdiction which, if committed in this state, would be a
12 violation listed in this section; shall not be present in or loiter within five hundred
13 feet of any school building, on real property comprising any school, or in any
14 conveyance owned, leased, or contracted by a school to transport students to or
15 from school or a school-related activity when persons under the age of eighteen
16 are present in the building, on the grounds, or in the conveyance, unless the
17 offender is a parent, legal guardian, or custodian of a student present in the
18 building and has met the conditions set forth in subsection 2 of this section.

19 2. No parent, legal guardian, or custodian who has [pleaded guilty or nolo
20 contendere to, or been convicted of, or] been found guilty of violating any of the

21 offenses listed in subsection 1 of this section shall be present in any school
22 building, on real property comprising any school, or in any conveyance owned,
23 leased, or contracted by a school to transport students to or from school or a
24 school-related activity when persons under the age of eighteen are present in the
25 building, on the grounds or in the conveyance unless the parent, legal guardian,
26 or custodian has permission to be present from the superintendent or school board
27 or in the case of a private school from the principal. In the case of a public
28 school, if permission is granted, the superintendent or school board president
29 must inform the principal of the school where the sex offender will be present.
30 Permission may be granted by the superintendent, school board, or in the case of
31 a private school from the principal for more than one event at a time, such as a
32 series of events, however, the parent, legal guardian, or custodian must obtain
33 permission for any other event he or she wishes to attend for which he or she has
34 not yet had permission granted.

35 3. Regardless of the person's knowledge of his or her proximity to school
36 property or a school-related activity, violation of the provisions of this section
37 [shall be] is a class A misdemeanor.
38

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

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

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

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

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

(1) "Aggravated offender", a person who has been found guilty of:

25 (a) Three or more intoxication-related traffic offenses committed on
26 separate occasions; or

27 (b) Two or more intoxication-related traffic offenses committed on
28 separate occasions where at least one of the intoxication-related traffic
29 offenses is an offense committed in violation of any state law, county or
30 municipal ordinance, any federal offense, or any military offense in which
31 the defendant was operating a vehicle while intoxicated and another person
32 was injured or killed;

33 (2) "Aggravated boating offender", a person who has been found
34 guilty of:

35 (a) Three or more intoxication-related boating offenses; or

36 (b) Has been found guilty of one or more intoxication-related boating
37 offenses committed on separate occasions where at least one of the
38 intoxication-related traffic offenses is an offense committed in violation of
39 any state law, county or municipal ordinance, any federal offense, or any
40 military offense in which the defendant was operating a vessel while
41 intoxicated and another person was injured or killed;

42 (3) "All-terrain vehicle", any motorized vehicle manufactured and
43 used exclusively for off-highway use which is fifty inches or less in width,
44 with an unladen dry weight of one thousand pounds or less, traveling on
45 three, four or more low pressure tires, with a seat designed to be straddled
46 by the operator, or with a seat designed to carry more than one person, and
47 handlebars for steering control;

48 (4) "Court", any circuit, associate circuit, or municipal court,
49 including traffic court, but not any juvenile court or drug court;

50 (5) "Chronic offender", a person who has been found guilty of:

51 (a) Four or more intoxication-related traffic offenses committed on
52 separate occasions; or

53 (b) Three or more intoxication-related traffic offenses committed on
54 separate occasions where at least one of the intoxication-related traffic
55 offenses is an offense committed in violation of any state law, county or
56 municipal ordinance, any federal offense, or any military offense in which
57 the defendant was operating a vehicle while intoxicated and another person
58 was injured or killed; or

59 (c) Two or more intoxication-related traffic offenses committed on
60 separate occasions where both intoxication-related traffic offenses were
61 offenses committed in violation of any state law, county or municipal
62 ordinance, any federal offense, or any military offense in which the
63 defendant was operating a vehicle while intoxicated and another person was
64 injured or killed;

65 (6) "Chronic boating offender", a person who has been found guilty
66 of:

67 (a) Four or more intoxication-related boating offenses; or

(b) Three or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related boating offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed; or

(c) Two or more intoxication-related boating offenses committed on separate occasions where both intoxication-related boating offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

(7) "Controlled substance", a drug, substance, or immediate precursor in schedules I to V listed in section 195.017;

(8) "Drive", "driving", "operates" or "operating", means physically driving or operating a vehicle or vessel;

(9) "Flight crew member", the pilot in command, copilots, flight engineers, and flight navigators;

(10) "Habitual offender", a person who has been found guilty of:

(a) Five or more intoxication-related traffic offenses committed on separate occasions; or

(b) Four or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed; or

(c) Three or more intoxication-related traffic offenses committed on separate occasions where at least two of the intoxication-related traffic offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed;

(11) "Habitual boating offender", a person who has been found guilty of:

(a) Five or more intoxication-related boating offenses; or

(b) Four or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related boating offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed; or

(c) Three or more intoxication-related boating offenses committed on separate occasions where at least two of the intoxication-related boating offenses were offenses committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

(12) "Intoxicated" or "intoxicated condition", when a person is under the influence of alcohol, a controlled substance, or drug, or any combination thereof;

(13) "Intoxication-related boating offense", operating a vessel while intoxicated; boating while intoxicated; operating a vessel with excessive blood alcohol content or an offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense;

(14) "Intoxication-related traffic offense", driving while intoxicated, driving with excessive blood alcohol content or an offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense;

(15) "Law enforcement officer" or "arresting officer", includes the definition of law enforcement officer in section 556.061 and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state of Missouri;

(16) "Operate a vessel", to physically control the movement of a vessel in motion under mechanical or sail power in water;

(17) "Persistent offender", a person who has been found guilty of two or more intoxication-related traffic offenses committed on separate occasions;

(18) "Persistent boating offender", a person who has been found guilty of two or more intoxication-related boating offenses committed on separate occasions;

(19) "Prior offender", a person who has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged;

(20) "Prior boating offender", a person who has been found guilty of one intoxication-related boating offense, where such prior offense occurred within five years of the occurrence of the intoxication-related boating offense for which the person is charged.]

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

2. **The offense of** driving while intoxicated is [for the first offense, a class B misdemeanor. No person convicted of or pleading guilty to the offense of driving while intoxicated shall be granted a suspended imposition of sentence for such offense, unless such person shall be placed on probation for a minimum of two years] :

- (1) **A class B misdemeanor;**
- (2) **A class A misdemeanor if:**
 - (a) **The defendant is a prior offender; or**
 - (b) **A person less than seventeen years of age is present in the vehicle;**
- (3) **A class E felony if:**
 - (a) **The defendant is a persistent offender; or**
 - (b) **While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to another person;**
- (4) **A class D felony if:**
 - (a) **The defendant is an aggravated offender;**
 - (b) **While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to a law enforcement officer or emergency personnel; or**
 - (c) **While driving while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to another person;**
- (5) **A class C felony if:**
 - (a) **The defendant is a chronic offender;**
 - (b) **While driving while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to a law enforcement officer or emergency personnel; or**
 - (c) **While driving while intoxicated, the defendant acts with criminal negligence to cause the death of another person;**
- (6) **A class B felony if:**
 - (a) **The defendant is a habitual offender;**
 - (b) **While driving while intoxicated, the defendant acts with criminal negligence to cause the death of a law enforcement officer or emergency personnel; or**
 - (c) **While driving while intoxicated, the defendant acts with criminal negligence to cause the death of two or more persons unless it is a second or subsequent violation of this subsection, in which case it is a class A felony.**

3. Notwithstanding the provisions of subsection 2 of this section, [in a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, no person who operated a motor vehicle with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood shall be granted a suspended imposition of sentence unless

the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program] **a person found guilty of the offense of driving while intoxicated as a first offense shall not be granted a suspended imposition of sentence:**

(1) Unless such person shall be placed on probation for a minimum of two years; or

(2) In a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, and where the offense was committed with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual participates and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

4. If a person is not granted a suspended imposition of sentence for the reasons described in subsection 3 of this section [for such first offense]:

(1) If the individual operated the motor vehicle with fifteen-hundredths to twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than forty-eight hours;

(2) If the individual operated the motor vehicle with greater than twenty-hundredths of one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than five days.

5. A person found guilty of the offense of driving while intoxicated:

(1) As a prior offender, persistent offender, aggravated offender, chronic offender, or habitual offender shall not be granted a suspended imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

(2) As a prior offender shall not be granted parole or probation until he or she has served a minimum of ten days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

(b) The offender participates in and successfully completes a program established under section 478.007 or other court-ordered treatment program, if available, and as part of either program, the offender performs at least thirty days of community service under the supervision of the court;

(3) As a persistent offender shall not be eligible for parole or probation until he or she has served a minimum of thirty days imprisonment:

(a) Unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

86 (b) The offender participates in and successfully completes a
87 program established under section 478.007 or other court-ordered treatment
88 program, if available, and as part of either program, the offender performs
89 at least sixty days of community service under the supervision of the court;

90 (4) As an aggravated offender shall not be eligible for parole or
91 probation until he or she has served a minimum of sixty days imprisonment;

92 (5) As a chronic offender shall not be eligible for parole or probation
93 until he or she has served a minimum of two years imprisonment.]
94

2 [577.013. 1. A person commits the offense of boating while
intoxicated if he or she operates a vessel while in an intoxicated condition.

3 2. The offense of boating while intoxicated is:

4 (1) A class B misdemeanor;

5 (2) A class A misdemeanor if:

6 (a) The defendant is a prior boating offender; or

7 (b) A person less than seventeen years of age is present in the vessel;

8 (3) A class E felony if:

9 (a) The defendant is a persistent boating offender; or

10 (b) While boating while intoxicated, the defendant acts with criminal
11 negligence to cause physical injury to another person;

12 (4) A class D felony if:

13 (a) The defendant is an aggravated boating offender;

14 (b) While boating while intoxicated, the defendant acts with criminal
15 negligence to cause physical injury to a law enforcement officer or
16 emergency personnel; or

17 (c) While boating while intoxicated, the defendant acts with criminal
18 negligence to cause serious physical injury to another person;

19 (5) A class C felony if:

20 (a) The defendant is a chronic boating offender;

21 (b) While boating while intoxicated, the defendant acts with criminal
22 negligence to cause serious physical injury to a law enforcement officer or
23 emergency personnel; or

24 (c) While boating while intoxicated, the defendant acts with criminal
25 negligence to cause the death of another person;

26 (6) A class B felony if:

27 (a) The defendant is a habitual boating offender;

28 (b) While boating while intoxicated, the defendant acts with criminal
29 negligence to cause the death of a law enforcement officer or emergency
30 personnel; or

31 (c) While boating while intoxicated, the defendant acts with criminal
32 negligence to cause the death of two or more persons unless it is a second or
33 subsequent violation of this subsection, in which case it is a class A felony.

34 **3. Notwithstanding the provisions of subsection 2 of this section, a**
35 **person found guilty of the offense of boating while intoxicated as a first**
36 **offense shall not be granted a suspended imposition of sentence:**

37 **(1) Unless such person shall be placed on probation for a minimum**
38 **of two years; or**

39 **(2) In a circuit where a DWI court or docket created under section**
40 **478.007 or other court-ordered treatment program is available, and where**
41 **the offense was committed with fifteen-hundredths of one percent or more**
42 **by weight of alcohol in such person's blood, unless the individual**
43 **participates in and successfully completes a program under such DWI court**
44 **or docket or other court-ordered treatment program.**

45 **4. If a person is not granted a suspended imposition of sentence for**
46 **the reasons described in subsection 3 of this section:**

47 **(1) If the individual operated the vessel with fifteen-hundredths to**
48 **twenty-hundredths of one percent by weight of alcohol in such person's**
49 **blood, the required term of imprisonment shall be not less than forty-eight**
50 **hours;**

51 **(2) If the individual operated the vessel with greater than twenty-**
52 **hundredths of one percent by weight of alcohol in such person's blood, the**
53 **required term of imprisonment shall be not less than five days.**

54 **5. A person found guilty of the offense of boating while intoxicated:**

55 **(1) As a prior boating offender, persistent boating offender,**
56 **aggravated boating offender, chronic boating offender or habitual boating**
57 **offender shall not be granted a suspended imposition of sentence or be**
58 **sentenced to pay a fine in lieu of a term of imprisonment, section 557.011 to**
59 **the contrary notwithstanding;**

60 **(2) As a prior boating offender shall not be granted parole or**
61 **probation until he or she has served a minimum of ten days imprisonment;**

62 **(a) Unless as a condition of such parole or probation such person**
63 **performs at least two hundred forty hours of community service under the**
64 **supervision of the court in those jurisdictions which have a recognized**
65 **program for community service; or**

66 **(b) The offender participates in and successfully completes a**
67 **program established under section 478.007 or other court-ordered treatment**
68 **program, if available;**

69 **(3) As a persistent offender shall not be eligible for parole or**
70 **probation until he or she has served a minimum of thirty days**
71 **imprisonment:**

72 **(a) Unless as a condition of such parole or probation such person**
73 **performs at least four hundred eighty hours of community service under the**
74 **supervision of the court in those jurisdictions which have a recognized**
75 **program for community service; or**

76 (b) The offender participates in and successfully completes a
77 program established under section 478.007 or other court-ordered treatment
78 program, if available;

79 (4) As an aggravated boating offender shall not be eligible for parole
80 or probation until he or she has served a minimum of sixty days
81 imprisonment;

82 (5) As a chronic boating offender shall not be eligible for parole or
83 probation until he or she has served a minimum of two years imprisonment.]
84

2 [577.020. 1. Any person who operates a [motor] vehicle upon the public
3 highways of this state, a vessel, or any aircraft, or acts as a flight crew
4 member of an aircraft shall be deemed to have given consent [to], subject to the
5 provisions of sections 577.019 to 577.041, to a chemical test or tests of the
6 person's breath, blood, saliva, or urine for the purpose of determining the alcohol
7 or drug content of the person's blood pursuant to the following circumstances:

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

12 (2) If the person is detained for any offense of operating an aircraft
13 while intoxicated under section 577.015 or operating an aircraft with
14 excessive blood alcohol content under section 577.016;

15 (3) If the person is under the age of twenty-one, has been stopped by a
16 law enforcement officer, and the law enforcement officer has reasonable grounds
17 to believe that such person was [driving a motor] operating a vehicle or a vessel
18 with a blood alcohol content of two-hundredths of one percent or more by
19 weight; [or]

20 [(3)] (4) If the person is under the age of twenty-one, has been stopped
21 by a law enforcement officer, and the law enforcement officer has reasonable
22 grounds to believe that such person has committed a violation of the traffic laws
23 of the state, or any political subdivision of the state, and such officer has
24 reasonable grounds to believe, after making such stop, that such person has a
25 blood alcohol content of two-hundredths of one percent or greater;

26 [(4)] (5) If the person is under the age of twenty-one, has been stopped
27 at a sobriety checkpoint or roadblock and the law enforcement officer has
28 reasonable grounds to believe that such person has a blood alcohol content of
29 two-hundredths of one percent or greater; or

30 [(5)] (6) If the person, while operating a [motor] vehicle, has been
31 involved in a [motor vehicle] collision or accident which resulted in a fatality or
32 a readily apparent serious physical injury as defined in section 565.002, or has
33 been arrested as evidenced by the issuance of a uniform traffic ticket for the
34 violation of any state law or county or municipal ordinance with the exception of

34 equipment violations contained in [chapter] **chapters 306 and 307**, or similar
35 provisions contained in county or municipal ordinances[; or] .

36 [(6) If the person, while operating a motor vehicle, has been involved in
37 a motor vehicle collision which resulted in a fatality or serious physical injury as
38 defined in section 565.002.]

39 The test shall be administered at the direction of the law enforcement officer
40 whenever the person has been [arrested or] stopped, **detained, or arrested** for
41 any reason.

42 2. The implied consent to submit to the chemical tests listed in subsection
43 1 of this section shall be limited to not more than two such tests arising from the
44 same **stop, detention, arrest, incident or charge**.

45 3. **To be considered valid**, chemical analysis of the person's breath,
46 blood, saliva, or urine [to be considered valid pursuant to the provisions of
47 sections 577.019 to 577.041] shall be performed, according to methods approved
48 by the state department of health and senior services, by licensed medical
49 personnel or by a person possessing a valid permit issued by the state department
50 of health and senior services for this purpose.

51 4. The state department of health and senior services shall approve
52 satisfactory techniques, devices, equipment, or methods to be [considered valid]
53 **used in the chemical test** pursuant to the provisions of sections 577.019 to
54 577.041 [and] . **The department** shall **also** establish standards to ascertain the
55 qualifications and competence of individuals to conduct **such** analyses and [to]
56 issue permits which shall be subject to termination or revocation by the state
57 department of health and senior services.

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

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

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

68 (2) The time of the collection of the blood [or] , breath [sample] , or urine
69 **sample** analyzed;

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

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

74 (5) If the test was administered by means of a breath-testing instrument,
75 the date [of performance] of the most recent [required] maintenance of such
76 instrument. Full information does not include manuals, schematics, or software

of the instrument used to test the person or any other material that is not in the actual possession of the state. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

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

[577.037. 1. Upon the trial of any person for [violation of any of the provisions of section 565.024, or section 565.060, or section 577.010 or 577.012, or upon the trial of any criminal action] **any criminal offense** or violations of county or municipal ordinances, or in any license suspension or revocation proceeding pursuant to the provisions of chapter 302, arising out of acts alleged to have been committed by any person while [driving] **operating** a motor vehicle, **vessel, or aircraft, or acting as a flight crew member of any aircraft**, while in an intoxicated condition **or with an excessive blood alcohol content**, the amount of alcohol in the person's blood at the time of the act [alleged] , as shown by any chemical analysis of the person's blood, breath, saliva, or urine, is admissible in evidence and the provisions of subdivision (5) of section 491.060 shall not prevent the admissibility or introduction of such evidence if otherwise admissible. [If there was eight-hundredths of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.]

2. **If a chemical analysis of the defendant's breath, blood, saliva, or urine demonstrates there was eight-hundredths of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken. If a chemical analysis of the defendant's breath, blood, saliva, or urine demonstrates that there was less than eight-hundredths of one percent of alcohol in the defendant's blood, any charge alleging a criminal offense related to the operation of a vehicle, vessel, or aircraft while in an intoxicated condition or with an excessive blood alcohol content shall be dismissed with prejudice unless one or more of the following considerations cause the court to find a dismissal unwarranted:**

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

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

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

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

[3.] 4. The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the person was intoxicated.

[4.] 5. A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise to the presumption or to have the effect provided for in subsection [1] 2 of this section, shall have been performed as provided in sections 577.020 to 577.041 and in accordance with methods and standards approved by the state department of health and senior services.

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

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

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

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

[577.041. 1. If a person [under arrest, or who has been stopped pursuant to] **detained, stopped, or arrested under** subdivision [(2) or] (3) **or (4)** of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test allowed pursuant to section 577.020, then evidence of the refusal shall be admissible in [a] **any proceeding [pursuant to section 565.024, 565.060, or 565.082, or section 577.010 or 577.012] related to the acts resulting in such detention, stop, or arrest.**

2. The request of the officer **to submit to any chemical test** shall include the reasons of the officer for requesting the person to submit to a test and also

10 shall inform the person that evidence of refusal to take the test may be used
11 against such person [and that the person's] . **If such person was operating a**
12 **vehicle prior to such detention, stop, or arrest, he or she shall further be**
13 **informed that his or her** license shall be immediately revoked upon refusal to
14 take the test.

15 3. If a person when requested to submit to any test allowed pursuant to
16 section 577.020 requests to speak to an attorney, the person shall be granted
17 twenty minutes in which to attempt to contact an attorney. If, upon the
18 completion of the twenty-minute period the person continues to refuse to submit
19 to any test, it shall be deemed a refusal. [In this event, the officer shall, on behalf
20 of the director of revenue, serve the notice of license revocation personally upon
21 the person and shall take possession of any license to operate a motor vehicle
22 issued by this state which is held by that person. The officer shall issue a
23 temporary permit, on behalf of the director of revenue, which is valid for fifteen
24 days and shall also give the person a notice of such person's right to file a petition
25 for review to contest the license revocation.

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

29 (1) That the officer has:

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

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

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

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

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

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

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

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

49 3. Upon receipt of the officer's report, the director shall revoke the license
50 of the person refusing to take the test for a period of one year; or if the person is
51 a nonresident, such person's operating permit or privilege shall be revoked for
52 one year; or if the person is a resident without a license or permit to operate a

motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

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

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

(2) Whether or not the officer had:

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

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

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

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

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

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

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, or a program determined to be comparable by the department of mental health or the court. Assignment recommendations, based upon the needs assessment as described in subdivision (24) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form

provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

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

9. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection

of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

10. Any person who has had a license to operate a motor vehicle revoked under this section and who has a prior alcohol-related enforcement contact, as defined in section 302.525, shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped with a functioning, certified ignition interlock device as a required condition of license reinstatement. Such ignition interlock device shall further be required to be maintained on all motor vehicles operated by the person for a period of not less than six months immediately following the date of reinstatement. If the monthly monitoring reports show that the ignition interlock device has registered any confirmed blood alcohol concentration readings above the alcohol setpoint established by the department of transportation or that the person has tampered with or circumvented the ignition interlock device, then the period for which the person must maintain the ignition interlock device following the date of reinstatement shall be extended for an additional six months. If the person fails to maintain such proof with the director as required by this section, the license shall be rerevoked and the person shall be guilty of a class A misdemeanor.

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

[579.060. 1. A person commits the offense of unlawful sale or distribution of over-the-counter methamphetamine precursor drugs if he or she:

(1) Knowingly sells, distributes, dispenses, or otherwise provides any number of packages of any drug product containing detectable amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts, optical isomers, or salts of optical isomers, in a total amount greater than nine grams to the same individual within a thirty-day period, unless the amount is dispensed, sold, or distributed pursuant to a valid prescription; or

(2) Knowingly dispenses or offers drug products that are not excluded from Schedule V in subsection 17 or 18 of section 195.017 and that contain detectable amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts, optical isomers, or salts of optical

15 isomers, without ensuring that such products are located behind a pharmacy
16 counter where the public is not permitted and that such products are
17 dispensed by a registered pharmacist or pharmacy technician under
18 subsection 11 of section 195.017; or

19 (3) Holds a retail sales license issued under chapter 144 and
20 knowingly sells or dispenses packages that do not conform to the packaging
21 requirements of section 195.418.

22 2. A pharmacist, intern pharmacist, or registered pharmacy
23 technician commits the offense of unlawful sale or distribution of over-the-
24 counter methamphetamine precursor drugs if he or she:

25 (1) Knowingly sells, distributes, dispenses, or otherwise provides any
26 number of packages of any drug product containing detectable amounts of
27 ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts
28 or optical isomers, or salts of optical isomers, in a total amount greater than
29 three and six-tenth grams to the same individual within a twenty-four hour
30 period, unless the amount is dispensed, sold, or distributed pursuant to a
31 valid prescription; or

32 (2) Knowingly fails to submit information under subsection 13 of
33 section 195.017 and subsection 5 of section 195.417 about the sales of any
34 compound, mixture, or preparation of products containing detectable
35 amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or any
36 of their salts, optical isomers, or salts of optical isomers, in accordance with
37 transmission methods and frequency established by the department of
38 health and senior services; or

39 (3) Knowingly fails to implement and maintain an electronic log, as
40 required by subsection 12 of section 195.017, of each transaction involving
41 any detectable quantity of pseudoephedrine, its salts, isomers, or salts of
42 optical isomers or ephedrine, its salts, optical isomers, or salts of optical
43 isomers; or

44 (4) Knowingly sells, distributes, dispenses or otherwise provides to
45 an individual under eighteen years of age without a valid prescription any
46 number of packages of any drug product containing any detectable quantity
47 of pseudoephedrine, its salts, isomers, or salts of optical isomers, or
48 ephedrine, its salts or optical isomers, or salts of optical isomers.

49 3. Any person who violates the packaging requirements of section
50 195.418 and is considered the general owner or operator of the outlet where
51 ephedrine, pseudoephedrine, or phenylpropanolamine products are
52 available for sale shall not be penalized if he or she documents that an
53 employee training program was in place to provide the employee who made
54 the unlawful retail sale with information on the state and federal regulations
55 regarding ephedrine, pseudoephedrine, or phenylpropanolamine.

56 4. The offense of unlawful sale or distribution of over-the-counter
57 methamphetamine precursor drugs is a class A misdemeanor.]

[[195.130.] **579.105.** 1. [Any room, building, structure or inhabitable structure as defined in section 569.010 which is used for the illegal use, keeping or selling of controlled substances is a "public nuisance". No person shall keep or maintain such a public nuisance.

2. The attorney general, circuit attorney or prosecuting attorney may, in addition to any criminal prosecutions, prosecute a suit in equity to enjoin the public nuisance. If the court finds that the owner of the room, building, structure or inhabitable structure knew that the premises were being used for the illegal use, keeping or selling of controlled substances, the court may order that the premises shall not be occupied or used for such period as the court may determine, not to exceed one year.

3. All persons, including owners, lessees, officers, agents, inmates or employees, aiding or facilitating such a nuisance may be made defendants in any suit to enjoin the nuisance.

4. It is unlawful for a person to keep or maintain such a public nuisance.]
A person commits the offense of keeping or maintaining a public nuisance if he or she knowingly keeps or maintains:

(1) Any room, building, structure or inhabitable structure, as defined in section 556.061, which is used for the illegal manufacture, distribution, storage, or sale of any amount of a controlled substance, except thirty-five grams or less of marijuana or thirty-five grams or less of any synthetic cannabinoid; or

(2) Any room, building, structure or inhabitable structure, as defined in section 556.061, where on three or more separate occasions within the period of a year, two or more persons, who were not residents of the room, building, structure, or inhabitable structure, gathered for the principal purpose of unlawfully ingesting, injecting, inhaling or using any amount of a controlled substance, except thirty-five grams or less of marijuana or thirty-five grams or less of any synthetic cannabinoid.

2. In addition to any other criminal prosecutions, the prosecuting attorney or circuit attorney may by information or indictment charge the owner or the occupant, or both the owner and the occupant of the room, building, structure, or inhabitable structure with the [crime] offense of keeping or maintaining a public nuisance. [Keeping or maintaining a public nuisance is a class C felony.]

3. The offense of keeping or maintaining a public nuisance is a class E felony.

[5.] 4. Upon the conviction of the owner pursuant to subsection [4] 2 of this section, the room, building, structure, or inhabitable structure is subject to the provisions of sections 513.600 to 513.645.]

Section B. The repeal and reenactment of sections 160.261, 167.115, 167.171, 188.030, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212, 476.055, 556.061, 558.019, 559.036, 559.106, 559.115, 559.633, 565.002, 565.073, 566.147, 566.148, 566.149, 577.001, 577.010,

4 577.020, 577.037, and 577.041, the enactment of sections 197.1036, 545.940, 577.013, 579.060,
5 and 579.105, and the first appearance of the repeal of sections 195.130, 476.055, 566.135, and
6 660.315 of this act shall become effective on January 1, 2017.

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