

SECOND REGULAR SESSION

# SENATE BILL NO. 497

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Pre-filed December 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4358S.011

## AN ACT

To repeal sections 569.140, 569.150, 575.010, and 575.120, RSMo, and to enact in lieu thereof four new sections relating to increasing the penalties for certain crimes, with penalty provisions.

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

Section A. Sections 569.140, 569.150, 575.010, and 575.120, RSMo, are  
2 repealed and four new sections enacted in lieu thereof, to be known as sections  
3 569.140, 569.150, 575.010, and 575.120, to read as follows:

569.140. 1. A person commits the crime of trespass in the first degree if  
2 he knowingly enters unlawfully or knowingly remains unlawfully in a building  
3 or inhabitable structure or upon real property.

4 2. A person does not commit the crime of trespass in the first degree by  
5 entering or remaining upon real property unless the real property is fenced or  
6 otherwise enclosed in a manner designed to exclude intruders or as to which  
7 notice against trespass is given by:

8 (1) Actual communication to the actor; or

9 (2) Posting in a manner reasonably likely to come to the attention of  
10 intruders.

11 3. Trespass in the first degree is a class ~~[B]~~ **A** misdemeanor.

569.150. 1. A person commits the offense of trespass in the second degree  
2 if he enters unlawfully upon real property of another. This is an offense of  
3 absolute liability.

4 2. Trespass in the second degree is ~~[an infraction]~~ **a class B**  
5 **misdemeanor.**

575.010. The following definitions shall apply to this chapter and chapter

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

2 576:

3 (1) "Affidavit" means any written statement which is authorized or  
4 required by law to be made under oath, and which is sworn to before a person  
5 authorized to administer oaths;

6 (2) "Government" means any branch or agency of the government of this  
7 state or of any political subdivision thereof;

8 (3) "Highway" means any public road or thoroughfare for vehicles,  
9 including state roads, county roads and public streets, avenues, boulevards,  
10 parkways or alleys in any municipality;

11 (4) "Judicial proceeding" means any official proceeding in court, or any  
12 proceeding authorized by or held under the supervision of a court;

13 (5) "Juror" means a grand or petit juror, including a person who has been  
14 drawn or summoned to attend as a prospective juror;

15 (6) "Jury" means a grand or petit jury, including any panel which has  
16 been drawn or summoned to attend as prospective jurors;

17 (7) "Official proceeding" means any cause, matter, or proceeding where the  
18 laws of this state require that evidence considered therein be under oath or  
19 affirmation;

20 (8) "Police animal" means a dog, horse or other animal used in law  
21 enforcement or a correctional facility, or by a municipal police department, fire  
22 department, search and rescue unit or agency, whether the animal is on duty or  
23 not on duty. The term shall include, but not be limited to, accelerant detection  
24 dogs, bomb detection dogs, narcotic detection dogs, search and rescue dogs and  
25 tracking animals;

26 (9) "Public record" means any document which a public servant is required  
27 by law to keep;

28 (10) **"Public servant", any person employed in any way by the**  
29 **state or political subdivision of this state who is compensated by the**  
30 **state or political subdivision of this state by reason of such person's**  
31 **employment, any person appointed to a position with the state or any**  
32 **political subdivision of this state, or any person elected to a position**  
33 **with the state or any political subdivision of this state. "Public servant"**  
34 **includes, but is not limited to, members of the general assembly, jurors,**  
35 **members of the judiciary, law enforcement officers, and state**  
36 **inspectors employed by state agencies. "Public servant" does not**  
37 **include witnesses;**

38           **(11)** "Testimony" means any oral statement under oath or affirmation;  
39           **[(11)] (12)** "Victim" means any natural person against whom any crime  
40 is deemed to have been perpetrated or attempted;  
41           **[(12)] (13)** "Witness" means any natural person:  
42           (a) Having knowledge of the existence or nonexistence of facts relating to  
43 any crime; or  
44           (b) Whose declaration under oath is received as evidence for any purpose;  
45 or  
46           (c) Who has reported any crime to any peace officer or prosecutor; or  
47           (d) Who has been served with a subpoena issued under the authority of  
48 any court of this state.

575.120. 1. A person commits the crime of false impersonation if such  
2 person:

3           (1) Falsely represents himself or herself to be a public servant with  
4 purpose to induce another to submit to his or her pretended official authority or  
5 to rely upon his or her pretended official acts, and

6           (a) Performs an act in that pretended capacity; or

7           (b) Causes another to act in reliance upon his or her pretended official  
8 authority;

9           (2) Falsely represents himself or herself to be a person licensed to practice  
10 or engage in any profession for which a license is required by the laws of this  
11 state with purpose to induce another to rely upon such representation, and

12           (a) Performs an act in that pretended capacity; or

13           (b) Causes another to act in reliance upon such representation; or

14           (3) Upon being arrested, falsely represents himself or herself, to a law  
15 enforcement officer, with the first and last name, date of birth, or Social Security  
16 number, or a substantial number of identifying factors or characteristics as that  
17 of another person that results in the filing of a report or record of arrest or  
18 conviction for an infraction, misdemeanor, or felony that contains the first and  
19 last name, date of birth, and Social Security number, or a substantial number of  
20 identifying factors or characteristics to that of such other person as to cause such  
21 other person to be identified as the actual person arrested or convicted.

22           2. If a violation of subdivision (3) of subsection 1 of this section is  
23 discovered prior to any conviction of the person actually arrested for an  
24 underlying charge, then the prosecuting attorney, bringing any action on the  
25 underlying charge, shall notify the court thereof, and the court shall order the

26 false-identifying factors ascribed to the person actually arrested as are contained  
27 in the arrest and court records amended to correctly and accurately identify the  
28 defendant and shall expunge the incorrect and inaccurate identifying factors from  
29 the arrest and court records.

30         3. If a violation of subdivision (3) of subsection 1 of this section is  
31 discovered after any conviction of the person actually arrested for an underlying  
32 charge, then the prosecuting attorney of the county in which the conviction  
33 occurred shall file a motion in the underlying case with the court to correct the  
34 arrest and court records after discovery of the fraud upon the court. The court  
35 shall order the false identifying factors ascribed to the person actually arrested  
36 as are contained in the arrest and court records amended to correctly and  
37 accurately identify the defendant and shall expunge the incorrect and inaccurate  
38 identifying factors from the arrest and court records.

39         4. Any person who is the victim of a false impersonation and whose  
40 identity has been falsely reported in arrest or conviction records may move for  
41 expungement and correction of said records under the procedures set forth in  
42 section 610.123. Upon a showing that a substantial number of identifying factors  
43 of the victim was falsely ascribed to the person actually arrested or convicted, the  
44 court shall order the false identifying factors ascribed to the person actually  
45 arrested as are contained in the arrest and court records amended to correctly  
46 and accurately identify the defendant and shall expunge the incorrect and  
47 inaccurate factors from the arrest and court records.

48         5. False impersonation is a class [B misdemeanor] **D felony** unless the  
49 person represents himself to be a law enforcement officer **or public servant** in  
50 which case false impersonation is a class [A misdemeanor] **C felony**.

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