SECOND REGULAR SESSION

SENATE BILL NO. 872

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR JUSTUS.

Read 1st time February 29, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5258S.01I

AN ACT

Unofficial Bill Copy

To repeal sections 32.057, 105.478, 115.631, 130.028, 130.031, 142.909, 142.911, 143.1001, 143.1003, 149.200, 168.071, 188.030, 190.621, 191.905, 191.914, 193.315, 194.410, 194.425, 195.005, 195.010, 195.015, 195.016, 195.017, 195.025, 195.030, 195.040, 195.050, 195.060, 195.080, 195.100, 195.110, 195.130, 195.135, 195.140, 195.150, 195.180, 195.190, 195.195, 195.198, 195.202, 195.204, 195.211, 195.212, 195.213, 195.214, 195.217, 195.218, 195.219, 195.222, 195.223, 195.226, 195.233, 195.235, 195.241, 195.242, 195.246, 195.248, 195.252, 195.254, 195.256, 195.275, 195.280, 195.285, 195.291, 195.292, 195.295, 195.296, 195.367, 195.369, 195.371, 195.375, 195.417, 195.418, 195.420, 195.501, 195.503, 195.505, 195.507, 195.509, 195.511, 195.515, 196.979, 197.266, 197.326, 198.015, 198.070, 198.097, 198.158, 205.965, 210.165, 214.410, 217.360, 217.385, 217.400, 217.405, 217.542, 217.543, 217.692, 221.025, 221.111, 221.353, 252.235, 260.207, 260.208, 260.211, 260.212, 260.379, 270.260, 276.421, 276.536, 277.180, 285.306, 285.308, 287.128, 287.129, 288.250, 288.395, 301.390, 301.400, 301.401, 301.559, 301.640, 302.015, 302.020, 302.060, 302.321, 302.500, 302.605, 302.700, 302.705, 302.710, 302.727, 302.745, 302.750, 302.755, 302.780, 303.024, 303.025, 304.070, 306.110, 306.111, 306.112, 306.114, 306.116, 306.117, 306.118, 306.119, 306.141, 306.420, 311.325, 313.004, 313.040, 313.290, 313.550, 313.660, 313.830, 317.018, 320.089, 320.161, 324.1142, 324.1148, 334.250, 335.096, 338.195, 338.315, 338.370, 354.320, 362.170, 367.031, 367.045, 374.210, 374.216, 374.702, 374.757, 374.789, 375.310, 375.537, 375.720, 375.786, 375.991, 375.1176, 375.1287, 380.391, 382.275, 389.653, 407.020, 407.095, 407.420, 407.436, 407.521, 407.536, 407.544, 407.740, 407.1082, 407.1252, 411.260, 411.287, 411.371, 411.517, 411.770, 413.229, 429.012, 429.013, 429.014, 436.485, 443.810, 443.819, 453.110, 455.085, 455.538, 476.055, 542.402, 544.665, 556.011, 556.016, 556.021, 556.022, 556.026, 556.036, 556.037, 556.041, 556.046, 556.051, 556.056, 556.061, 556.063, 557.016, 557.021, 557.026, 557.031, 557.035, 557.036, 557.041, 557.046, 558.011, 558.016, 558.018, 558.019, 558.026, 558.031, 558.041, 558.046, 559.012, 559.021, 559.036, 559.100, 559.105, 559.106, 559.107, 559.110, 559.115, 559.120, 559.125, 559.600, 559.604, 559.633, 560.011, 560.016, 560.021, 560.026, 560.031, 560.036, 561.016, 561.021, 561.026, 562.011, 562.016, 562.031, 562.036, 562.041, 562.051, 562.056, 562.061, 562.066, 562.071, 562.076, 562.086, 563.021, 563.026, 563.033,

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 32.057, 105.478, 115.631, 130.028, 130.031, 142.909, 142.911, 143.1001, 143.1003, 149.200, 168.071, 188.030, 190.621, 191.905, 191.914, 193.315, 194.410, 194.425, 195.005, 195.010, 195.015, 195.016, 195.017, 195.025, 195.030, 195.040, 195.050, 195.060, 195.080, 195.100, 195.110, 195.130, 195.135, 195.140, 195.150, 195.180, 195.190, 195.195, 195.198,

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205.965, 210.165, 214.410, 217.360, 217.385, 217.400, 217.405,
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276.536, 277.180, 285.306, 285.308, 287.128, 287.129, 288.250,
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320.161, 324.1142, 324.1148, 334.250, 335.096, 338.195, 338.315,
338.370, 354.320, 362.170, 367.031, 367.045, 374.210, 374.216,
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[572.110.**]** 27.105. **[**It shall be the duty of the circuit attorneys and prosecuting attorneys in their respective jurisdictions to enforce the provisions of this chapter, and**]** The attorney general shall have a concurrent duty to enforce the provisions of **[**this**]** chapter 572.

[578.390.**]** 27.110. The office of the attorney general shall establish and maintain a statewide toll-free telephone service which shall be operated on a sixteen-hour schedule during the work week and an eight-hour schedule on weekends and holidays to receive complaints of **[**a**]** suspected welfare fraud. This service shall receive reports over a single statewide toll-free number.

32.057. 1. Except as otherwise specifically provided by law, it shall be unlawful for the director of revenue, any

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officer, employee, agent or deputy or former director, officer, employee, agent or deputy of the department of revenue, any person engaged or retained by the department of revenue on an independent contract basis, any person to whom authorized or unauthorized disclosure is made by the department of revenue, or any person who lawfully or unlawfully inspects any report or return filed with the department of revenue or to whom a copy, an abstract or a portion of any report or return is furnished by the department of revenue to make known in any manner, to permit the inspection or use of or to divulge to anyone any information relative to any such report or return, any information obtained by an investigation conducted by the department in the discharge of official duty, or any information received by the director in cooperation with the United States or other states in the enforcement of the revenue laws of this state. Such confidential information is limited to information received by the department in connection with the administration of the tax laws of this state.

2. Nothing in this section shall be construed to prohibit:

(1) The disclosure of information, returns, reports, or facts shown thereby, as described in subsection 1 of this section, by any officer, clerk or other employee of the department of revenue charged with the custody of such information:

(a) To a taxpayer or the taxpayer's duly authorized representative under regulations which the director of revenue may prescribe;

(b) In any action or proceeding, civil, criminal or mixed,

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brought to enforce the revenue laws of this state;

(c) To the state auditor or the auditor's duly authorized employees as required by subsection 4 of this section;

(d) To any city officer designated by ordinance of a city within this state to collect a city earnings tax, upon written request of such officer, which request states that the request is made for the purpose of determining or enforcing compliance with such city earnings tax ordinance and provided that such information disclosed shall be limited to that sufficient to identify the taxpayer, and further provided that in no event shall any information be disclosed that will result in the department of revenue being denied such information by the United States or any other state. The city officer requesting the identity of taxpayers filing state returns but not paying city earnings tax shall furnish to the director of revenue a list of taxpayers paying such earnings tax, and the director shall compare the list submitted with the director's records and return to such city official the name and address of any taxpayer who is a resident of such city who has filed a state tax return but who does not appear on the list furnished by such city. The director of revenue may set a fee to reimburse the department for the costs reasonably incurred in providing this information;

(e) To any employee of any county or other political subdivision imposing a sales tax which is administered by the state department of revenue whose office is authorized by the governing body of the county or other political subdivision to receive any and all records of the state director of revenue pertaining to the administration, collection and enforcement of

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its sales tax. The request for sales tax records and reports shall include a description of the type of report requested, the media form including electronic transfer, computer tape or disk, or printed form, and the frequency desired. The request shall be made by annual written application and shall be filed with the director of revenue. The director of revenue may set a fee to reimburse the department for the costs reasonably incurred in providing this information. Such city or county or any employee thereof shall be subject to the same standards for confidentiality as required for the department of revenue in using the information contained in the reports;

(f) To the director of the department of economic development or the director's duly authorized employees in discharging the director's official duties to certify taxpayers eligibility to claim state tax credits as prescribed by statutes;

(g) To any employee of any political subdivision, such records of the director of revenue pertaining to the administration, collection and enforcement of the tax imposed in chapter 149 as are necessary for ensuring compliance with any cigarette or tobacco tax imposed by such political subdivision. The request for such records shall be made in writing to the director of revenue, and shall include a description of the type of information requested and the desired frequency. The director of revenue may charge a fee to reimburse the department for costs reasonably incurred in providing such information;

(2) The publication by the director of revenue or of the state auditor in the audit reports relating to the department of revenue of:

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(a) Statistics, statements or explanations so classified as to prevent the identification of any taxpayer or of any particular reports or returns and the items thereof;

(b) The names and addresses without any additional information of persons who filed returns and of persons whose tax refund checks have been returned undelivered by the United States Post Office;

(3) The director of revenue from permitting the Secretary of the Treasury of the United States or the Secretary's delegates, the proper officer of any state of the United States imposing a tax equivalent to any of the taxes administered by the department of revenue of the state of Missouri or the appropriate representative of the multistate tax commission to inspect any return or report required by the respective tax provision of this state, or may furnish to such officer an abstract of the return or report or supply the officer with information contained in the return or disclosed by the report of any authorized investigation. Such permission, however, shall be granted on condition that the corresponding revenue statute of the United States or of such other state, as the case may be, grants substantially similar privileges to the director of revenue and on further condition that such corresponding statute gives confidential status to the material with which it is concerned;

(4) The disclosure of information, returns, reports, or facts shown thereby, by any person on behalf of the director of revenue, in any action or proceeding to which the director is a party or on behalf of any party to any action or proceeding pursuant to the revenue laws of this state when such information

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is directly involved in the action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such information as is pertinent to the action or proceeding and no more;

(5) The disclosure of information, returns, reports, or facts shown thereby, by any person to a state or federal prosecuting official, including, but not limited to, the state and federal attorneys general, or the official's designees involved in any criminal, quasi-criminal, or civil investigation, action or proceeding pursuant to the laws of this state or of the United States when such information is pertinent to an investigation, action or proceeding involving the administration of the revenue laws or duties of public office or employment connected therewith;

(6) Any school district from obtaining the aggregate amount of the financial institution tax paid pursuant to chapter 148 by financial institutions located partially or exclusively within the school district's boundaries, provided that the school district request such disclosure in writing to the department of revenue;

(7) The disclosure of records which identify all companies licensed by this state pursuant to the provisions of subsections 1 and 2 of section 149.035. The director of revenue may charge a fee to reimburse the department for the costs reasonably incurred in providing such records;

(8) The disclosure to the commissioner of administration pursuant to section 34.040 of a list of vendors and their affiliates who meet the conditions of section 144.635, but refuse

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to collect the use tax levied pursuant to chapter 144 on their sales delivered to this state;

(9) The disclosure to the public of any information, or facts shown thereby regarding the claiming of a state tax credit by a member of the Missouri general assembly or any statewide elected public official.

3. Any person violating any provision of subsection 1 or 2 of this section shall, upon conviction, be guilty of a class **[**D**]** E felony.

4. The state auditor or the auditor's duly authorized employees who have taken the oath of confidentiality required by section 29.070 shall have the right to inspect any report or return filed with the department of revenue if such inspection is related to and for the purpose of auditing the department of revenue; except that, the state auditor or the auditor's duly authorized employees shall have no greater right of access to, use and publication of information, audit and related activities with respect to income tax information obtained by the department of revenue pursuant to chapter 143 or federal statute than specifically exists pursuant to the laws of the United States and of the income tax laws of the state of Missouri.

[577.005.**]** 43.544. 1. Each law enforcement agency shall adopt a policy requiring arrest information for all intoxication-related traffic offenses be forwarded to the central repository as required by section 43.503 and shall certify adoption of such policy when applying for any grants administered by the department of public safety.

2. Each county prosecuting attorney and municipal

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prosecutor shall adopt a policy requiring charge information for all intoxication-related traffic offenses be forwarded to the central repository as required by section 43.503 and shall certify adoption of such policy when applying for any grants administered by the department of public safety.

3. Effective January 1, 2011, the highway patrol shall, based on the data submitted, maintain regular accountability reports of intoxication-related traffic offense arrests, charges, and dispositions.

105.478. Any person guilty of knowingly violating any of the provisions of sections 105.450 to 105.498 shall be punished as follows:

(1) For the first offense, such person is guilty of a class B misdemeanor;

(2) For the second and subsequent offenses, such person is guilty of a class **[**D**]** E felony.

115.631. The following offenses, and any others specifically so described by law, shall be class one election offenses and are deemed felonies connected with the exercise of the right of suffrage. Conviction for any of these offenses shall be punished by imprisonment of not more than five years or by fine of not less than two thousand five hundred dollars but not more than ten thousand dollars or by both such imprisonment and fine:

(1) Willfully and falsely making any certificate, affidavit, or statement required to be made pursuant to any provision of sections 115.001 to 115.641 and sections 51.450 and 51.460, including but not limited to statements specifically

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required to be made "under penalty of perjury"; or in any other manner knowingly furnishing false information to an election authority or election official engaged in any lawful duty or action in such a way as to hinder or mislead the authority or official in the performance of official duties. If an individual willfully and falsely makes any certificate, affidavit, or statement required to be made under section 115.155, including but not limited to statements specifically required to be made "under penalty of perjury", such individual shall be guilty of a class **[**C**]** D felony;

(2) Voting more than once or voting at any election knowing that the person is not entitled to vote or that the person has already voted on the same day at another location inside or outside the state of Missouri;

(3) Procuring any person to vote knowing the person is not lawfully entitled to vote or knowingly procuring an illegal vote to be cast at any election;

(4) Applying for a ballot in the name of any other person, whether the name be that of a person living or dead or of a fictitious person, or applying for a ballot in his own or any other name after having once voted at the election inside or outside the state of Missouri;

(5) Aiding, abetting or advising another person to vote knowing the person is not legally entitled to vote or knowingly aiding, abetting or advising another person to cast an illegal vote;

(6) An election judge knowingly causing or permitting any ballot to be in the ballot box at the opening of the polls and

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before the voting commences;

(7) Knowingly furnishing any voter with a false or fraudulent or bogus ballot, or knowingly practicing any fraud upon a voter to induce him to cast a vote which will be rejected, or otherwise defrauding him of his vote;

(8) An election judge knowingly placing or attempting to place or permitting any ballot, or paper having the semblance of a ballot, to be placed in a ballot box at any election unless the ballot is offered by a qualified voter as provided by law;

(9) Knowingly placing or attempting to place or causing to be placed any false or fraudulent or bogus ballot in a ballot box at any election;

(10) Knowingly removing any legal ballot from a ballot box for the purpose of changing the true and lawful count of any election or in any other manner knowingly changing the true and lawful count of any election;

(11) Knowingly altering, defacing, damaging, destroying or concealing any ballot after it has been voted for the purpose of changing the lawful count of any election;

(12) Knowingly altering, defacing, damaging, destroying or concealing any poll list, report, affidavit, return or certificate for the purpose of changing the lawful count of any election;

(13) On the part of any person authorized to receive, tally or count a poll list, tally sheet or election return, receiving, tallying or counting a poll list, tally sheet or election return the person knows is fraudulent, forged or counterfeit, or knowingly making an incorrect account of any election;

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(14) On the part of any person whose duty it is to grant certificates of election, or in any manner declare the result of an election, granting a certificate to a person the person knows is not entitled to receive the certificate, or declaring any election result the person knows is based upon fraudulent, fictitious or illegal votes or returns;

(15) Willfully destroying or damaging any official ballots, whether marked or unmarked, after the ballots have been prepared for use at an election and during the time they are required by law to be preserved in the custody of the election judges or the election authority;

(16) Willfully tampering with, disarranging, altering the information on, defacing, impairing or destroying any voting machine or marking device after the machine or marking device has been prepared for use at an election and during the time it is required by law to remain locked and sealed with intent to impair the functioning of the machine or marking device at an election, mislead any voter at the election, or to destroy or change the count or record of votes on such machine;

(17) Registering to vote knowing the person is not legally entitled to register or registering in the name of another person, whether the name be that of a person living or dead or of a fictitious person;

(18) Procuring any other person to register knowing the person is not legally entitled to register, or aiding, abetting or advising another person to register knowing the person is not legally entitled to register;

(19) Knowingly preparing, altering or substituting any

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computer program or other counting equipment to give an untrue or unlawful result of an election;

(20) On the part of any person assisting a blind or disabled person to vote, knowingly failing to cast such person's vote as such person directs;

(21) On the part of any registration or election official, permitting any person to register to vote or to vote when such official knows the person is not legally entitled to register or not legally entitled to vote;

(22) On the part of a notary public acting in his official capacity, knowingly violating any of the provisions of sections 115.001 to 115.627 or any provision of law pertaining to elections;

(23) Violation of any of the provisions of sections 115.275 to 115.303, or of any provision of law pertaining to absentee voting;

(24) Assisting a person to vote knowing such person is not legally entitled to such assistance, or while assisting a person to vote who is legally entitled to such assistance, in any manner coercing, requesting or suggesting that the voter vote for or against, or refrain from voting on any question, ticket or candidate;

(25) Engaging in any act of violence, destruction of property having a value of five hundred dollars or more, or threatening an act of violence with the intent of denying a person's lawful right to vote or to participate in the election process; and

(26) Knowingly providing false information about election

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procedures for the purpose of preventing any person from going to the polls.

130.028. 1. Every person, labor organization, or corporation organized or existing by virtue of the laws of this state, or doing business in this state who shall:

(1) Discriminate or threaten to discriminate against any member in this state with respect to his or her membership, or discharge or discriminate or threaten to discriminate against any employee in this state, with respect to his or her compensation, terms, conditions or privileges of employment by reason of his political beliefs or opinions; or

(2) Coerce or attempt to coerce, intimidate or bribe any member or employee to vote or refrain from voting for any candidate at any election in this state; or

(3) Coerce or attempt to coerce, intimidate or bribe any member or employee to vote or refrain from voting for any issue at any election in this state; or

(4) Make any member or employee as a condition of membership or employment, contribute to any candidate, political committee or separate political fund; or

(5) Discriminate or threaten to discriminate against any member or employee in this state for contributing or refusing to contribute to any candidate, political committee or separate political fund with respect to the privileges of membership or with respect to his employment and the compensation, terms, conditions or privileges related thereto shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine of not more than five thousand dollars and confinement for not more

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than six months, or both, provided, after January 1, 1979, the violation of this subsection shall be a class **[**D**]** E felony.

2. No employer, corporation, political action committee, or labor organization shall receive or cause to be made contributions from its members or employees except on the advance voluntary permission of the members or employees. Violation of this section by the corporation, employer, political action committee or labor organization shall be a class A misdemeanor.

3. An employer shall, upon written request by ten or more employees, provide its employees with the option of contributing to a political action committee as defined in section 130.011 through payroll deduction, if the employer has a system of payroll deduction. No contribution to a political action committee from an employee through payroll deduction shall be made other than to a political action committee voluntarily chosen by the employee. Violation of this section shall be a class A misdemeanor.

4. Any person aggrieved by any act prohibited by this section shall, in addition to any other remedy provided by law, be entitled to maintain within one year from the date of the prohibited act, a civil action in the courts of this state, and if successful, he or she shall be awarded civil damages of not less than one hundred dollars and not more than one thousand dollars, together with his or her costs, including reasonable attorney's fees. Each violation shall be a separate cause of action.

130.031. 1. No contribution of cash in an amount of more than one hundred dollars shall be made by or accepted from any

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single contributor for any election by a political action committee, a campaign committee, a political party committee, an exploratory committee or a candidate committee.

2. Except for expenditures from a petty cash fund which is established and maintained by withdrawals of funds from the committee's depository account and with records maintained pursuant to the record-keeping requirements of section 130.036 to account for expenditures made from petty cash, each expenditure of more than fifty dollars, except an in-kind expenditure, shall be made by check drawn on the committee's depository and signed by the committee treasurer, deputy treasurer or candidate. A single expenditure from a petty cash fund shall not exceed fifty dollars, and the aggregate of all expenditures from a petty cash fund during a calendar year shall not exceed the lesser of five thousand dollars or ten percent of all expenditures made by the committee during that calendar year. A check made payable to "cash" shall not be made except to replenish a petty cash fund.

3. No contribution shall be made or accepted and no expenditure shall be made or incurred, directly or indirectly, in a fictitious name, in the name of another person, or by or through another person in such a manner as to conceal the identity of the actual source of the contribution or the actual recipient and purpose of the expenditure. Any person who receives contributions for a committee shall disclose to that committee's treasurer, deputy treasurer or candidate the recipient's own name and address and the name and address of the actual source of each contribution such person has received for that committee. Any person who makes expenditures for a

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committee shall disclose to that committee's treasurer, deputy treasurer or candidate such person's own name and address, the name and address of each person to whom an expenditure has been made and the amount and purpose of the expenditures the person has made for that committee.

4. No anonymous contribution of more than twenty-five dollars shall be made by any person, and no anonymous contribution of more than twenty-five dollars shall be accepted by any candidate or committee. If any anonymous contribution of more than twenty-five dollars is received, it shall be returned immediately to the contributor, if the contributor's identity can be ascertained, and if the contributor's identity cannot be ascertained, the candidate, committee treasurer or deputy treasurer shall immediately transmit that portion of the contribution which exceeds twenty-five dollars to the state treasurer and it shall escheat to the state.

5. The maximum aggregate amount of anonymous contributions which shall be accepted in any calendar year by any committee shall be the greater of five hundred dollars or one percent of the aggregate amount of all contributions received by that committee in the same calendar year. If any anonymous contribution is received which causes the aggregate total of anonymous contributions to exceed the foregoing limitation, it shall be returned immediately to the contributor, if the contributor's identity can be ascertained, and, if the contributor's identity cannot be ascertained, the committee treasurer, deputy treasurer or candidate shall immediately transmit the anonymous contribution to the state treasurer to

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escheat to the state.

6. Notwithstanding the provisions of subsection 5 of this section, contributions from individuals whose names and addresses cannot be ascertained which are received from a fund-raising activity or event, such as defined in section 130.011, shall not be deemed anonymous contributions, provided the following conditions are met:

(1) There are twenty-five or more contributing participants in the activity or event;

(2) The candidate, committee treasurer, deputy treasurer or the person responsible for conducting the activity or event makes an announcement that it is illegal for anyone to make or receive a contribution in excess of one hundred dollars unless the contribution is accompanied by the name and address of the contributor;

(3) The person responsible for conducting the activity or event does not knowingly accept payment from any single person of more than one hundred dollars unless the name and address of the person making such payment is obtained and recorded pursuant to the record-keeping requirements of section 130.036;

(4) A statement describing the event shall be prepared by the candidate or the treasurer of the committee for whom the funds were raised or by the person responsible for conducting the activity or event and attached to the disclosure report of contributions and expenditures required by section 130.041. The following information to be listed in the statement is in addition to, not in lieu of, the requirements elsewhere in this chapter relating to the recording and reporting of contributions

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and expenditures:

(a) The name and mailing address of the person or persons responsible for conducting the event or activity and the name and address of the candidate or committee for whom the funds were raised;

(b) The date on which the event occurred;

(c) The name and address of the location where the event occurred and the approximate number of participants in the event;

(d) A brief description of the type of event and the fund-raising methods used;

(e) The gross receipts from the event and a listing of the expenditures incident to the event;

(f) The total dollar amount of contributions received from the event from participants whose names and addresses were not obtained with such contributions and an explanation of why it was not possible to obtain the names and addresses of such participants;

(g) The total dollar amount of contributions received from contributing participants in the event who are identified by name and address in the records required to be maintained pursuant to section 130.036.

7. No candidate or committee in this state shall accept contributions from any out-of-state committee unless the out-of-state committee from whom the contributions are received has filed a statement of organization pursuant to section 130.021 or has filed the reports required by sections 130.049 and 130.050, whichever is applicable to that committee.

8. Any person publishing, circulating, or distributing any

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printed matter relative to any candidate for public office or any ballot measure shall on the face of the printed matter identify in a clear and conspicuous manner the person who paid for the printed matter with the words "Paid for by" followed by the proper identification of the sponsor pursuant to this section. For the purposes of this section, "printed matter" shall be defined to include any pamphlet, circular, handbill, sample ballot, advertisement, including advertisements in any newspaper or other periodical, sign, including signs for display on motor vehicles, or other imprinted or lettered material; but "printed matter" is defined to exclude materials printed and purchased prior to May 20, 1982, if the candidate or committee can document that delivery took place prior to May 20, 1982; any sign personally printed and constructed by an individual without compensation from any other person and displayed at that individual's place of residence or on that individual's personal motor vehicle; any items of personal use given away or sold, such as campaign buttons, pins, pens, pencils, book matches, campaign jewelry, or clothing, which is paid for by a candidate or committee which supports a candidate or supports or opposes a ballot measure and which is obvious in its identification with a specific candidate or committee and is reported as required by this chapter; and any news story, commentary, or editorial printed by a regularly published newspaper or other periodical without charge to a candidate, committee or any other person.

(1) In regard to any printed matter paid for by a candidate from the candidate's personal funds, it shall be sufficient identification to print the first and last name by which the

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candidate is known.

(2) In regard to any printed matter paid for by a committee, it shall be sufficient identification to print the name of the committee as required to be registered by subsection 5 of section 130.021 and the name and title of the committee treasurer who was serving when the printed matter was paid for.

(3) In regard to any printed matter paid for by a corporation or other business entity, labor organization, or any other organization not defined to be a committee by subdivision (9) of section 130.011 and not organized especially for influencing one or more elections, it shall be sufficient identification to print the name of the entity, the name of the principal officer of the entity, by whatever title known, and the mailing address of the entity, or if the entity has no mailing address, the mailing address of the principal officer.

(4) In regard to any printed matter paid for by an individual or individuals, it shall be sufficient identification to print the name of the individual or individuals and the respective mailing address or addresses, except that if more than five individuals join in paying for printed matter it shall be sufficient identification to print the words "For a list of other sponsors contact:" followed by the name and address of one such individual responsible for causing the matter to be printed, and the individual identified shall maintain a record of the names and amounts paid by other individuals and shall make such record available for review upon the request of any person. No person shall accept for publication or printing nor shall such work be completed until the printed matter is properly identified as

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required by this subsection.

9. Any broadcast station transmitting any matter relative to any candidate for public office or ballot measure as defined by this chapter shall identify the sponsor of such matter as required by federal law.

10. The provisions of subsection 8 or 9 of this section shall not apply to candidates for elective federal office, provided that persons causing matter to be printed or broadcast concerning such candidacies shall comply with the requirements of federal law for identification of the sponsor or sponsors.

11. It shall be a violation of this chapter for any person required to be identified as paying for printed matter pursuant to subsection 8 of this section or paying for broadcast matter pursuant to subsection 9 of this section to refuse to provide the information required or to purposely provide false, misleading, or incomplete information.

12. It shall be a violation of this chapter for any committee to offer chances to win prizes or money to persons to encourage such persons to endorse, send election material by mail, deliver election material in person or contact persons at their homes; except that, the provisions of this subsection shall not be construed to prohibit hiring and paying a campaign staff.

13. Political action committees shall only receive contributions from individuals; unions; federal political action committees; and corporations, associations, and partnerships formed under chapters 347 to 360, and shall be prohibited from receiving contributions from other political action committees, candidate committees, political party committees, campaign

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committees, exploratory committees, or debt service committees. However, candidate committees, political party committees, campaign committees, exploratory committees, and debt service committees shall be allowed to return contributions to a donor political action committee that is the origin of the contribution.

14. The prohibited committee transfers described in subsection 13 of this section shall not apply to the following committees:

(1) The state house committee per political party designated by the respective majority or minority floor leader of the house of representatives or the chair of the state party if the party does not have majority or minority party status;

(2) The state senate committee per political party designated by the respective majority or minority floor leader of the senate or the chair of the state party if the party does not have majority or minority party status.

15. No person shall transfer anything of value to any committee with the intent to conceal, from the ethics commission, the identity of the actual source. Any violation of this subsection shall be punishable as follows:

(1) For the first violation, the ethics commission shall notify such person that the transfer to the committee is prohibited under this section within five days of determining that the transfer is prohibited, and that such person shall notify the committee to which the funds were transferred that the funds must be returned within ten days of such notification;

(2) For the second violation, the person transferring the

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funds shall be guilty of a class C misdemeanor;

(3) For the third and subsequent violations, the person transferring the funds shall be guilty of a class **[**D**]** E felony.

16. Beginning January 1, 2011, all committees required to file campaign financial disclosure reports with the Missouri ethics commission shall file any required disclosure report in an electronic format as prescribed by the ethics commission.

142.909. A person who violates any provision of this chapter, including, but not limited to the failure to obtain required licenses or permits, or fails to keep records as prescribed herein, or neglects, fails or refuses to allow the director, the director's authorized agents or the Missouri highway patrol to inspect an item of equipment or records, or who fails, neglects or refuses to pay the tax due is guilty of a misdemeanor and may be punished as prescribed by law. Any person who violates any of the provisions of this section with the purpose to defraud is guilty of a class **[**D**]** E felony.

142.911. 1. Each person operating a refinery, terminal, or bulk plant in this state shall prepare and provide to the driver of every fuel transportation vehicle receiving motor fuel into the vehicle storage tank at the facility a shipping document setting out on its face:

(1) Identification by city and state of the terminal, refinery or bulk plant from which the motor fuel was removed;

(2) The date the motor fuel was removed;

(3) The amount of motor fuel removed, gross gallons and net gallons;

(4) The state of destination as represented to the terminal

operator by the transporter, the shipper or the agent of the shipper;

(5) Any other information required by the director for the enforcement of this chapter; and

(6) The supplier, consignee and carrier of the motor fuel.

2. A terminal operator may manually prepare shipping papers if the terminal does not have the ability to prepare automated shipping papers or as a result of extraordinary unforeseen circumstances, including acts of God, which temporarily interfere with the ability of the terminal operator to issue automated machine-generated shipping papers. However, the terminal operator shall, prior to manually preparing the papers, provide, in the case of a terminal not having the ability to prepare automated shipping papers, written notice to the director, or in the case of extraordinary circumstances, telephonic notice to the director and obtain a service interruption authorization number which the employees of the terminal operator shall add to the manually prepared papers prior to removal of each affected transport load from the terminal. The service interruption authorization number shall be valid for use by the terminal operator for a period not to exceed twenty-four hours. If the interruption has not been corrected within the twenty-four-hour period, additional **[**notice(s)**]** notice or notices to the director shall be required and interruption authorization **[**number(s)**]** number or numbers may be issued upon explanation by the terminal operator satisfactory to the director. If the terminal operator acquires the ability to prepare automated machine-printed shipping papers, the terminal operator shall notify the director

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no later than ten days prior to the initial use of such capability.

3. An operator of a bulk plant in this state delivering motor fuel into a tank wagon for subsequent delivery to a consumer in this state shall be exempt from this section. An operator of a bulk plant in this state shall not be required to identify net gallons on the shipping documents as provided by this section.

4. A refinery or terminal operator may load motor fuel, a portion of which fuel is destined for sale or use in this state and a portion of which fuel is destined for sale or use in another state or states. However, such split loads removed shall be documented by the terminal operator by issuing shipping papers designating the state of destination for each portion of the fuel.

5. Each refinery or terminal operator shall post a conspicuous notice proximately located to the point of receipt of shipping papers by transport truck operators, which notice shall describe in clear and concise terms the duties of the transport operator and supplier under section 142.914, provided that the director may establish the language, type, style and format of the notice.

6. No terminal operator shall imprint, and no supplier shall knowingly permit a terminal operator to imprint on behalf of the supplier, any false statement on a shipping paper relating to motor fuel to be delivered to this state or to a state having substantially the same shipping paper requirements with respect to the supplier of the fuel, whether or not it was dyed for the

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intended destination.

7. Any terminal operator who shall knowingly imprint any false statement in violation of this section shall be jointly and severally liable for all the taxes levied by this chapter which are not collected by this state as a result of such action.

8. Any supplier who knowingly violates this section shall be jointly and severally liable with the terminal operator.

9. A person who knowingly violates or knowingly aids and abets another to violate this section with the intent to evade the tax levied by this chapter shall be guilty of a class **[**D**]** E felony.

10. The director may impose a civil penalty of one thousand dollars for the first occurrence against every terminal operator that fails to meet shipping paper issuance requirements under this chapter. Each subsequent occurrence described in this subsection is subject to a civil penalty of five thousand dollars.

143.1001. 1. In each tax year beginning on or after January 1, 1990, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that two dollars or any amount in excess of two dollars on a single return, and four dollars or any amount in excess of four dollars on a combined return, of the refund due be credited to the veterans' trust fund. The contribution designation authorized by this section shall be clearly and unambiguously printed on each income tax return form provided by this state. If any individual or corporation which is not entitled to a tax refund in an amount sufficient to make a

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designation under this section wishes to make a contribution to the veterans' trust fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the veterans' trust fund, the individual or corporation wishes to contribute and the department of revenue shall forward such amount to the state treasurer for deposit to the veterans' trust fund as provided in subsection 2 of this section.

2. The director of revenue shall transfer at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the veterans' trust fund.

3. The director of revenue shall transfer at least monthly all contributions designated by corporations under this section, less an amount sufficient to cover the cost of collection and handling by the department of revenue, to the state treasurer for deposit to the veterans' trust fund.

4. A contribution designated under this section shall only be transferred and deposited in the veterans' trust fund after all other claims against the refund from which such contribution is to be made have been satisfied.

5. Notwithstanding any other law to the contrary, the names and addresses of individuals or corporations who designate a contribution to this fund may be supplied to the veterans' commission, for the purpose of sending an acknowledgment and written appreciation to those individuals and corporations. Under no circumstances shall the names and addresses be used for any purpose other than that expressed in this subsection.

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Release or use of the names and addresses for any other purpose is a class **[**C**]** D felony.

143.1003. 1. In each tax year beginning on or after January 1, 1999, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation pursuant to this section may designate that two dollars or any amount in excess of two dollars on a single return and four dollars or any amount in excess of four dollars on a combined return, of the refund due be credited to the Missouri national guard trust fund. The contribution designation authorized by this section shall be clearly and unambiguously printed on each income tax return form provided by this state. If any individual or corporation which is not entitled to a tax refund in an amount sufficient to make a designation pursuant to this section wishes to make a contribution to the Missouri national guard trust fund, such individual or corporation may, by separate check, draft or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the Missouri national guard trust fund, the individual or corporation wishes to contribute and the department of revenue shall forward such amount to the state treasurer for deposit to the Missouri national guard trust fund as provided in subsection 2 of this section.

2. The director of revenue shall transfer at least monthly all contributions designated by individuals pursuant to this section to the state treasurer for deposit in the Missouri national guard trust fund.

3. A contribution designated pursuant to this section shall

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only be transferred and deposited in the Missouri national guard trust fund after all other claims against the refund from which such contribution is to be made have been satisfied.

4. Notwithstanding any other law to the contrary, the names and addresses of individuals or corporations who designate a contribution to this fund may be supplied to the office of the adjutant general, for the purpose of sending an acknowledgment and written appreciation to those individuals and corporations. Under no circumstances shall the names and addresses be used for any purpose other than that expressed in this subsection. Any person who releases or uses any of the names and addresses for any other purpose is guilty of a class **[**C**]** D felony.

5. Moneys to be credited to the Missouri national guard trust fund pursuant to subsection 1 of this section shall be placed in a subaccount and shall be used solely for the purpose authorized in section 41.958.

149.200. 1. It is unlawful for any person to:

(1) Sell or distribute in this state, to acquire, hold, own, possess or transport for sale or distribution in this state, or to import, or cause to be imported into this state for sale or distribution in this state, any cigarettes that do not comply with all requirements imposed by or pursuant to federal law and implementing regulations, including but not limited to the filing of ingredients lists pursuant to Section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a); the permanent imprinting on the primary packaging of the precise package warning labels in the precise format specified in Section 4 of the Federal Cigarette Labeling and Advertising Act (15

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U.S.C. 1333); the rotation of label statements pursuant to Section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335(c)); restrictions on the importation, transfer and sale of previously exported tobacco products pursuant to Section 9302 of Public Law 105-33, the Balanced Budget Act of 1997, as amended; requirements of Title IV of Public Law 106-476, the Imported Cigarette Compliance Act of 2000; or

(2) Alter the package of any cigarettes, prior to sale or distribution to the ultimate consumer, so as to remove, conceal or obscure:

(a) Any statement, label, stamp, sticker or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed or used in the United States, including but not limited to labels stating "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording; or

(b) Any health warning that is not the precise warning statement in the precise format specified in Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333).

2. It shall be unlawful for any person to affix any tax stamp or meter impression required pursuant to this chapter to the package of any cigarettes that does not comply with the requirements of subdivision (1) of subsection 1 of this section or that is altered in violation of subdivision (2) of subsection 1 of this section.

3. This section shall not apply to cigarettes allowed to be imported or brought into the United States for personal use, or to cigarettes sold or intended to be sold as duty-free

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merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations; provided, however, that sections 149.200 to 149.215 shall apply to any such cigarettes that are brought back into the customs territory for resale within the customs territory.

4. Any person who violates this section, whether acting knowingly or recklessly, is guilty of a class **[**D**]** E felony.

5. As used in this section, "package" means a pack, box, carton or container of any kind in which cigarettes are offered for sale, sold or otherwise distributed to consumers.

168.071. 1. The state board of education may refuse to issue or renew a certificate, or may, upon hearing, discipline the holder of a certificate of license to teach for the following causes:

(1) A certificate holder or applicant for a certificate has pleaded to or been found guilty of a felony or crime involving moral turpitude under the laws of this state, any other state, of the United States, or any other country, whether or not sentence is imposed;

(2) The certification was obtained through use of fraud, deception, misrepresentation or bribery;

(3) There is evidence of incompetence, immorality, or neglect of duty by the certificate holder;

(4) A certificate holder has been subject to disciplinary action relating to certification issued by another state, territory, federal agency, or country upon grounds for which discipline is authorized in this section; or

(5) If charges are filed by the local board of education,

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based upon the annulling of a written contract with the local board of education, for reasons other than election to the general assembly, without the consent of the majority of the members of the board that is a party to the contract.

2. A public school district may file charges seeking the discipline of a holder of a certificate of license to teach based upon any cause or combination of causes outlined in subsection 1 of this section, including annulment of a written contract. Charges shall be in writing, specify the basis for the charges, and be signed by the chief administrative officer of the district, or by the president of the board of education as authorized by a majority of the board of education. The board of education may also petition the office of the attorney general to file charges on behalf of the school district for any cause other than annulment of contract, with acceptance of the petition at the discretion of the attorney general.

3. The department of elementary and secondary education may file charges seeking the discipline of a holder of a certificate of license to teach based upon any cause or combination of causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall be in writing, specify the basis for the charges, and be signed by legal counsel representing the department of elementary and secondary education.

4. If the underlying conduct or actions which are the basis for charges filed pursuant to this section are also the subject of a pending criminal charge against the person holding such certificate, the certificate holder may request, in writing, a delayed hearing on advice of counsel under the fifth amendment of

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the Constitution of the United States. Based upon such a request, no hearing shall be held until after a trial has been completed on this criminal charge.

5. The certificate holder shall be given not less than thirty days' notice of any hearing held pursuant to this section.

6. Other provisions of this section notwithstanding, the certificate of license to teach shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate holder or applicant has pleaded guilty to or been found guilty of any of the following offenses established pursuant to Missouri law or offenses of a similar nature established under the laws of Missouri prior to August 28, 2012, any other state or of the United States, or any other country, whether or not the sentence is imposed:

(1) Any dangerous felony as defined in section 556.061, or murder in the first degree under section 565.020;

(2) Any of the following sexual offenses: rape in the first degree under section 566.030; statutory rape in the first degree under section 566.032; statutory rape in the second degree under section 566.034; **[**sexual assault**]** rape in the second degree under section 566.040; **[**forcible**]** sodomy in the first degree under section 566.060; statutory sodomy in the first degree under section 566.062; statutory sodomy in the second degree under section 566.064; child molestation in the first degree under section 566.067; child molestation in the second degree under section 566.068; **[**deviate sexual assault under section 566.070;**]** child molestation in the third degree under section 566.069; child molestation in the fourth degree under section 566.071;

sodomy in the second degree under section 566.061; sexual misconduct involving a child under section 566.083; sexual contact with a student [while on public school property] under section 566.086; sexual [misconduct in the first degree] abuse in the second degree under section 566.090; sexual misconduct in the [second] first degree under section 566.093; sexual misconduct in the [third] second degree under section 566.095; sexual abuse in the first degree under section 566.100; enticement of a child under section 566.151; or attempting to entice a child;

(3) Any of the following offenses against the family and related offenses: incest under section 568.020; abandonment of child in the first degree under section 568.030; abandonment of child in the second degree under section 568.032; endangering the welfare of a child in the first degree under section 568.045; abuse of a child under section 568.060; child used in a sexual performance under section [568.080] 573.200; promoting sexual performance by a child under section [568.090] 573.205; or trafficking in children under section 568.175; and

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree under section 573.020; promoting obscenity in the second degree when the penalty is enhanced to a class [D] E felony under section 573.030; promoting child pornography in the first degree under section 573.025; promoting child pornography in the second degree under section 573.035; possession of child pornography under section 573.037; furnishing pornographic materials to minors under section 573.040; or coercing acceptance of obscene material under section 573.065.

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7. When a certificate holder pleads guilty or is found guilty of any offense that would authorize the state board of education to seek discipline against that holder's certificate of license to teach, the local board of education or the department of elementary and secondary education shall immediately provide written notice to the state board of education and the attorney general regarding the plea of guilty or finding of guilty.

8. The certificate holder whose certificate was revoked pursuant to subsection 6 of this section may appeal such revocation to the state board of education. Notice of this appeal must be received by the commissioner of education within ninety days of notice of revocation pursuant to this subsection. Failure of the certificate holder to notify the commissioner of the intent to appeal waives all rights to appeal the revocation. Upon notice of the certificate holder's intent to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner of education, with the final decision made by the state board of education, based upon the record of that hearing. The certificate holder shall be given not less than thirty days' notice of the hearing, and an opportunity to be heard by the hearing officer, together with witnesses.

9. In the case of any certificate holder who has surrendered or failed to renew his or her certificate of license to teach, the state board of education may refuse to issue or renew, or may suspend or revoke, such certificate for any of the reasons contained in this section.

10. In those cases where the charges filed pursuant to this section are based upon an allegation of misconduct involving a

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minor child, the hearing officer may accept into the record the sworn testimony of the minor child relating to the misconduct received in any court or administrative hearing.

11. Hearings, appeals or other matters involving certificate holders, licensees or applicants pursuant to this section may be informally resolved by consent agreement or agreed settlement or voluntary surrender of the certificate of license pursuant to the rules promulgated by the state board of education.

12. The final decision of the state board of education is subject to judicial review pursuant to sections 536.100 to 536.140.

13. A certificate of license to teach to an individual who has been convicted of a felony or crime involving moral turpitude, whether or not sentence is imposed, shall be issued only upon motion of the state board of education adopted by a unanimous affirmative vote of those members present and voting.

188.030. 1. Except in the case of a medical emergency, no abortion of a viable unborn child shall be performed or induced unless the abortion is necessary to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, or when continuation of the pregnancy will create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman. For purposes of this section, "major bodily function" includes, but is not limited to, functions of the immune system, normal cell

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growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

2. Except in the case of a medical emergency:

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

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

(3) If the physician determines that the gestational age of the unborn child is twenty weeks or more, and further determines

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that the unborn child is not viable and performs or induces an abortion upon the woman, the physician shall report such findings and determinations and the reasons for such determinations to the health care facility in which the abortion is performed and to the state board of registration for the healing arts, and shall enter such findings and determinations in the medical records of the woman and in the individual abortion report submitted to the department under section 188.052;

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

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

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individual abortion report submitted to the department under section 188.052.

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

(d) Any physician who performs or induces an abortion upon a woman when it has been determined that the unborn child is viable shall utilize the available method or technique of abortion most likely to preserve the life or health of the unborn

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child. In cases where the method or technique of abortion most likely to preserve the life or health of the unborn child would present a greater risk to the life or health of the woman than another legally permitted and available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

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

3. Any person who knowingly performs or induces an abortion of an unborn child in violation of the provisions of this section is guilty of a class **[**C**]** D felony, and, upon a finding of guilt or plea of guilty, shall be imprisoned for a term of not less than one year, and, notwithstanding the provisions of section

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560.011, shall be fined not less than ten thousand nor more than fifty thousand dollars.

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

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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.

190.621. 1. Any person who knowingly conceals, cancels, defaces, or obliterates the outside the hospital do-not-resuscitate order or the outside the hospital do-not-resuscitate identification of another person without the consent of the other person, or who knowingly falsifies or forges a revocation of the outside the hospital do-not-resuscitate order or the outside the hospital do-not-resuscitate identification of another person, is guilty of a class A misdemeanor.

2. Any person who knowingly executes, falsifies, or forges an outside the hospital do-not-resuscitate order or an outside the hospital do-not-resuscitate identification of another person without the consent of the other person, or who knowingly conceals or withholds personal knowledge of a revocation of an outside the hospital do-not-resuscitate order or an outside the hospital do-not-resuscitate identification of another person, is guilty of a class **[**D**]** E felony.

191.905. 1. No health care provider shall knowingly make

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or cause to be made a false statement or false representation of a material fact in order to receive a health care payment, including but not limited to:

(1) Knowingly presenting to a health care payer a claim for a health care payment that falsely represents that the health care for which the health care payment is claimed was medically necessary, if in fact it was not;

(2) Knowingly concealing the occurrence of any event affecting an initial or continued right under a medical assistance program to have a health care payment made by a health care payer for providing health care;

(3) Knowingly concealing or failing to disclose any information with the intent to obtain a health care payment to which the health care provider or any other health care provider is not entitled, or to obtain a health care payment in an amount greater than that which the health care provider or any other health care provider is entitled;

(4) Knowingly presenting a claim to a health care payer that falsely indicates that any particular health care was provided to a person or persons, if in fact health care of lesser value than that described in the claim was provided.

2. No person shall knowingly solicit or receive any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind in return for:

(1) Referring another person to a health care provider for the furnishing or arranging for the furnishing of any health care; or

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(2) Purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering any health care.

3. No person shall knowingly offer or pay any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, to any person to induce such person to refer another person to a health care provider for the furnishing or arranging for the furnishing of any health care.

4. Subsections 2 and 3 of this section shall not apply to a discount or other reduction in price obtained by a health care provider if the reduction in price is properly disclosed and appropriately reflected in the claim made by the health care provider to the health care payer, or any amount paid by an employer to an employee for employment in the provision of health care.

5. Exceptions to the provisions of subsections 2 and 3 of this subsection shall be provided for as authorized in 42 U.S.C. Section 1320a-7b(3)(E), as may be from time to time amended, and regulations promulgated pursuant thereto.

6. No person shall knowingly abuse a person receiving health care.

7. A person who violates subsections 1 to 3 of this section is guilty of a class **[**C**]** D felony upon his or her first conviction, and shall be guilty of a class B felony upon his or her second and subsequent convictions. Any person who has been convicted of such violations shall be referred to the Office of Inspector General within the United States Department of Health and Human Services. The person so referred shall be subject to

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the penalties provided for under 42 U.S.C. Chapter 7, Subchapter XI, Section 1320a-7. A prior conviction shall be pleaded and proven as provided by section 558.021. A person who violates subsection 6 of this section shall be guilty of a class **[**C**]** D felony, unless the act involves no physical, sexual or emotional harm or injury and the value of the property involved is less than five hundred dollars, in which event a violation of subsection 6 of this section is a class A misdemeanor.

8. Any natural person who willfully prevents, obstructs, misleads, delays, or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of sections 191.900 to 191.910 is guilty of a class **[**D**]** E felony.

9. Each separate false statement or false representation of a material fact proscribed by subsection 1 of this section or act proscribed by subsection 2 or 3 of this section shall constitute a separate offense and a separate violation of this section, whether or not made at the same or different times, as part of the same or separate episodes, as part of the same scheme or course of conduct, or as part of the same claim.

10. In a prosecution pursuant to subsection 1 of this section, circumstantial evidence may be presented to demonstrate that a false statement or claim was knowingly made. Such evidence of knowledge may include but shall not be limited to the following:

(1) A claim for a health care payment submitted with the health care provider's actual, facsimile, stamped, typewritten or similar signature on the claim for health care payment;

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(2) A claim for a health care payment submitted by means of computer billing tapes or other electronic means;

(3) A course of conduct involving other false claims submitted to this or any other health care payer.

11. Any person convicted of a violation of this section, in addition to any fines, penalties or sentences imposed by law, shall be required to make restitution to the federal and state governments, in an amount at least equal to that unlawfully paid to or by the person, and shall be required to reimburse the reasonable costs attributable to the investigation and prosecution pursuant to sections 191.900 to 191.910. All of such restitution shall be paid and deposited to the credit of the "MO HealthNet Fraud Reimbursement Fund", which is hereby established in the state treasury. Moneys in the MO HealthNet fraud reimbursement fund shall be divided and appropriated to the federal government and affected state agencies in order to refund moneys falsely obtained from the federal and state governments. All of such cost reimbursements attributable to the investigation and prosecution shall be paid and deposited to the credit of the "MO HealthNet Fraud Prosecution Revolving Fund", which is hereby established in the state treasury. Moneys in the MO HealthNet fraud prosecution revolving fund may be appropriated to the attorney general, or to any prosecuting or circuit attorney who has successfully prosecuted an action for a violation of sections 191.900 to 191.910 and been awarded such costs of prosecution, in order to defray the costs of the attorney general and any such prosecuting or circuit attorney in connection with their duties provided by sections 191.900 to 191.910. No moneys shall be paid

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into the MO HealthNet fraud protection revolving fund pursuant to this subsection unless the attorney general or appropriate prosecuting or circuit attorney shall have commenced a prosecution pursuant to this section, and the court finds in its discretion that payment of attorneys' fees and investigative costs is appropriate under all the circumstances, and the attorney general and prosecuting or circuit attorney shall prove to the court those expenses which were reasonable and necessary to the investigation and prosecution of such case, and the court approves such expenses as being reasonable and necessary. Any moneys remaining in the MO HealthNet fraud reimbursement fund after division and appropriation to the federal government and affected state agencies shall be used to increase MO HealthNet provider reimbursement until it is at least one hundred percent of the Medicare provider reimbursement rate for comparable services. The provisions of section 33.080 notwithstanding, moneys in the MO HealthNet fraud prosecution revolving fund shall not lapse at the end of the biennium.

12. A person who violates subsections 1 to 3 of this section shall be liable for a civil penalty of not less than five thousand dollars and not more than ten thousand dollars for each separate act in violation of such subsections, plus three times the amount of damages which the state and federal government sustained because of the act of that person, except that the court may assess not more than two times the amount of damages which the state and federal government sustained because of the act of the person, if the court finds:

(1) The person committing the violation of this section

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furnished personnel employed by the attorney general and responsible for investigating violations of sections 191.900 to 191.910 with all information known to such person about the violation within thirty days after the date on which the defendant first obtained the information;

(2) Such person fully cooperated with any government investigation of such violation; and

(3) At the time such person furnished the personnel of the attorney general with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

13. Upon conviction pursuant to this section, the prosecution authority shall provide written notification of the conviction to all regulatory or disciplinary agencies with authority over the conduct of the defendant health care provider.

14. The attorney general may bring a civil action against any person who shall receive a health care payment as a result of a false statement or false representation of a material fact made or caused to be made by that person. The person shall be liable for up to double the amount of all payments received by that person based upon the false statement or false representation of a material fact, and the reasonable costs attributable to the prosecution of the civil action. All such restitution shall be paid and deposited to the credit of the MO HealthNet fraud reimbursement fund, and all such cost reimbursements shall be paid and deposited to the credit of the MO HealthNet fraud

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prosecution revolving fund. No reimbursement of such costs attributable to the prosecution of the civil action shall be made or allowed except with the approval of the court having jurisdiction of the civil action. No civil action provided by this subsection shall be brought if restitution and civil penalties provided by subsections 11 and 12 of this section have been previously ordered against the person for the same cause of action.

15. Any person who discovers a violation by himself or herself or such person's organization and who reports such information voluntarily before such information is public or known to the attorney general shall not be prosecuted for a criminal violation.

191.914. 1. Any person who intentionally files a false report or claim alleging a violation of sections 191.900 to 191.910 is guilty of a class A misdemeanor. Any second or subsequent violation of this section is a class **[**D**]** E felony and shall be punished as provided by law.

2. Any person who receives any compensation in exchange for knowingly failing to report any violation of subsections 1 to 3 of section 191.905 is guilty of a class **[**D**]** E felony.

193.315. 1. Any person who knowingly makes any false statement in a certificate, record, or report required by sections 193.005 to 193.325 or in an application for an amendment thereof, or in an application for a certified copy of a vital record, or who knowingly supplies false information intending that such information be used in the preparation of any such report, record, or certificate, or amendment thereof shall be

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guilty of a class **[**D**]** E felony.

2. Any person who, without lawful authority and with the intent to deceive, makes, counterfeits, alters, amends, or mutilates any certificate, record, or report required by sections 193.005 to 193.325, certified copy of such certificate, record, or report shall be guilty of a class **[**D**]** E felony.

3. Any person who knowingly obtains, possesses, uses, sells, furnishes or attempts to obtain, possess, use, sell, or furnish to another, for any purpose of deception, any certificate, record, or report required by sections 193.005 to 193.325 or certified copy thereof so made, counterfeited, altered, amended, or mutilated, or which is false in whole or in part or which relates to the birth of another person, whether living or deceased, shall be guilty of a class **[**D**]** E felony.

4. Any employee of the department or involved with the system of vital statistics who knowingly furnishes or processes a certificate of birth, or certified copy of a certificate of birth, with the knowledge or intention that it be used for the purposes of deception shall be guilty of a class **[**D**]** E felony.

5. Any person who without lawful authority possesses any certificate, record, or report, required by sections 193.005 to 193.325 or a copy or certified copy of such certificate, record, or report knowing same to have been stolen, or otherwise unlawfully obtained, shall be guilty of a class **[**D**]** E felony.

6. Any person who knowingly refuses to provide information required by sections 193.005 to 193.325, or regulations adopted hereunder, shall be guilty of a class A misdemeanor.

7. Any person who knowingly neglects or violates any of the

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provisions of sections 193.005 to 193.325 or refuses to perform any of the duties imposed upon him by sections 193.005 to 193.325 shall be guilty of a class A misdemeanor.

194.410. 1. Any person, corporation, partnership, proprietorship, or organization who knowingly disturbs, destroys, vandalizes, or damages a marked or unmarked human burial site commits a class **[**D**]** E felony.

2. Any person who knowingly appropriates for profit, uses for profit, sells, purchases or transports for sale or profit any human remains without the right of possession to those remains as provided in sections 194.400 to 194.410 commits a class A misdemeanor and, in the case of a second or subsequent violation, commits a class **[**D**]** E felony.

3. Any person who knowingly appropriates for profit, uses for profit, sells, purchases or transports for sale or profit any cultural items obtained in violation of sections 194.400 to 194.410 commits a class A misdemeanor and, in the case of a second or subsequent violation, commits a class **[**D**]** E felony.

194.425. 1. A person commits the crime of abandonment of a corpse if that person abandons, disposes, deserts or leaves a corpse without properly reporting the location of the body to the proper law enforcement officials in that county.

2. Abandonment of a corpse is a class **[**D**]** E felony.

195.005. **[**Sections 195.005 to 195.425**]** This chapter and chapter 579 shall be known as the "Comprehensive Drug Control Act **[**of 1989**]**".

195.010. The following words and phrases as used in **[**sections 195.005 to 195.425**]** this chapter and chapter 579,

unless the context otherwise requires, mean:

(1) "Addict", a person who habitually uses one or more controlled substances to such an extent as to create a tolerance for such drugs, and who does not have a medical need for such drugs, or who is so far addicted to the use of such drugs as to have lost the power of self-control with reference to his or her addiction;

(2) "Administer", to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(a) A practitioner (or, in his or her presence, by his or her authorized agent); or

(b) The patient or research subject at the direction and in the presence of the practitioner;

(3) "Agent", an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman while acting in the usual and lawful course of the carrier's or warehouseman's business;

(4) "Attorney for the state", any prosecuting attorney, circuit attorney, or attorney general authorized to investigate, commence and prosecute an action under **[**sections 195.005 to 195.425**]** this chapter;

(5) "Controlled substance", a drug, substance, or immediate precursor in Schedules I through V listed in **[**sections 195.005 to 195.425**]** this chapter;

(6) "Controlled substance analogue", a substance the

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chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(a) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(b) With respect to a particular individual, which that individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II. The term does not include a controlled substance; any substance for which there is an approved new drug application; any substance for which an exemption is in effect for investigational use, for a particular person, under Section 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to the substance is pursuant to the exemption; or any substance to the extent not intended for human consumption before such an exemption takes effect with respect to the substance;

(7) "Counterfeit substance", a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

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(8) "Deliver" or "delivery", the actual, constructive, or attempted transfer from one person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance, whether or not there is an agency relationship, and includes a sale;

(9) "Dentist", a person authorized by law to practice dentistry in this state;

(10) "Depressant or stimulant substance":

(a) A drug containing any quantity of barbituric acid or any of the salts of barbituric acid or any derivative of barbituric acid which has been designated by the United States Secretary of Health and Human Services as habit forming under 21 U.S.C. 352(d);

(b) A drug containing any quantity of:

a. Amphetamine or any of its isomers;

b. Any salt of amphetamine or any salt of an isomer of amphetamine; or

c. Any substance the United States Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system;

(c) Lysergic acid diethylamide; or

(d) Any drug containing any quantity of a substance that the United States Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect;

(11) "Dispense", to deliver a narcotic or controlled

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dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery. "Dispenser" means a practitioner who dispenses;

(12) "Distribute", to deliver other than by administering or dispensing a controlled substance;

(13) "Distributor", a person who distributes;

(14) "Drug":

(a) Substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(c) Substances, other than food, intended to affect the structure or any function of the body of humans or animals; and

(d) Substances intended for use as a component of any article specified in this subdivision. It does not include devices or their components, parts or accessories;

(15) "Drug-dependent person", a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from the use of such substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence;

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(16) "Drug enforcement agency", the Drug Enforcement Administration in the United States Department of Justice, or its successor agency;

(17) "Drug paraphernalia", all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or an imitation controlled substance in violation of **[**sections 195.005 to 195.425**]** this chapter. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or an imitation controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;

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(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances;

(f) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or imitation controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances or imitation controlled substances;

(i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;

(k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances or imitation controlled substances into the human body;

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or

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ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers;

(m) Substances used, intended for use, or designed for use in the manufacture of a controlled substance;

In determining whether an object, product, substance or material is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use;

(b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance;

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(c) The proximity of the object, in time and space, to a direct violation of **[**sections 195.005 to 195.425**]** this chapter;

(d) The proximity of the object to controlled substances or imitation controlled substances;

(e) The existence of any residue of controlled substances or imitation controlled substances on the object;

(f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he or she knows, or should reasonably know, intend to use the object to facilitate a violation of **[**sections 195.005 to 195.425**]** this chapter; the innocence of an owner, or of anyone in control of the object, as to direct violation of **[**sections 195.005 to 195.425**]** this chapter shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(g) Instructions, oral or written, provided with the object concerning its use;

(h) Descriptive materials accompanying the object which explain or depict its use;

(i) National or local advertising concerning its use;

(j) The manner in which the object is displayed for sale;

(k) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(l) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

(m) The existence and scope of legitimate uses for the

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object in the community;

(n) Expert testimony concerning its use;

(o) The quantity, form or packaging of the product, substance or material in relation to the quantity, form or packaging associated with any legitimate use for the product, substance or material;

(18) "Federal narcotic laws", the laws of the United States relating to controlled substances;

(19) "Hospital", a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care, for not less than twenty-four hours in any week, of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions; or a place devoted primarily to provide, for not less than twenty-four consecutive hours in any week, medical or nursing care for three or more nonrelated individuals. The term "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in chapter 198;

(20) "Immediate precursor", a substance which:

(a) The state department of health and senior services has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;

(b) Is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(c) The control of which is necessary to prevent, curtail or limit the manufacture of the controlled substance;

(21) "Imitation controlled substance", a substance that is

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not a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In determining whether the substance is an imitation controlled substance the court or authority concerned should consider, in addition to all other logically relevant factors, the following:

(a) Whether the substance was approved by the federal Food and Drug Administration for over-the-counter (nonprescription or nonlegend) sales and was sold in the federal Food and Drug Administration approved package, with the federal Food and Drug Administration approved labeling information;

(b) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(c) Whether the substance is packaged in a manner normally used for illicit controlled substances;

(d) Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud;

(e) The proximity of the substances to controlled substances;

(f) Whether the consideration tendered in exchange for the noncontrolled substance substantially exceeds the reasonable value of the substance considering the actual chemical composition of the substance and, where applicable, the price at which over-the-counter substances of like chemical composition sell. An imitation controlled substance does not include a

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placebo or registered investigational drug either of which was manufactured, distributed, possessed or delivered in the ordinary course of professional practice or research;

(22) "Laboratory", a laboratory approved by the department of health and senior services as proper to be entrusted with the custody of controlled substances but does not include a pharmacist who compounds controlled substances to be sold or dispensed on prescriptions;

(23) "Manufacture", the production, preparation, propagation, compounding or processing of drug paraphernalia or of a controlled substance, or an imitation controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include the preparation or compounding of a controlled substance or an imitation controlled substance or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

(a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance or an imitation controlled substance in the course of his or her professional practice, or

(b) By a practitioner or his or her authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

(24) "Marijuana", all parts of the plant genus Cannabis in any species or form thereof, including, but not limited to

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Cannabis Sativa L., Cannabis Indica, Cannabis Americana, Cannabis Ruderalis, and Cannabis Gigantea, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

(25) "Methamphetamine precursor drug", any drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers;

(26) "Narcotic drug", any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical analysis:

(a) Opium, opiate, and any derivative, of opium or opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium;

(b) Coca leaves, but not including extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

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(c) Cocaine or any salt, isomer, or salt of isomer thereof;

(d) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

(e) Any compound, mixture, or preparation containing any quantity of any substance referred to in paragraphs (a) to (d) of this subdivision;

(27) "Official written order", an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the department of health and senior services;

(28) "Opiate", any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes its racemic and levorotatory forms. It does not include, unless specifically controlled under section 195.017, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

(29) "Opium poppy", the plant of the species Papaver somniferum L., except its seeds;

(30) "Over-the-counter sale", a retail sale licensed pursuant to chapter 144 of a drug other than a controlled substance;

(31) "Person", an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, or any other

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legal or commercial entity;

(32) "Pharmacist", a licensed pharmacist as defined by the laws of this state, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in **[**sections 195.005 to 195.425**]** this chapter shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state;

(33) "Poppy straw", all parts, except the seeds, of the opium poppy, after mowing;

(34) "Possessed" or "possessing a controlled substance", a person, with the knowledge of the presence and nature of a substance, has actual or constructive possession of the substance. A person has actual possession if he has the substance on his or her person or within easy reach and convenient control. A person who, although not in actual possession, has the power and the intention at a given time to exercise dominion or control over the substance either directly or through another person or persons is in constructive possession of it. Possession may also be sole or joint. If one person alone has possession of a substance possession is sole. If two or more persons share possession of a substance, possession is joint;

(35) "Practitioner", a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by this state to distribute, dispense, conduct research

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with respect to or administer or to use in teaching or chemical analysis, a controlled substance in the course of professional practice or research in this state, or a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research;

(36) "Production", includes the manufacture, planting, cultivation, growing, or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance;

(37) "Registry number", the number assigned to each person registered under the federal controlled substances laws;

(38) "Sale", includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee;

(39) "State" when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America;

(40) "Synthetic cannabinoid"**[,]** includes unless specifically excepted or unless listed in another schedule, any natural or synthetic material, compound, mixture, or preparation that contains any quantity of a substance that is a cannabinoid receptor agonist, including but not limited to any substance listed in paragraph (ll) of subdivision (4) of subsection 2 of section 195.017 and any analogues**[,]**__;__ homologues; isomers, whether optical, positional, or geometric; esters; ethers; salts; and salts of isomers, esters, and ethers, whenever the existence

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of the isomers, esters, ethers, or salts is possible within the specific chemical designation, however, it shall not include any approved pharmaceutical authorized by the United States Food and Drug Administration;

(41) "Ultimate user", a person who lawfully possesses a controlled substance or an imitation controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or by a member of his or her household;

(42) "Wholesaler", a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not on prescriptions.

195.015. 1. The department of health and senior services shall administer **[**sections 195.005 to 195.425**]** this chapter and may add substances to the schedules after public notice and hearing. In making a determination regarding a substance, the department of health and senior services shall consider the following:

(1) The actual or relative potential for abuse;

(2) The scientific evidence of its pharmacological effect, if known;

(3) The state of current scientific knowledge regarding the substance;

(4) The history and current pattern of abuse;

(5) The scope, duration, and significance of abuse;

(6) The risk to the public health;

(7) The potential of the substance to produce psychic or

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physiological dependence liability; and

(8) Whether the substance is an immediate precursor of a substance already controlled under [sections 195.005 to 195.425] this chapter.

2. After considering the factors enumerated in subsection 1 of this section the department of health and senior services shall make findings with respect thereto and issue a rule controlling the substance if it finds the substance has a potential for abuse.

3. If the department of health and senior services designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

4. If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the department of health and senior services, the department of health and senior services shall similarly control the substance under [sections 195.005 to 195.425] this chapter after the expiration of thirty days from publication in the federal register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless within that thirty-day period, the department of health and senior services objects to inclusion, rescheduling, or deletion. In that case, the department of health and senior services shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the department of health and senior services

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shall publish its decision, which shall be final unless altered by statute. Upon publication of objection to inclusion, rescheduling or deletion under **[**sections 195.005 to 195.425**]** this chapter by the department of health and senior services, control under **[**sections 195.005 to 195.425**]** this chapter is stayed as to the substance in question until the department of health and senior services publishes its decision.

5. The department of health and senior services shall exclude any nonnarcotic substance from a schedule if such substance may, under the federal Food, Drug, and Cosmetic Act and the law of this state, be lawfully sold over the counter without a prescription.

6. The department of health and senior services shall prepare a list of all drugs falling within the purview of controlled substances. Upon preparation, a copy of the list shall be filed in the office of the secretary of state.

195.016. The controlled substances listed or to be listed in the schedules in **[**sections 195.005 to 195.425**]** section 195.017 are included by whatever official, common, usual, chemical, or trade name designated.

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

(1) Has high potential for abuse; and

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

2. Schedule I:

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

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

(a) Acetyl-alpha-methylfentanyl;

(b) Acetylmethadol;

(c) Allylprodine;

(d) Alphacetylmethadol;

(e) Alphameprodine;

(f) Alphamethadol;

(g) Alpha-methylfentanyl;

(h) Alpha-methylthiofentanyl;

(i) Benzethidine;

(j) Betacetylmethadol;

(k) Beta-hydroxyfentanyl;

(l) Beta-hydroxy-3-methylfentanyl;

(m) Betameprodine;

(n) Betamethadol;

(o) Betaprodine;

(p) Clonitazene;

(q) Dextromoramide;

(r) Diampromide;

(s) Diethylthiambutene;

(t) Difenoxin;

(u) Dimenoxadol;

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(v) Dimepheptanol;

(w) Dimethylthiambutene;

(x) Dioxaphetyl butyrate;

(y) Dipipanone;

(z) Ethylmethylthiambutene;

(aa) Etonitazene;

(bb) Etoxeridine;

(cc) Furethidine;

(dd) Hydroxypethidine;

(ee) Ketobemidone;

(ff) Levomoramide;

(gg) Levophenacylmorphan;

(hh) 3-Methylfentanyl;

(ii) 3-Methylthiofentanyl;

(jj) Morpheridine;

(kk) MPPP;

(ll) Noracymethadol;

(mm) Norlevorphanol;

(nn) Normethadone;

(oo) Norpipanone;

(pp) Para-fluorofentanyl;

(qq) PEPAP;

(rr) Phenadoxone;

(ss) Phenampromide;

(tt) Phenomorphan;

(uu) Phenoperidine;

(vv) Piritramide;

(ww) Proheptazine;

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(xx) Properidine;

(yy) Propiram;

(zz) Racemoramide;

(aaa) Thiofentanyl;

(bbb) Tilidine;

(ccc) Trimeperidine;

(3) Any of the following opium derivatives, their salts, isomers and salts of isomers unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Acetorphine;

(b) Acetyldihydrocodeine;

(c) Benzylmorphine;

(d) Codeine methylbromide;

(e) Codeine-N-Oxide;

(f) Cyprenorphine;

(g) Desomorphine;

(h) Dihydromorphine;

(i) Drotebanol;

(j) Etorphine (except hydrochloride salt);

(k) Heroin;

(l) Hydromorphinol;

(m) Methyldesorphine;

(n) Methyldihydromorphine;

(o) Morphine methylbromide;

(p) Morphine methylsulfonate;

(q) Morphine-N-Oxide;

(r) Myrophine;

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(s) Nicocodeine;

(t) Nicomorphine;

(u) Normorphine;

(v) Pholcodine;

(w) Thebacon;

(4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) 4-bromo-2, 5-dimethoxyamphetamine;

(b) 4-bromo-2, 5-dimethoxyphenethylamine;

(c) 2,5-dimethoxyamphetamine;

(d) 2,5-dimethoxy-4-ethylamphetamine;

(e) 2,5-dimethoxy-4-(n)-propylthiophenethylamine;

(f) 4-methoxyamphetamine;

(g) 5-methoxy-3,4-methylenedioxyamphetamine;

(h) 4-methyl-2, 5-dimethoxyamphetamine;

(i) 3,4-methylenedioxyamphetamine;

(j) 3,4-methylenedioxymethamphetamine;

(k) 3,4-methylenedioxy-N-ethylamphetamine;

(l) N-hydroxy-3, 4-methylenedioxyamphetamine;

(m) 3,4,5-trimethoxyamphetamine;

(n) 5-MeO-DMT or 5-methoxy-N,N-dimethyltryptamine, its isomers, salts, and salts of isomers;

(o) Alpha-ethyltryptamine;

(p) Alpha-methyltryptamine;

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(q) Bufotenine;

(r) Diethyltryptamine;

(s) Dimethyltryptamine;

(t) 5-methoxy-N,N-diisopropyltryptamine;

(u) Ibogaine;

(v) Lysergic acid diethylamide;

(w) Marijuana or marihuana;

(x) Mescaline;

(y) Parahexyl;

(z) Peyote, to include all parts of the plant presently classified botanically as Lophophora Williamsil Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or extracts;

(aa) N-ethyl-3-piperidyl benzilate;

(bb) N-methyl-3-piperidyl benzilate;

(cc) Psilocybin;

(dd) Psilocyn;

(ee) Tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:

a. 1 cis or trans tetrahydrocannabinol, and their optical isomers;

b. 6 cis or trans tetrahydrocannabinol, and their optical

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isomers;

c. 3,4 cis or trans tetrahydrocannabinol, and their optical isomers;

d. Any compounds of these structures, regardless of numerical designation of atomic positions covered;

(ff) Ethylamine analog of phencyclidine;

(gg) Pyrrolidine analog of phencyclidine;

(hh) Thiophene analog of phencyclidine;

(ii) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine;

(jj) Salvia divinorum;

(kk) Salvinorin A;

(ll) Synthetic cannabinoids:

a. Any compound structurally derived from 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Including, but not limited to:

(i) JWH-007, or 1-pentyl-2-methyl-3-(1-naphthoyl)indole;

(ii) JWH-015, or 1-propyl-2-methyl-3-(1-naphthoyl)indole;

(iii) JWH-018, or 1-pentyl-3-(1-naphthoyl)indole;

(iv) JWH-019, or 1-hexyl-3-(1-naphthoyl)indole;

(v) JWH-073, or 1-butyl-3-(1-naphthoyl)indole;

(vi) JWH-081, or 1-pentyl-3-(4-methoxy-1-naphthoyl)indole;

(vii) JWH-098, or 1-pentyl-2-methyl-3-(4-methoxy-1-naphthoyl)indole;

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(viii) JWH-122, or 1-pentyl-3-(4-methyl-1-naphthoyl)indole;

(ix) JWH-164, or 1-pentyl-3-(7-methoxy-1-naphthoyl)indole;

(x) JWH-200, or 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl)indole;

(xi) JWH-210, or 1-pentyl-3-(4-ethyl-1-naphthoyl)indole;

(xii) JWH-398, or 1-pentyl-3-(4-chloro-1-naphthoyl)indole;

b. Any compound structurally derived from 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent;

c. Any compound structurally derived from 1-(1-naphthylmethyl)indene by substitution at the 3-position of the indene ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent;

d. Any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent. Including, but not limited to:

(i) JWH-201, or 1-pentyl-3-(4-methoxyphenylacetyl)indole;

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(ii) JWH-203, or 1-pentyl-3-(2-chlorophenylacetyl)indole;

(iii) JWH-250, or 1-pentyl-3-(2-methoxyphenylacetyl)indole;

(iv) JWH-251, or 1-pentyl-3-(2-methylphenylacetyl)indole;

(v) RCS-8, or 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole;

e. Any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent. Including, but not limited to:

(i) CP 47, 497 & homologues, or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol), where side chain n=5, and homologues where side chain n-4,6, or 7;

f. Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Including, but not limited to:

(i) AM-694, or 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole;

(ii) RCS-4, or 1-pentyl-3-(4-methoxybenzoyl)indole;

g. CP 50,556-1, or [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl] oxy-5,6,6a ,7,8,9,10,10a-octahydrophenanthridin-1-yl] acetate;

h. HU-210, or

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(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10 a-tetrahydrobenzo[c]chromen-1-ol;

i. HU-211, or Dexanabinol,(6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyl octan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

j. CP 50,556-1, or [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpentan-2-yl] oxy-5,6,6a ,7,8,9,10,10a-octahydrophenanthridin-1-yl] acetate;

k. Dimethylheptylpyran, or DMHP;

(5) Any material, compound, mixture or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(a) Gamma-hydroxybutyric acid;

(b) Mecloqualone;

(c) Methaqualone;

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

(a) Aminorex;

(b) N-benzylpiperazine;

(c) Cathinone;

(d) Fenethylline;

(e) 3-Fluoromethcathinone;

(f) 4-Fluoromethcathinone;

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(g) Mephedrone, or 4-methylmethcathinone;

(h) Methcathinone;

(i) 4-methoxymethcathinone;

(j) (+,-)cis-4-methylaminorex ((+,-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(k) Methylenedioxypyrovalerone, MDPV, or (1-(1,3-Benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone;

(l) Methylone, or 3,4-Methylenedioxymethcathinone;

(m) 4-Methyl-alpha-pyrrolidinobutiophenone, or MPBP;

(n) N-ethylamphetamine;

(o) N,N-dimethylamphetamine;

(7) A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:

(a) N-(1-benzyl-4-piperidyl)-N phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers;

(b) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers;

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

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

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(1) The substance has high potential for abuse;

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

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

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

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

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

a. Raw opium;

b. Opium extracts;

c. Opium fluid;

d. Powdered opium;

e. Granulated opium;

f. Tincture of opium;

g. Codeine;

h. Ethylmorphine;

i. Etorphine hydrochloride;

j. Hydrocodone;

k. Hydromorphone;

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l. Metopon;

m. Morphine;

n. Oxycodone;

o. Oxymorphone;

p. Thebaine;

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy);

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(a) Alfentanil;

(b) Alphaprodine;

(c) Anileridine;

(d) Bezitramide;

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(e) Bulk dextropropoxyphene;

(f) Carfentanil;

(g) Dihydrocodeine;

(h) Diphenoxylate;

(i) Fentanyl;

(j) Isomethadone;

(k) Levo-alphacetylmethadol;

(l) Levomethorphan;

(m) Levorphanol;

(n) Metazocine;

(o) Methadone;

(p) Meperidine;

(q) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;

(r) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane--carboxylic acid;

(s) Pethidine (meperidine);

(t) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

(u) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

(v) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperdine-4-carboxylic acid;

(w) Phenazocine;

(x) Piminodine;

(y) Racemethorphan;

(z) Racemorphan;

(aa) Remifentanil;

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(bb) Sufentanil;

(cc) Tapentadol;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) Lisdexamfetamine, its salts, isomers, and salts of its isomers;

(c) Methamphetamine, its salts, isomers, and salts of its isomers;

(d) Phenmetrazine and its salts;

(e) Methylphenidate;

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Amobarbital;

(b) Glutethimide;

(c) Pentobarbital;

(d) Phencyclidine;

(e) Secobarbital;

(5) Any material or compound which contains any quantity of nabilone;

(6) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

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(a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;

(b) Immediate precursors to phencyclidine (PCP):

a. 1-phenylcyclohexylamine;

b. 1-piperidinocyclohexanecarbonitrile (PCC);

(7) Any material, compound, mixture, or preparation which contains any quantity of the following alkyl nitrites:

(a) Amyl nitrite;

(b) Butyl nitrite.

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

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

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

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

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

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

(a) Benzphetamine;

(b) Chlorphentermine;

(c) Clortermine;

(d) Phendimetrazine;

(2) Any material, compound, mixture or preparation which

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contains any quantity or salt of the following substances or salts having a depressant effect on the central nervous system:

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

a. Amobarbital;

b. Secobarbital;

c. Pentobarbital;

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

a. Amobarbital;

b. Secobarbital;

c. Pentobarbital;

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

(d) Chlorhexadol;

(e) Embutramide;

(f) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the federal Food, Drug, and Cosmetic Act;

(g) Ketamine, its salts, isomers, and salts of isomers;

(h) Lysergic acid;

(i) Lysergic acid amide;

(j) Methyprylon;

(k) Sulfondiethylmethane;

(l) Sulfonethylmethane;

(m) Sulfonmethane;

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(n) Tiletamine and zolazepam or any salt thereof;

(3) Nalorphine;

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:

(a) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(c) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(e) Not more than 1.8 grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients

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in recognized therapeutic amounts;

(g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth in subdivision (6) of this subsection; buprenorphine;

(6) Anabolic steroids. Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone) that promotes muscle growth, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subdivision. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, esters and ethers:

(a) 3ß,17-dihydroxy-5a-androstane;

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(b) 3a,17ß-dihydroxy-5a-androstane;

(c) 5a-androstan-3,17-dione;

(d) 1-androstenediol (3ß,17ß-dihydroxy-5a-androst-1-ene);

(e) 1-androstenediol (3a,17ß-dihydroxy-5a-androst-1-ene);

(f) 4-androstenediol (3ß,17ß-dihydroxy-androst-4-ene);

(g) 5-androstenediol (3ß,17ß-dihydroxy-androst-5-ene);

(h) 1-androstenedione ([5a]-androst-1-en-3,17-dione);

(i) 4-androstenedione (androst-4-en-3,17-dione);

(j) 5-androstenedione (androst-5-en-3,17-dione);

(k) Bolasterone (7a, 17a-dimethyl-17ß-hydroxyandrost-4-en-3-one);

(l) Boldenone (17ß-hydroxyandrost-1,4,-diene-3-one);

(m) Boldione;

(n) Calusterone (7ß, 17a-dimethyl-17ß-hydroxyandrost-4-en-3-one);

(o) Clostebol (4-chloro-17ß-hydroxyandrost-4-en-3-one);

(p) Dehydrochloromethyltestosterone (4-chloro-17ß-hydroxy-17a-methyl-androst-1,4-dien-3-one);

(q) Desoxymethyltestosterone;

(r) Δ1-dihydrotestosterone (a.k.a. '1-testosterone')(17β-hydroxy-5α-androst-1-en-3-one);

(s) 4-dihydrotestosterone (17ß-hydroxy-androstan-3-one);

(t) Drostanolone (17ß-hydroxy-2a-methyl-5a-androstan-3-one);

(u) Ethylestrenol (17a-ethyl-17ß-hydroxyestr-4-ene);

(v) Fluoxymesterone (9-fluoro-17a-methyl-11ß,17ß-dihydroxyandrost-4-en-3-one);

(w) Formebolone

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(2-formyl-17a-methyl-11a,17ß-dihydroxyandrost-1,4-dien-3-one);

(x) Furazabol

(17a-methyl-17ß-hydroxyandrostano[2,3-c]-furazan);

(y) 13ß-ethyl-17ß-hydroxygon-4-en-3-one;

(z) 4-hydroxytestosterone

(4,17ß-dihydroxy-androst-4-en-3-one);

(aa) 4-hydroxy-19-nortestosterone

(4,17ß-dihydroxy-estr-4-en-3-one);

(bb) Mestanolone

(17a-methyl-17ß-hydroxy-5-androstan-3-one);

(cc) Mesterolone

(1amethyl-17ß-hydroxy-[5a]-androstan-3-one);

(dd) Methandienone

(17a-methyl-17ß-hydroxyandrost-1,4-dien-3-one);

(ee) Methandriol

(17a-methyl-3ß,17ß-dihydroxyandrost-5-ene);

(ff) Methenolone

(1-methyl-17ß-hydroxy-5a-androst-1-en-3-one);

(gg) 17a-methyl-3ß,17ß-dihydroxy-5a-androstane);

(hh) 17a-methyl-3a,17ß-dihydroxy-5a-androstane);

(ii) 17a-methyl-3ß,17ß-dihydroxyandrost-4-ene;

(jj) 17a-methyl-4-hydroxynandrolone

(17a-methyl-4-hydroxy-17ß-hydroxyestr-4-en-3-one);

(kk) Methyldienolone

(17a-methyl-17ß-hydroxyestra-4,9(10)-dien-3-one);

(ll) Methyltrienolone

(17a-methyl-17ß-hydroxyestra-4,9-11-trien-3-one);

(mm) Methyltestosterone

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(17a-methyl-17ß-hydroxyandrost-4-en-3-one);

(nn) Mibolerone

(7a,17a-dimethyl-17ß-hydroxyestr-4-en-3-one);

(oo) 17α-methyl-Δ1-dihydrotestosterone

(17bβ-hydroxy-17α-methyl-5α-androst-1-en-3-one) (a.k.a. '17-α-methyl-1-testosterone');

(pp) Nandrolone (17ß-hydroxyestr-4-ene-3-one);

(qq) 19-nor-4-androstenediol (3ß,17ß-dihydroxyestr-4-ene);

(rr) 19-nor-4-androstenediol (3a,17ß-dihydroxyestr-4-ene);

(ss) 19-nor-4,9(10)-androstadienedione;

(tt) 19-nor-5-androstenediol (3ß,17ß-dihydroxyestr-5-ene);

(uu) 19-nor-5-androstenediol (3a,17ß-dihydroxyestr-5-ene);

(vv) 19-nor-4-androstenedione (estr-4-en-3,17-dione);

(ww) 19-nor-5-androstenedione (estr-5-en-3,17-dione);

(xx) Norbolethone (13ß,17a-diethyl-17ß-hydroxygon-4-en-3-one);

(yy) Norclostebol (4-chloro-17ß-hydroxyestr-4-en-3-one);

(zz) Norethandrolone (17a-ethyl-17ß-hydroxyestr-4-en-3-one);

(aaa) Normethandrolone (17a-methyl-17ß-hydroxyestr-4-en-3-one);

(bbb) Oxandrolone (17a-methyl-17ß-hydroxy-2-oxa-[5a]-androstan-3-one);

(ccc) Oxymesterone (17a-methyl-4,17ß-dihydroxyandrost-4-en-3-one);

(ddd) Oxymethalone (17a-methyl-2-hydroxymethylene-17ß-hydroxy-[5a]-androstan-3-one);

(eee) Stanozolol

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(17a-methyl-17ß-hydroxy-[5a]-androst-2-eno[3,2-c]-pyrazole);

(fff) Stenbolone (17ß-hydroxy-2-methyl-[5a]-androst-1-en-3-one);

(ggg) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

(hhh) Testosterone (17ß-hydroxyandrost-4-en-3-one);

(iii) Tetrahydrogestrinone (13ß,17a-diethyl-17ß-hydroxygon-4,9,11-trien-3-one);

(jjj) Trenbolone (17ß-hydroxyestr-4,9,11-trien-3-one);

(kkk) Any salt, ester, or ether of a drug or substance described or listed in this subdivision, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration;

(7) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product;

(8) The department of health and senior services may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate

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the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

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

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

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

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

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

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

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

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

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

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

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

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

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

(a) Alprazolam;

(b) Barbital;

(c) Bromazepam;

(d) Camazepam;

(e) Chloral betaine;

(f) Chloral hydrate;

(g) Chlordiazepoxide;

(h) Clobazam;

(i) Clonazepam;

(j) Clorazepate;

(k) Clotiazepam;

(l) Cloxazolam;

(m) Delorazepam;

(n) Diazepam;

(o) Dichloralphenazone;

(p) Estazolam;

(q) Ethchlorvynol;

(r) Ethinamate;

(s) Ethyl loflazepate;

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(t) Fludiazepam;

(u) Flunitrazepam;

(v) Flurazepam;

(w) Fospropofol;

(x) Halazepam;

(y) Haloxazolam;

(z) Ketazolam;

(aa) Loprazolam;

(bb) Lorazepam;

(cc) Lormetazepam;

(dd) Mebutamate;

(ee) Medazepam;

(ff) Meprobamate;

(gg) Methohexital;

(hh) Methylphenobarbital (mephobarbital);

(ii) Midazolam;

(jj) Nimetazepam;

(kk) Nitrazepam;

(ll) Nordiazepam;

(mm) Oxazepam;

(nn) Oxazolam;

(oo) Paraldehyde;

(pp) Petrichloral;

(qq) Phenobarbital;

(rr) Pinazepam;

(ss) Prazepam;

(tt) Quazepam;

(uu) Temazepam;

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(vv) Tetrazepam;

(ww) Triazolam;

(xx) Zaleplon;

(yy) Zolpidem;

(zz) Zopiclone;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible: fenfluramine;

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

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

(b) Diethylpropion;

(c) Fencamfamin;

(d) Fenproporex;

(e) Mazindol;

(f) Mefenorex;

(g) Modafinil;

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

(i) Phentermine;

(j) Pipradrol;

(k) Sibutramine;

(l) SPA ((-)-1-dimethyamino-1,2-diphenylethane);

(5) Any material, compound, mixture or preparation

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containing any quantity of the following substance, including its salts:

(a) butorphanol;

(b) pentazocine;

(6) Ephedrine, its salts, optical isomers and salts of optical isomers, when the substance is the only active medicinal ingredient;

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

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

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

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

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

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

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

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

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

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

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

(3) Any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or its salts or optical isomers, or salts of optical isomers or any compound, mixture, or preparation containing any detectable quantity of ephedrine or its salts or optical isomers, or salts of optical isomers;

(4) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous

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system, including its salts:

(a) Lacosamide;

(b) Pregabalin.

11. If any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section is dispensed, sold, or distributed in a pharmacy without a prescription:

(1) All packages of any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician; and

(2) Any person purchasing, receiving or otherwise acquiring any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers shall be at least eighteen years **[**of age**]** old; and

(3) The pharmacist, intern pharmacist, or registered pharmacy technician shall require any person, prior to their purchasing, receiving or otherwise acquiring such compound, mixture, or preparation to furnish suitable photo identification that is issued by a state or the federal government or a document that, with respect to identification, is considered acceptable and showing the date of birth of the person;

(4) The seller shall deliver the product directly into the custody of the purchaser.

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12. Pharmacists, intern pharmacists, and registered pharmacy technicians shall implement and maintain an electronic log of each transaction. Such log shall include the following information:

(1) The name, address, and signature of the purchaser;

(2) The amount of the compound, mixture, or preparation purchased;

(3) The date and time of each purchase; and

(4) The name or initials of the pharmacist, intern pharmacist, or registered pharmacy technician who dispensed the compound, mixture, or preparation to the purchaser.

13. Each pharmacy shall submit information regarding sales of any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section in accordance with transmission methods and frequency established by the department by regulation;

14. No person shall dispense, sell, purchase, receive, or otherwise acquire quantities greater than those specified in this chapter.

15. All persons who dispense or offer for sale pseudoephedrine and ephedrine products in a pharmacy shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.

16. **[**Any person who knowingly or recklessly violates**]** <u>The penalties for a knowing or reckless violation of</u> the provisions of subsections 11 to 15 of this section **[**is guilty of a class A misdemeanor**]** <u>are found in section 579.060</u>.

17. The scheduling of substances specified in subdivision

(3) of subsection 10 of this section and subsections 11, 12, 14, and 15 of this section shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form or to any compound, mixture, or preparation specified in subdivision (3) of subsection 10 of this section which must be dispensed, sold, or distributed in a pharmacy pursuant to a prescription.

18. The manufacturer of a drug product or another interested party may apply with the department of health and senior services for an exemption from this section. The department of health and senior services may grant an exemption by rule from this section if the department finds the drug product is not used in the illegal manufacture of methamphetamine or other controlled or dangerous substances. The department of health and senior services shall rely on reports from law enforcement and law enforcement evidentiary laboratories in determining if the proposed product can be used to manufacture illicit controlled substances.

19. The department of health and senior services shall revise and republish the schedules annually.

20. The department of health and senior services shall promulgate rules under chapter 536 regarding the security and storage of Schedule V controlled substances, as described in subdivision (3) of subsection 10 of this section, for distributors as registered by the department of health and senior services.

21. Logs of transactions required to be kept and maintained by this section and section 195.417 shall create a rebuttable

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presumption that the person whose name appears in the logs is the person whose transactions are recorded in the logs.

195.030. 1. The department of health and senior services upon public notice and hearing pursuant to this section and chapter 536 may promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution and dispensing of controlled substances within this state. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

2. No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare, distribute, dispense or prescribe any controlled substance and no person as a wholesaler shall supply the same, without having first obtained a registration issued by the department of health and senior services in accordance with rules and regulations promulgated by it. No registration shall be granted for a term exceeding three years.

3. Persons registered by the department of health and senior services pursuant to **[**sections 195.005 to 195.425**]** this chapter to manufacture, distribute, or dispense or conduct research with controlled substances are authorized to possess, manufacture, distribute or dispense such substances, including any such activity in the conduct of research, to the extent authorized by their registration and in conformity with other provisions of **[**sections 195.005 to 195.425**]** this chapter and chapter 579.

4. The following persons shall not be required to register

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and may lawfully possess controlled substances pursuant to [sections 195.005 to 195.425] this chapter:

(1) An agent or employee, excluding physicians, dentists, optometrists, podiatrists or veterinarians, of any registered manufacturer, distributor, or dispenser of any controlled substance if such agent is acting in the usual course of his or her business or employment;

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

5. The department of health and senior services may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

6. A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

7. The department of health and senior services is authorized to inspect the establishment of a registrant or applicant in accordance with the provisions of [sections 195.005 to 195.425] this chapter.

195.040. 1. No registration shall be issued under section 195.030 unless and until the applicant therefor has furnished proof satisfactory to the department of health and senior

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services:

(1) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character;

(2) That the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his or her application.

2. No registration shall be granted to any person who has within two years been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any misdemeanor offense or within seven years for any felony offense related to controlled substances. No registration shall be granted to any person who is abusing controlled substances.

3. The department of health and senior services shall register an applicant to manufacture, distribute or dispense controlled substances unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable state and local law;

(3) Any convictions of an applicant under any federal or state laws relating to any controlled substance;

(4) Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's

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establishment of effective controls against diversion;

(5) Furnishing by the applicant of false or fraudulent material information in any application filed under **[**sections 195.005 to 195.425**]** this chapter;

(6) Suspension or revocation of the applicant's federal registration to manufacture, distribute or dispense narcotics or controlled dangerous drugs as authorized by federal law; and

(7) Any other factors relevant to and consistent with the public health and safety.

4. Registration does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

5. Practitioners shall be registered to dispense any controlled substance or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the laws of this state. The department of health and senior services need not require separate registration under **[**sections 195.005 to 195.425**]** this chapter for practitioners engaging in research with nonnarcotic substances in Schedules II through V where the registrant is already registered under **[**sections 195.005 to 195.425**]** this chapter in another capacity. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this state upon furnishing the department of health and senior services evidence of that federal registration.

6. Compliance by manufacturers and distributors with the provisions of federal law respecting registration (excluding

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fees) shall entitle them to be registered under [sections 195.005 to 195.425] this chapter.

7. A registration to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the department of health and senior services upon a finding that the registrant:

(1) Has furnished false or fraudulent material information in any application filed under [sections 195.005 to 195.425] this chapter;

(2) Has been convicted of a felony under any state or federal law relating to any controlled substance;

(3) Has had his or her federal registration to manufacture, distribute or dispense suspended or revoked;

(4) Has violated any federal controlled substances statute or regulation, or any provision of [sections 195.005 to 195.425] this chapter or chapter 579 or regulation promulgated [pursuant to sections 195.005 to 195.425] under this chapter; or

(5) Has had the registrant's professional license to practice suspended or revoked.

8. The department of health and senior services may warn or censure a registrant; limit a registration to particular controlled substances or schedules of controlled substances; limit revocation or suspension of a registration to a particular controlled substance with respect to which grounds for revocation or suspension exist; restrict or limit a registration under such terms and conditions as the department of health and senior services considers appropriate for a period of five years; suspend or revoke a registration for a period not to exceed five

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years; or deny an application for registration. In any order of revocation, the department of health and senior services may provide that the registrant may not apply for a new registration for a period of time ranging from one to five years following the date of the order of revocation. All stay orders shall toll this time period. Any registration placed under a limitation or restriction by the department of health and senior services shall be termed "under probation".

9. If the department of health and senior services suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal by such agency and held pending final disposition of the case. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded, unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

10. The department of health and senior services may, upon review, terminate any restriction or limitation previously imposed upon a registration by the department of health and senior services if the registrant has remained in compliance with the imposed restrictions or limitations and local, state and federal laws since the time the restrictions or limitations were imposed.

11. The department of health and senior services shall promptly notify the Drug Enforcement Administration, United

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States Department of Justice, or its successor agency, of all orders suspending or revoking registration and all forfeitures of controlled substances.

12. If after first providing the registrant an opportunity for an informal conference, the department of health and senior services proposes to deny, suspend, restrict, limit or revoke a registration or refuse a renewal of registration, the department of health and senior services shall serve upon the applicant or registrant written notice of the proposed action to be taken on the application or registration. The notice shall contain a statement of the type of discipline proposed, the basis therefor, the date such action shall go into effect and a statement that the registrant shall have thirty days to request in writing a hearing before the administrative hearing commission. If no written request for a hearing is received by the department of health and senior services within thirty days of the applicant's or registrant's receipt of the notice, the proposed discipline shall take effect thirty-one days from the date the original notice was received by the applicant or registrant. If the registrant or applicant makes a written request for a hearing, the department of health and senior services shall file a complaint with the administrative hearing commission within sixty days of receipt of the written request for a hearing. The complaint shall comply with the laws and regulations for actions brought before the administrative hearing commission. The department of health and senior services may issue letters of censure or warning and may enter into agreements with a registrant or applicant which restrict or limit a registration

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without formal notice or hearing.

13. The department of health and senior services may suspend any registration simultaneously with the institution of proceedings under subsection 7 of this section if the department of health and senior services finds that there is imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including review thereof, unless sooner withdrawn by the department of health and senior services, dissolved by a court of competent jurisdiction or stayed by the administrative hearing commission.

195.050. 1. A duly registered manufacturer or wholesaler may sell controlled substances to any of the following persons:

(1) To a manufacturer, wholesaler, or pharmacy;

(2) To a physician, dentist, podiatrist or veterinarian;

(3) To a person in charge of a hospital, but only for use in that hospital;

(4) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

2. A duly registered manufacturer or wholesaler may sell controlled substances to any of the following persons:

(1) On a special written order accompanied by a certificate of exemption, as required by federal laws, to a person in the employ of the United States government or of any state, territorial, district, county, municipal or insular government, purchasing, receiving, possessing, or dispensing controlled substances by reason of his or her official duties;

(2) To a master of a ship or person in charge of any

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aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board such ship or aircraft, when not in port; provided, such controlled substances shall be sold to the master of such ship or person in charge of such aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting surgeon of the United States Public Health Service;

(3) To a person in a foreign country if the provisions of federal laws are complied with.

3. An official written order for any controlled substance listed in Schedules I and II shall be signed in duplicate by the person giving the order or by his or her duly authorized agent. The original shall be presented to the person who sells or dispenses the controlled substance named therein. In event of the acceptance of such order by the person, each party to the transaction shall preserve his or her copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of **[**sections 195.005 to 195.425**]** this chapter or chapter 579. It shall be deemed a compliance with this subsection if the parties to the transaction have complied with federal laws, respecting the requirements governing the use of order forms.

4. Possession of or control of controlled substances obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

5. A person in charge of a hospital or of a laboratory, or

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in the employ of this state or of any other state, or of any political subdivision thereof, and a master or other proper officer of a ship or aircraft, who obtains controlled substances under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs, within this state, except within the scope of his or her employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of **[**sections 195.005 to 195.425**]** this chapter and chapter 579.

6. Every person registered to manufacture, distribute or dispense controlled substances under **[**sections 195.005 to 195.425**]** this chapter shall keep records and inventories of all such drugs in conformance with the record keeping and inventory requirements of federal law, and in accordance with any additional regulations of the department of health and senior services.

7. Manufacturers and wholesalers shall keep records of all narcotic and controlled substances compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all controlled substances received and disposed of by them, in accordance with this section.

8. Apothecaries shall keep records of all controlled substances received and disposed of by them, in accordance with the provisions of this section.

9. The form of records shall be prescribed by the department of health and senior services.

195.060. 1. Except as provided in subsection 3 of this section, a pharmacist, in good faith, may sell and dispense

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controlled substances to any person only upon a prescription of a practitioner as authorized by statute, provided that the controlled substances listed in Schedule V may be sold without prescription in accordance with regulations of the department of health and senior services. All written prescriptions shall be signed by the person prescribing the same. All prescriptions shall be dated on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is prescribed, and the full name, address, and the registry number under the federal controlled substances laws of the person prescribing, if he or she is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of the animal for which the drug is prescribed. The person filling the prescription shall either write the date of filling and his or her own signature on the prescription or retain the date of filling and the identity of the dispenser as electronic prescription information. The prescription or electronic prescription information shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this law. No prescription for a drug in Schedule I or II shall be filled more than six months after the date prescribed; no prescription for a drug in schedule I or II shall be refilled; no prescription for a drug in Schedule III or IV shall be filled or refilled more than six months after the date of the original prescription or be refilled more than five times unless renewed

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by the practitioner.

2. The legal owner of any stock of controlled substances in a pharmacy, upon discontinuance of dealing in such drugs, may sell the stock to a manufacturer, wholesaler, or pharmacist, but only on an official written order.

3. A pharmacist, in good faith, may sell and dispense any Schedule II drug or drugs to any person in emergency situations as defined by rule of the department of health and senior services upon an oral prescription by an authorized practitioner.

4. Except where a bona fide physician-patient-pharmacist relationship exists, prescriptions for narcotics or hallucinogenic drugs shall not be delivered to or for an ultimate user or agent by mail or other common carrier.

195.080. 1. Except as otherwise provided in **[**sections 195.005 to 195.425 specifically provided, sections 195.005 to 195.425**]** this chapter and chapter 579, this chapter and chapter 579 shall not apply to the following cases: prescribing, administering, dispensing or selling at retail of liniments, ointments, and other preparations that are susceptible of external use only and that contain controlled substances in such combinations of drugs as to prevent the drugs from being readily extracted from such liniments, ointments, or preparations, except that **[**sections 195.005 to 195.425**]** this chapter and chapter 579 shall apply to all liniments, ointments, and other preparations that contain coca leaves in any quantity or combination.

2. The quantity of Schedule II controlled substances prescribed or dispensed at any one time shall be limited to a thirty-day supply. The quantity of Schedule III, IV or V

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controlled substances prescribed or dispensed at any one time shall be limited to a ninety-day supply and shall be prescribed and dispensed in compliance with the general provisions of **[**sections 195.005 to 195.425**]** this chapter and chapter 579. The supply limitations provided in this subsection may be increased up to three months if the physician describes on the prescription form or indicates via telephone, fax, or electronic communication to the pharmacy to be entered on or attached to the prescription form the medical reason for requiring the larger supply. The supply limitations provided in this subsection shall not apply if the prescription is dispensed directly to a member of the United States armed forces serving outside the United States.

3. The partial filling of a prescription for a Schedule II substance is permissible as defined by regulation by the department of health and senior services.

195.100. 1. It shall be unlawful to distribute any controlled substance in a commercial container unless such container bears a label containing an identifying symbol for such substance in accordance with federal laws.

2. It shall be unlawful for any manufacturer of any controlled substance to distribute such substance unless the labeling thereof conforms to the requirements of federal law and contains the identifying symbol required in subsection 1 of this section.

3. The label of a controlled substance in Schedule II, III or IV shall, when dispensed to or for a patient, contain a clear, concise warning that it is a criminal offense to transfer such narcotic or dangerous drug to any person other than the patient.

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4. Whenever a manufacturer sells or dispenses a controlled substance and whenever a wholesaler sells or dispenses a controlled substance in a package prepared by him or her, the manufacturer or wholesaler shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of controlled substance contained therein. No person except a pharmacist for the purpose of filling a prescription under **[**sections 195.005 to 195.425**]** this chapter, shall alter, deface, or remove any label so affixed.

5. Whenever a pharmacist or practitioner sells or dispenses any controlled substance on a prescription issued by a physician, physician assistant, dentist, podiatrist, veterinarian, or advanced practice registered nurse, the pharmacist or practitioner shall affix to the container in which such drug is sold or dispensed a label showing his or her own name and address of the pharmacy or practitioner for whom he or she is lawfully acting; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the physician, physician assistant, dentist, podiatrist, advanced practice registered nurse, or veterinarian by whom the prescription was written; the name of the collaborating physician if the prescription is written by an advanced practice registered nurse or the supervising physician if the prescription is written by a physician assistant, and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed.

195.140. 1. All controlled substances, imitation

controlled substances or drug paraphernalia for the administration, use or manufacture of controlled substances or imitation controlled substances and which have come into the custody of a peace officer or officer or agent of the department of health and senior services as provided by sections 195.010 to 195.320, the lawful possession of which is not established or the title to which cannot be ascertained after a hearing as prescribed in Rule 34 of Rules of Criminal Procedure for the courts of Missouri or some other appropriate hearing, shall be forfeited, and disposed of as follows:

(1) Except as in this section otherwise provided, the court or associate circuit judge having jurisdiction shall order such controlled substances, imitation controlled substances, or drug paraphernalia forfeited and destroyed. A record of the place where said controlled substances, imitation controlled substances, or drug paraphernalia were seized, of the kinds and quantities of controlled substances, imitation controlled substances, or drug paraphernalia so destroyed, and of the time, place and manner of destructions, shall be kept, and a return under oath, reporting the destruction of the controlled substances, imitation controlled substances, or drug paraphernalia shall be made to the court or associate circuit judge;

(2) The department of health and senior services shall keep a complete record of all controlled substances, imitation controlled substances, or drug paraphernalia received and disposed of, together with the dates of such receipt and disposal, showing the exact kinds, quantities, and forms of such

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controlled substances, imitation controlled substances, or drug paraphernalia; the persons from whom received and to whom delivered; and by whose authority they were received, delivered or destroyed; which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic or controlled substances laws.

2. (1) Everything of value furnished, or intended to be furnished, in exchange for a controlled substance, imitation controlled substance or drug paraphernalia in violation of sections 195.010 to 195.320, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, or securities used, or intended to be used, to facilitate any violation of sections 195.010 to 195.320 shall be forfeited, except that no property shall be forfeited under this subsection to the extent of the interest of an owner by reason of any act or omission established by him to have been committed without his <u>or her</u> knowledge or consent.

(2) Any moneys, coin, or currency found in close proximity to forfeitable controlled substances, imitation controlled substances, or drug paraphernalia, or forfeitable records of the importation, manufacture, or distribution of controlled substances, imitation controlled substances or drug paraphernalia are presumed to be forfeitable under this subsection. The burden of proof shall be upon claimants of the property to rebut this presumption.

(3) All forfeiture proceedings shall be conducted pursuant to the provisions of sections 513.600 to **[**513.660**]** <u>513.653</u>.

195.150. On the conviction of any person of the violation

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of any provision of [this law] chapter 579, a copy of the judgment and sentence, and of the opinion of the court or associate circuit judge, if any opinion be filed, shall be sent by the clerk of the court, or by the associate circuit judge, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his or her profession or to carry on his or her business. On the conviction of any such person, the court may, in its discretion, suspend or revoke the license or registration of the convicted defendant to practice his or her profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, said board or officer may reinstate such license or registration.

195.190. It is hereby made the duty of the department of health and senior services, its officers, agents, inspectors, and representatives, and all peace officers within the state, and all county attorneys, to enforce all provisions of [sections 195.005 to 195.425] this chapter and chapter 579, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states, relating to narcotic and controlled substances.

195.195. The authority to promulgate regulations for the efficient enforcement of [sections 195.005 to 195.425] this chapter is hereby vested in the director of the department of health and senior services subject to the provisions of subsection 1 of section 195.030 and chapter 536. The director of the department of health and senior services is hereby authorized

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to make regulations promulgated under [sections 195.005 to 195.425] this chapter conform with those promulgated under the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

195.198. 1. The director of the department of health and senior services shall carry out educational programs designed to prevent and deter misuse and abuse of controlled dangerous substances. In connection with such programs he or she may:

(1) Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(2) Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(3) Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

2. The director of the department of health and senior services shall encourage research on misuse and abuse of controlled substances. In connection with such research and in furtherance of the enforcement of [sections 195.005 to 195.425] this chapter and chapter 579, he or she may:

(1) Establish methods to assess accurately the effects of controlled substances including but not limited to gathering, analyzing, and publishing a report using existing data regarding poisoning episodes, arrests relating to controlled substance violations, crime laboratory determinations, department of health and senior services investigations and audits, information available from the federal Drug Enforcement Administration and

Food and Drug Administration, and to identify and characterize substances with potential for abuse;

(2) Make studies and undertake programs of research to develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of **[**sections 195.005 to 195.425**]** this chapter and chapter 579.

3. The director of the department of health and senior services may enter into contracts for educational and research activities.

195.375. 1. A judge, upon proper oath or affirmation showing probable cause, may issue warrants for controlled premises for the purpose of conducting administrative inspections authorized by **[**sections 195.005 to 195.425**]** this chapter, and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of **[**sections 195.005 to 195.425**]** this chapter sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

2. A warrant shall issue only upon an affidavit of a peace officer or an employee of the department of health and senior services having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist, he or she shall issue a warrant identifying the area, premises, building or conveyance to be inspected, the purpose of the inspection, and if appropriate, the type of property to be

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inspected, if any. The warrant shall:

(1) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(2) Be directed to a peace officer or to an employee of the department of health and senior services to execute it;

(3) Command the person to whom it is directed to inspect the area, premises, building or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(4) Identify the item or types of property to be seized, if any;

(5) Direct that it be served during normal business hours and designate the judge to whom it shall be returned.

3. A warrant issued pursuant to this section shall be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

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4. The judge who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the court which issued the warrant. The department of health and senior services may make administrative inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this section only, "controlled premises" means:

(a) Places where persons registered or exempted from registration requirements under **[**sections 195.005 to 195.425**]** this chapter are required to keep records; and

(b) Places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under **[**sections 195.005 to 195.425**]** this chapter are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance;

(2) When authorized by an administrative inspection warrant issued pursuant to this section, an officer or employee designated by the department of health and senior services, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection;

(3) When authorized by an administrative inspection warrant, an officer or employee designated by the department of health and senior services may:

(a) Inspect and copy records required by **[**sections 195.005 to 195.425**]** this chapter to be kept;

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(b) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subdivision (5) of this subsection, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of **[**sections 195.005 to 195.425**]** this chapter; and

(c) Inventory any stock of any controlled substance therein and obtain samples thereof;

(4) This section does not prevent entries and administrative inspections, including seizures of property, without a warrant:

(a) If the owner, operator, or agent in charge of the controlled premises consents;

(b) In situations presenting imminent danger to health or safety;

(c) In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(d) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or

(e) In all other situations in which a warrant is not constitutionally required;

(5) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing;

(6) The department of health and senior services may obtain

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computerized controlled substances dispensing information via printouts, disks, tapes or other state of the art means of electronic data transfer.

5. Prescriptions, orders, and records, required by **[**sections 195.005 to 195.425**]** this chapter, and stocks of controlled substances shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his or her office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

195.417. 1. The limits specified in this section shall not apply to any quantity of such product, mixture, or preparation which must be dispensed, sold, or distributed in a pharmacy pursuant to a valid prescription.

2. Within any thirty-day period, no person shall sell, dispense, or otherwise provide to the same individual, and no person shall purchase, receive, or otherwise acquire more than the following amount: any number of packages of any drug product containing any detectable amount of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, either as:

(1) The sole active ingredient; or

(2) One of the active ingredients of a combination drug; or

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(3) A combination of any of the products specified in subdivisions (1) and (2) of this subsection; in any total amount greater than nine grams, without regard to the number of transactions.

3. Within any twenty-four-hour period, no pharmacist, intern pharmacist, or registered pharmacy technician shall sell, dispense, or otherwise provide to the same individual, and no person shall purchase, receive, or otherwise acquire more than the following amount: any number of packages of any drug product containing any detectable amount of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, either as:

(1) The sole active ingredient; or

(2) One of the active ingredients of a combination drug; or

(3) A combination of any of the products specified in subdivisions (1) and (2) of this subsection; in any total amount greater than three and six-tenths grams without regard to the number of transactions.

4. All packages of any compound, mixture, or preparation containing any detectable quantity of ephedrine, phenylpropanolamine, or pseudoephedrine, or any of their salts or optical isomers, or salts of optical isomers, except those that are excluded from Schedule V in subsection 17 or 18 of section 195.017, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician under section 195.017.

5. Each pharmacy shall submit information regarding sales

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of any compound, mixture, or preparation as specified in this section in accordance with transmission methods and frequency established by the department by regulation.

6. This section shall supersede and preempt any local ordinances or regulations, including any ordinances or regulations enacted by any political subdivision of the state. This section shall not apply to the sale of any animal feed products containing ephedrine or any naturally occurring or herbal ephedra or extract of ephedra.

7. All logs, records, documents, and electronic information maintained for the dispensing of these products shall be open for inspection and copying by municipal, county, and state or federal law enforcement officers whose duty it is to enforce the controlled substances laws of this state or the United States.

8. Within thirty days of June 15, 2005, all persons who dispense or offer for sale pseudoephedrine and ephedrine products, except those that are excluded from Schedule V in subsection 17 or 18 of section 195.017, shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.

9. **[**Any person who knowingly or recklessly violates this section is guilty of a class A misdemeanor.**]** <u>The penalty for a knowing or reckless violation of this section is found in section 579.060.</u>

195.418. 1. The retail sale of methamphetamine precursor drugs shall be limited to:

(1) Sales in packages containing not more than a total of three grams of one or more methamphetamine precursor drugs,

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calculated in terms of ephedrine base, pseudoephedrine base and phenylpropanolamine base; and

(2) For nonliquid products, sales in blister packs, each blister containing not more than two dosage units, or where the use of blister packs is technically infeasible, sales in unit dose packets or pouches.

2. **[**Any person holding a retail sales license pursuant to chapter 144 who knowingly violates subsection 1 of this section is guilty of a class A misdemeanor.

3. Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale who violates subsection 1 of this section shall not be penalized pursuant to this section if such person documents that an employee training program was in place to provide the employee with information on the state and federal regulations regarding ephedrine, pseudoephedrine, or phenylpropanolamine.**]** <u>The penalty for a knowing violation of subsection 1 of this section is found in section 579.060.</u>

196.979. 1. Any person, including but not limited to a prescription drug manufacturer or health care facility, may donate prescription drugs to the prescription drug repository program. The drugs shall be donated at a pharmacy, hospital, or nonprofit clinic that elects to participate in the prescription drug repository program and meets the criteria for participation established by rule of the department pursuant to section 196.984. Participation in the program by pharmacies, hospitals, and nonprofit clinics shall be voluntary. Nothing in sections

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196.970 to 196.984 shall require any pharmacy, hospital, or nonprofit clinic to participate in the program.

2. A pharmacy, hospital, or nonprofit clinic which meets the eligibility requirements established in section 196.984 may dispense prescription drugs donated under the program to persons who are residents of Missouri and who meet the eligibility requirements of the program, or to other governmental entities and nonprofit private entities to be dispensed to persons who meet the eligibility requirements of the program. A prescription drug shall be dispensed only pursuant to a prescription issued by a health care professional who is authorized by statute to prescribe drugs. A pharmacy, hospital, or nonprofit clinic which accepts donated prescription drugs shall comply with all applicable federal and state laws dealing with the storage and distribution of dangerous drugs and shall inspect all prescription drugs prior to dispensing the prescription drugs to determine that they are not adulterated as described in section 196.095. The pharmacy, hospital, or nonprofit clinic may charge persons receiving donated prescription drugs a handling fee, not to exceed a maximum of two hundred percent of the Medicaid dispensing fee, established by rule of the department promulgated pursuant to section 196.984. Prescription drugs donated to the program shall not be resold. Any individual who knowingly resells any donated prescription drugs pursuant to sections 196.970 to 196.984 shall be guilty of a class **[**D**]** E felony.

3. Drugs donated under this section that are not used or accepted by any pharmacy, hospital, or nonprofit clinic in this state may be distributed to out-of-state charitable repositories

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for use outside of this state. Such donated drugs may be repackaged in a manner appropriate for distribution by participating pharmacies, hospitals, and nonprofit clinics.

197.266. Any hospice or employee of a hospice who knowingly abuses or neglects any client, or misappropriates the property of any client, shall be guilty of a class **[**D**]** E felony.

197.326. 1. Any person who is paid either as part of his or her normal employment or as a lobbyist to support or oppose any project before the health facilities review committee shall register as a lobbyist pursuant to chapter 105 and shall also register with the staff of the health facilities review committee for every project in which such person has an interest and indicate whether such person supports or opposes the named project. The registration shall also include the names and addresses of any person, firm, corporation or association that the person registering represents in relation to the named project. Any person violating the provisions of this subsection shall be subject to the penalties specified in section 105.478.

2. A member of the general assembly who also serves as a member of the health facilities review committee is prohibited from soliciting or accepting campaign contributions from any applicant or person speaking for an applicant or any opponent to any application or persons speaking for any opponent while such application is pending before the health facilities review committee.

3. Any person regulated by chapter 197 or 198 and any officer, attorney, agent and employee thereof, shall not offer to any committee member or to any person employed as staff to the

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committee, any office, appointment or position, or any present, gift, entertainment or gratuity of any kind or any campaign contribution while such application is pending before the health facilities review committee. Any person guilty of knowingly violating the provisions of this section shall be punished as follows: For the first offense, such person is guilty of a class B misdemeanor; and for the second and subsequent offenses, such person is guilty of a class **[**D**]** E felony.

[660.250**]** 197.1000. As used in sections 660.250 to 660.321, the following terms mean:

(1) "Abuse", the infliction of physical, sexual, or emotional injury or harm including financial exploitation by any person, firm or corporation;

(2) "Court", the circuit court;

(3) "Department", the department of health and senior services;

(4) "Director", director of the department of health and senior services or his or her designees;

(5) "Eligible adult", a person sixty years of age or older who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs or an adult with a disability, as defined in section 660.053, between the ages of eighteen and fifty-nine who is unable to protect his or her own interests or adequately perform or obtain services which are necessary to meet his or her essential human needs;

(6) "Home health agency", the same meaning as such term is defined in section 197.400;

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(7) "Home health agency employee", a person employed by a home health agency;

(8) "Home health patient", an eligible adult who is receiving services through any home health agency;

(9) "In-home services client", an eligible adult who is receiving services in his or her private residence through any in-home services provider agency;

(10) "In-home services employee", a person employed by an in-home services provider agency;

(11) "In-home services provider agency", a business entity under contract with the department or with a Medicaid participation agreement, which employs persons to deliver any kind of services provided for eligible adults in their private homes;

(12) "Least restrictive environment", a physical setting where protective services for the eligible adult and accommodation is provided in a manner no more restrictive of an individual's personal liberty and no more intrusive than necessary to achieve care and treatment objectives;

(13) "Likelihood of serious physical harm", one or more of the following:

(a) A substantial risk that physical harm to an eligible adult will occur because of his or her failure or inability to provide for his or her essential human needs as evidenced by acts or behavior which has caused such harm or which gives another person probable cause to believe that the eligible adult will sustain such harm;

(b) A substantial risk that physical harm will be inflicted

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by an eligible adult upon himself or herself, as evidenced by recent credible threats, acts, or behavior which has caused such harm or which places another person in reasonable fear that the eligible adult will sustain such harm;

(c) A substantial risk that physical harm will be inflicted by another upon an eligible adult as evidenced by recent acts or behavior which has caused such harm or which gives another person probable cause to believe the eligible adult will sustain such harm;

(d) A substantial risk that further physical harm will occur to an eligible adult who has suffered physical injury, neglect, sexual or emotional abuse, or other maltreatment or wasting of his or her financial resources by another person;

(14) "Neglect", the failure to provide services to an eligible adult by any person, firm or corporation with a legal or contractual duty to do so, when such failure presents either an imminent danger to the health, safety, or welfare of the client or a substantial probability that death or serious physical harm would result;

(15) "Protective services", services provided by the state or other governmental or private organizations or individuals which are necessary for the eligible adult to meet his or her essential human needs.

197.1002. 1. The following persons shall be required to immediately report or cause a report to be made to the department pursuant to sections 197.1000 to 197.1028:

(1) Any person having reasonable cause to suspect that an eligible adult presents a likelihood of suffering serious

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physical harm and is in need of protective services; and

(2) Any adult day care worker, chiropractor, Christian Science practitioner, coroner, dentist, embalmer, employee of the departments of social services, mental health, or health and senior services, employee of a local area agency on aging or an organized area agency on aging program, funeral director, home health agency, home health agency employee, hospital and clinic personnel engaged in the care or treatment of others, in-home services owner or provider, in-home services operator or employee, law enforcement officer, long-term care facility administrator or employee, medical examiner, medical resident or intern, mental health professional, minister, nurse, nurse practitioner, optometrist, other health practitioner, peace officer, pharmacist, physical therapist, physician, physician's assistant, podiatrist, probation or parole officer, psychologist, social worker, or other person with the responsibility for the care of a person sixty years of age or older has reasonable cause to suspect that such a person has been subjected to abuse or neglect or observes such a person being subjected to conditions or circumstances which would reasonably result in abuse or neglect.

2. Any other person who becomes aware of circumstances that may reasonably be expected to be the result of, or result in, abuse or neglect of a person sixty years of age or older may report to the department.

3. The penalty for failing to report as required under subdivision (2) of subsection 1 of this section is provided under section 565.188.

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[660.255**]** 197.1004. 1. **[**Any person having reasonable cause to suspect that an eligible adult presents a likelihood of suffering serious physical harm and is in need of protective services shall report such information to the department.

2. The report**]** A report made pursuant to section 197.1002 shall be made orally or in writing. It shall include, if known:

(1) The name, age, and address of the eligible adult or person subjected to abuse or neglect;

(2) The name and address of any person responsible for care of the eligible **[**adult's care**]** adult or person subjected to abuse or neglect;

(3) The nature and extent of the condition of the eligible **[**adult's condition**]** adult or person subjected to abuse or neglect; and

(4) Other relevant information.

[3.**]** 2. Reports regarding persons determined not to be eligible adults as defined in section 660.250 shall be referred to the appropriate state or local authorities.

[4.**]** 3. The department shall maintain a statewide toll free phone number for receipt of reports.

[660.260**]** 197.1006. Upon receipt of a report, the department shall make a prompt and thorough investigation to determine whether or not an eligible adult is facing a likelihood of serious physical harm and is in need of protective services. The department shall provide for any of the following:

(1) Identification of the eligible adult and determination that the eligible adult is eligible for services;

(2) Evaluation and diagnosis of the needs of eligible

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adults;

(3) Provision of social casework, counseling or referral to the appropriate local or state authority;

(4) Assistance in locating and receiving alternative living arrangements as necessary;

(5) Assistance in locating and receiving necessary protective services; or

(6) The coordination and cooperation with other state agencies and public and private agencies in exchange of information and the avoidance of duplication of services.

[660.261**]** 197.1008. Upon receipt of a report that an eligible adult between the ages of eighteen and fifty-nine is facing a likelihood of serious physical harm, the department shall:

(1) Investigate or refer the report to appropriate law enforcement or state agencies; and

(2) Provide services or refer to local community or state agencies.

[565.186.**]** 197.1010. The department of health and senior services shall investigate incidents and reports of elder abuse or neglect using the procedures established in sections **[**660.250 to 660.295**]** 197.1000 to 197.1025 and, upon substantiation of the report of elder abuse or neglect, shall promptly report the incident to the appropriate law enforcement agency and prosecutor and shall determine whether protective services are required pursuant to sections **[**660.250 to 660.295**]** 197.1000 to 197.1025. If the department is unable to substantiate whether abuse or neglect occurred due to the failure of the operator or any of the

operator's agents or employees to cooperate with the investigation, the incident shall be promptly reported to appropriate law enforcement agencies.

[565.190.**]** 197.1012. Any person, official or institution complying with the provisions of **[**section 565.188**]** subdivision (2) of subsection 1 of section 197.1002 in the making of a report, or in cooperating with the department in any of its activities **[**pursuant to sections 565.186 and 565.188**]** under section 197.1010, except any person, official or institution violating section **[**565.180, 565.182 or**]** 565.184, shall be immune from any civil or criminal liability for making such a report, or in cooperating with the department, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

[660.263**]** 197.1014. 1. Reports made pursuant to sections **[**660.250 to 660.295**]** 197.1000 to 197.1028 shall be confidential and shall not be deemed a public record and shall not be subject to the provisions of section 109.180 or chapter 610.

2. Such reports shall be accessible for examination and copying only to the following persons or offices, or to their designees:

(1) The department or any person or agency designated by the department;

(2) The attorney general;

(3) The department of mental health for persons referred to that department;

(4) Any appropriate law enforcement agency; and

(5) The eligible adult or his legal guardian.

3. The name of the reporter shall not be disclosed unless:

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(1) Such reporter specifically authorizes disclosure of his name; and

(2) The department determines that disclosure of the name of the reporter is necessary in order to prevent further harm to an eligible adult.

4. Any person who violates the provisions of this section, or who permits or encourages the unauthorized dissemination of information contained in the central registry and in reports and records made pursuant to sections **[**660.250 to 660.295**]** 197.1000 to 197.1028, shall be guilty of a class A misdemeanor.

5. The department shall maintain a central registry capable of receiving and maintaining reports received in a manner that facilitates rapid access and recall of the information reported, and of subsequent investigations and other relevant information. The department shall electronically record any telephone report of suspected abuse and neglect received by the department and such recorded reports shall be retained by the department for a period of one year after recording.

6. Although reports to the central registry may be made anonymously, the department shall in all cases, after obtaining relevant information regarding the alleged abuse or neglect, attempt to obtain the name and address of any person making a report.

[660.265**]** 197.1016. When an eligible adult gives consent to receive protective services, the department shall assist the adult in locating and arranging for necessary services in the least restrictive environment reasonably available.

[660.270**]** 197.1018. When the department receives a report

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that there has been abuse or neglect, or that there otherwise is a likelihood of serious physical harm to an eligible adult and that he or she is in need of protective services and the department is unable to conduct an investigation because access to the eligible adult is barred by any person, the director may petition the appropriate court for a warrant or other order to enter upon the described premises and investigate the report or to produce the information. The application for the warrant or order shall identify the eligible adult and the facts and circumstances which require the issuance of the warrant or order. The director may also seek an order to enjoin the person from barring access to an eligible adult or from interfering with the investigation. If the court finds that, based on the report and relevant circumstances and facts, probable cause exists showing that the eligible adult faces abuse or neglect, or otherwise faces a likelihood of serious physical harm and is in need of protective services and the director has been prevented by another person from investigating the report, the court may issue the warrant or enjoin the interference with the investigation or both.

[660.275**]** 197.1020. If an eligible adult gives consent to receive protective services and any other person interferes with or prevents the delivery of such services, the director may petition the appropriate court for an order to enjoin the interference with the delivery of the services. The petition shall allege the consent of the eligible adult and shall allege specific facts sufficient to show that the eligible adult faces a likelihood of serious physical harm and is in need of the

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protective services and that delivery is barred by the person named in the petition. If the court finds upon a preponderance of evidence that the allegations in the petition are true, the court may issue an order enjoining the interference with the delivery of the protective services and may establish such conditions and restrictions on the delivery as the court deems necessary and proper under the circumstances.

[660.280**]** 197.1022. When an eligible adult facing the likelihood of serious physical harm and in need of protective services is unable to give consent because of incapacity or legal disability and the guardian of the eligible adult refuses to provide the necessary services or allow the provision of such services, the director shall inform the court having supervisory jurisdiction over the guardian of the facts showing that the eligible adult faces the likelihood of serious physical harm and is in need of protective services and that the guardian refuses to provide the necessary services or allow the provision of such services under the provisions of sections **[**660.250 to 660.295**]** 197.1000 to 197.1028. Upon receipt of such information, the court may take such action as it deems necessary and proper to insure that the eligible adult is able to meet his essential human needs.

[660.285**]** 197.1024. 1. If the director determines after an investigation that an eligible adult is unable to give consent to receive protective services and presents a likelihood of serious physical harm, the director may initiate proceedings pursuant to chapter 202 or chapter 475, if appropriate.

2. In order to expedite adult guardianship and

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conservatorship cases, the department may retain, within existing funding sources of the department, legal counsel on a case-by-case basis.

[660.290**]** 197.1026. 1. When a peace officer has probable cause to believe that an eligible adult will suffer an imminent likelihood of serious physical harm if not immediately placed in a medical facility for care and treatment, that the adult is incapable of giving consent, and that it is not possible to follow the procedures in section **[**660.285**]** 197.1024, the officer may transport, or arrange transportation for, the eligible adult to an appropriate medical facility which may admit the eligible adult and shall notify the next of kin, if known, and the director.

2. Where access to the eligible adult is barred and a substantial likelihood exists of serious physical harm resulting to the eligible adult if he is not immediately afforded protective services, the peace officer may apply to the appropriate court for a warrant to enter upon the described premises and remove the eligible adult. The application for the warrant shall identify the eligible adult and the circumstances and facts which require the issuance of the warrant.

3. If immediately upon admission to a medical facility, a person who is legally authorized to give consent for the provision of medical treatment for the eligible adult, has not given or refused to give such consent, and it is the opinion of the medical staff of the facility that treatment is necessary to prevent serious physical harm, the director or the head of the medical facility shall file a petition in the appropriate court

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for an order authorizing specific medical treatment. The court shall hold a hearing and issue its decision forthwith. Notwithstanding the above, if a licensed physician designated by the facility for such purpose examines the eligible adult and determines that the treatment is immediately or imminently necessary and any delay occasioned by the hearing provided in this subsection would jeopardize the life of the person affected, the medical facility may treat the eligible adult prior to such court hearing.

4. The court shall conduct a hearing pursuant to chapter 475 forthwith and, if the court finds the eligible adult incapacitated, it shall appoint a guardian ad litem for the person of the eligible adult to determine the nature and extent of the medical treatment necessary for the benefit of the eligible adult and to supervise the rendition of such treatment. The guardian ad litem shall promptly report the completion of treatment to the court, who shall thereupon conduct a restoration hearing or a hearing to appoint a permanent guardian.

5. The medical care under this section may not be rendered in a mental health facility unless authorized pursuant to the civil commitment procedures in chapter 632.

6. Nothing contained in this section or in any other section of sections **[**660.250 to 660.295**]** 197.1000 to 197.1028 shall be construed as requiring physician or medical care or hospitalization of any person who, because of religious faith or conviction, relies on spiritual means or prayer to cure or prevent disease or suffering nor shall any provision of sections **[**660.250 to 660.295**]** 197.1000 to 197.1028 be construed so as to

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designate any person as an eligible adult who presents a likelihood of suffering serious physical harm and is in need of protective services solely because such person, because of religious faith or conviction, relies on spiritual means or prayer to cure or prevent disease or suffering.

[660.295**]** 197.1028. If an eligible adult does not consent to the receipt of reasonable and necessary protective services, or if an eligible adult withdraws previously given consent, the protective services shall not be provided or continued; except that, if the director has reasonable cause to believe that the eligible adult lacks the capacity to consent, the director may seek a court order pursuant to the provisions of section **[**660.285**]** 197.1024.

[660.300**]** 197.1030. 1. When any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; or social worker has reasonable cause to believe that an in-home

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services client has been abused or neglected, as a result of in-home services, he or she shall immediately report or cause a report to be made to the department. If the report is made by a physician of the in-home services client, the department shall maintain contact with the physician regarding the progress of the investigation.

2. When a report of deteriorating physical condition resulting in possible abuse or neglect of an in-home services client is received by the department, the client's case manager and the department nurse shall be notified. The client's case manager shall investigate and immediately report the results of the investigation to the department nurse. The department may authorize the in-home services provider nurse to assist the case manager with the investigation.

3. If requested, local area agencies on aging shall provide volunteer training to those persons listed in subsection 1 of this section regarding the detection and report of abuse and neglect pursuant to this section.

4. Any person required in subsection 1 of this section to report or cause a report to be made to the department who fails to do so within a reasonable time after the act of abuse or neglect is guilty of a class A misdemeanor.

5. The report shall contain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, the home health agency, the home health agency employee, information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

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6. In addition to those persons required to report under subsection 1 of this section, any other person having reasonable cause to believe that an in-home services client or home health patient has been abused or neglected by an in-home services employee or home health agency employee may report such information to the department.

7. If the investigation indicates possible abuse or neglect of an in-home services client or home health patient, the investigator shall refer the complaint together with his or her report to the department director or his or her designee for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate action is necessary to protect the in-home services client or home health patient from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the in-home services client or home health patient in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the in-home services client or home health patient, for a period not to exceed thirty days.

8. Reports shall be confidential, as provided under section **[**660.320**]** 197.1040.

9. Anyone, except any person who has abused or neglected an in-home services client or home health patient, who makes a report pursuant to this section or who testifies in any

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administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

10. Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

11. No person who directs or exercises any authority in an in-home services provider agency or home health agency shall harass, dismiss or retaliate against an in-home services client or home health patient, or an in-home services employee or a home health agency employee because he or any member of his or her family has made a report of any violation or suspected violation of laws, standards or regulations applying to the in-home services provider agency or home health agency or any in-home services employee or home health agency employee which he has reasonable cause to believe has been committed or has occurred.

12. Any person who abuses or neglects an in-home services client or home health patient is subject to criminal prosecution under section **[**565.180, 565.182, or**]** 565.184. If such person is an in-home services employee and has been found guilty by a court, and if the supervising in-home services provider willfully and knowingly failed to report known abuse by such employee to the department, the supervising in-home services provider may be subject to administrative penalties of one thousand dollars per violation to be collected by the department and the money

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received therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund. Any in-home services provider which has had administrative penalties imposed by the department or which has had its contract terminated may seek an administrative review of the department's action pursuant to chapter 621. Any decision of the administrative hearing commission may be appealed to the circuit court in the county where the violation occurred for a trial de novo. For purposes of this subsection, the term "violation" means a determination of guilt by a court.

13. The department shall establish a quality assurance and supervision process for clients that requires an in-home services provider agency to conduct random visits to verify compliance with program standards and verify the accuracy of records kept by an in-home services employee.

14. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who have been finally determined by the department, pursuant to section **[**660.315**]** 197.1036, to have recklessly, knowingly or purposely abused or neglected an in-home services client or home health patient while employed by an in-home services provider agency or home health agency. For purposes of this section only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts "knowingly" with respect to the person's conduct when a reasonable person should be aware of the result caused by his or her conduct. A person acts "recklessly" when the person consciously disregards a substantial and unjustifiable risk that

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the person's conduct will result in serious physical injury and such disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

15. At the time a client has been assessed to determine the level of care as required by rule and is eligible for in-home services, the department shall conduct a "Safe at Home Evaluation" to determine the client's physical, mental, and environmental capacity. The department shall develop the safe at home evaluation tool by rule in accordance with chapter 536. The purpose of the safe at home evaluation is to assure that each client has the appropriate level of services and professionals involved in the client's care. The plan of service or care for each in-home services client shall be authorized by a nurse. The department may authorize the licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of the client's condition and to establish a plan of services or care. The department may use the expertise, services, or programs of other departments and agencies on a case-by-case basis to establish the plan of service or care. The department may, as indicated by the safe at home evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for evaluation and treatment as necessary.

16. Authorized nurse visits shall occur at least twice annually to assess the client and the client's plan of services. The provider nurse shall report the results of his or her visits to the client's case manager. If the provider nurse believes that the plan of service requires alteration, the department shall be notified and the department shall make a client

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evaluation. All authorized nurse visits shall be reimbursed to the in-home services provider. All authorized nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients whose services have reached one hundred percent of the average statewide charge for care and treatment in an intermediate care facility, provided that the services have been preauthorized by the department.

17. All in-home services clients shall be advised of their rights by the department or the department's designee at the initial evaluation. The rights shall include, but not be limited to, the right to call the department for any reason, including dissatisfaction with the provider or services. The department may contract for services relating to receiving such complaints. The department shall establish a process to receive such nonabuse and neglect calls other than the elder abuse and neglect hotline.

18. Subject to appropriations, all nurse visits authorized in sections **[**660.250 to 660.300**]** 197.1000 to 197.1030 shall be reimbursed to the in-home services provider agency.

[660.305**]** 197.1032. 1. Any person having reasonable cause to believe that a misappropriation of an in-home services client's property or funds, or the falsification of any documents verifying service delivery to the in-home services client has occurred, may report such information to the department.

2. For each report the department shall attempt to obtain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, information regarding the nature of the misappropriation or falsification, the name of the complainant, and any other

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information which might be helpful in an investigation.

3. Any in-home services provider agency or in-home services employee who puts to his or her own use or the use of the in-home services provider agency or otherwise diverts from the in-home services client's use any personal property or funds of the in-home services client, or falsifies any documents for service delivery, is guilty of a class A misdemeanor.

4. Upon receipt of a report, the department shall immediately initiate an investigation and report information gained from such investigation to appropriate law enforcement authorities.

5. If the investigation indicates probable misappropriation of property or funds, or falsification of any documents for service delivery of an in-home services client, the investigator shall refer the complaint together with the investigator's report to the department director or the director's designee for appropriate action.

6. Reports shall be confidential, as provided under section **[**660.320**]** 197.1040.

7. Anyone, except any person participating in or benefitting from the misappropriation of funds, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

8. Within five working days after a report required to be

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made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

9. No person who directs or exercises any authority in an in-home services provider agency shall harass, dismiss or retaliate against an in-home services client or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the in-home services provider agency or any in-home services employee which he or she has reasonable cause to believe has been committed or has occurred.

10. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who are or have been employed by an in-home service provider agency and who have been finally determined by the department to, pursuant to section **[**660.315**]** 197.1036, have misappropriated any property or funds, or falsified any documents for service delivery of an in-home services client and who came to be known to the person, directly, or indirectly while employed by an in-home services provider agency.

[660.310**]** 197.1034. 1. Notwithstanding any other provision of law, if the department of health and senior services proposes to deny, suspend, place on probation, or terminate an in-home services provider agency contract, the department of health and senior services shall serve upon the applicant or contractor written notice of the proposed action to be taken. The notice shall contain a statement of the type of action proposed, the

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basis for it, the date the action will become effective, and a statement that the applicant or contractor shall have thirty days from the date of mailing or delivery of the notice to file a complaint requesting a hearing before the administrative hearing commission. The administrative hearing commission may consolidate an applicant's or contractor's complaint with any proceeding before the administrative hearing commission filed by such contractor or applicant pursuant to subsection 3 of section 208.156 involving a common question of law or fact. Upon the filing of the complaint, the provisions of sections 621.110, 621.120, 621.125, 621.135, and 621.145 shall apply. With respect to cases in which the department has denied a contract to an in-home services provider agency, the administrative hearing commission shall conduct a hearing to determine the underlying basis for such denial. However, if the administrative hearing commission finds that the contract denial is supported by the facts and the law, the case need not be returned to the department. The administrative hearing commission's decision shall constitute affirmation of the department's contract denial.

2. The department of health and senior services may issue letters of censure or warning without formal notice or hearing.

3. The administrative hearing commission may stay the suspension or termination of an in-home services provider agency's contract, or the placement of the contractor on probation, pending the commission's findings and determination in the cause, upon such conditions, with or without the agreement of the parties, as the commission deems necessary and appropriate, including the posting of bond or other security except that the

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commission shall not grant a stay, or if a stay has already been entered shall set aside its stay, unless the commission finds that the contractor has established that servicing the department's clients pending the commission's final determination would not present an imminent danger to the health, safety, or welfare of any client or a substantial probability that death or serious physical harm would result. The commission may remove the stay at any time that it finds that the contractor has violated any of the conditions of the stay. Such stay shall remain in effect, unless earlier removed by the commission, pending the decision of the commission and any subsequent departmental action at which time the stay shall be removed. In any case in which the department has refused to issue a contract, the commission shall have no authority to stay or to require the issuance of a contract pending final determination by the commission.

4. Stays granted to contractors by the administrative hearing commission shall, as a condition of the stay, require at a minimum that the contractor under the stay operate under the same contractual requirements and regulations as are in effect, from time to time, as are applicable to all other contractors in the program.

5. The administrative hearing commission shall make its final decision based upon the circumstances and conditions as they existed at the time of the action of the department and not based upon circumstances and conditions at the time of the hearing or decision of the commission.

6. In any proceeding before the administrative hearing

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commission pursuant to this section, the burden of proof shall be on the contractor or applicant seeking review.

7. Any person, including the department, aggrieved by a final decision of the administrative hearing commission may seek judicial review of such decision as provided in section 621.145.

[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.

3. If the person so notified wishes to challenge the allegation, such person may file an application for a hearing with the department. The department shall grant the application within thirty days after receipt by the department and set the

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matter for hearing, or the department shall notify the applicant that, after review, the allegation has been held to be unfounded and the applicant's name will not be listed.

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

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

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

7. A person aggrieved by the decision following the hearing

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shall be informed of his or her right to seek judicial review as provided under chapter 536. If the person fails to appeal the director's findings, those findings shall constitute a final determination that the person shall be placed on the employee disqualification list.

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

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

(1) Whether the person acted recklessly or knowingly, as defined in 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

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(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**]**; or

(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

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included in the employee disqualification list. 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.

12. No person, corporation, organization, or association who received the employee disqualification list under subdivisions (1) to (5) 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 (5) 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 who is required to discharge an employee because the employee was placed on a disqualification list maintained by the department of health and senior services after the date of hire 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.

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

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showing, by written submission only, that the person will not commit additional acts of abuse, neglect, misappropriation of the property or funds, or the falsification of any documents of service delivery to an in-home services client. The director may make conditional the removal of a person's name from the list on any terms that the director deems appropriate, and failure to comply with such terms may result in the person's name being relisted. The director's determination of whether to remove the person's name from the list is not subject to appeal.

[660.317**]** 197.1038. 1. For the purposes of this section, the term "provider" means any person, corporation or association who:

(1) Is licensed as an operator pursuant to chapter 198;

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

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

(4) Is an entity licensed pursuant to chapter 197;

(5) Is a public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department of mental health; or

(6) Is a licensed adult day care provider.

2. For the purpose of this section "patient or resident" has the same meaning as such term is defined in section 43.540.

3. Prior to allowing any person who has been hired as a full-time, part-time or temporary position to have contact with any patient or resident the provider shall, or in the case of temporary employees hired through or contracted for an employment

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agency, the employment agency shall prior to sending a temporary employee to a provider:

(1) Request a criminal background check as provided in section 43.540. Completion of an inquiry to the highway patrol for criminal records that are available for disclosure to a provider for the purpose of conducting an employee criminal records background check shall be deemed to fulfill the provider's duty to conduct employee criminal background checks pursuant to this section; except that, completing the inquiries pursuant to this subsection shall not be construed to exempt a provider from further inquiry pursuant to common law requirements governing due diligence. If an applicant has not resided in this state for five consecutive years prior to the date of his or her application for employment, the provider shall request a nationwide check for the purpose of determining if the applicant has a prior criminal history in other states. The fingerprint cards and any required fees shall be sent to the highway patrol's central repository. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual. The provisions relating to applicants for employment who have not resided in this state for five consecutive years shall apply only to persons who have no employment history with a

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licensed Missouri facility during that five-year period. Notwithstanding the provisions of section 610.120, all records related to any criminal history information discovered shall be accessible and available to the provider making the record request; and

(2) Make an inquiry to the department of health and senior services whether the person is listed on the employee disqualification list as provided in section **[**660.315**]** 197.1036.

4. When the provider requests a criminal background check pursuant to section 43.540, the requesting entity may require that the applicant reimburse the provider for the cost of such record check. When a provider requests a nationwide criminal background check pursuant to subdivision (1) of subsection 3 of this section, the total cost to the provider of any background check required pursuant to this section shall not exceed five dollars which shall be paid to the state. State funding and the obligation of a provider to obtain a nationwide criminal background check shall be subject to the availability of appropriations.

5. An applicant for a position to have contact with patients or residents of a provider shall:

(1) Sign a consent form as required by section 43.540 so the provider may request a criminal records review;

(2) Disclose the applicant's criminal history. For the purposes of this subdivision "criminal history" includes any conviction or a plea of guilty to a misdemeanor or felony charge and shall include any suspended imposition of sentence, any suspended execution of sentence or any period of probation or

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parole; and

(3) Disclose if the applicant is listed on the employee disqualification list as provided in section **[**660.315**]** 197.1036.

6. An applicant who knowingly fails to disclose his or her criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class A misdemeanor if the provider knowingly hires or retains a person to have contact with patients or residents and the person has been convicted of, pled guilty to or nolo contendere in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a class A or B felony violation of chapter 565, 566 or 569, or any violation of subsection 3 of section 198.070 or section 568.020.

7. Any in-home services provider agency or home health agency shall be guilty of a class A misdemeanor if such agency knowingly employs a person to provide in-home services or home health services to any in-home services client or home health patient and such person either refuses to register with the family care safety registry or is listed on any of the background check lists in the family care safety registry pursuant to sections 210.900 to 210.937.

8. The highway patrol shall examine whether protocols can be developed to allow a provider to request a statewide fingerprint criminal records review check through local law enforcement agencies.

9. A provider may use a private investigatory agency rather than the highway patrol to do a criminal history records review check, and alternatively, the applicant pays the private

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investigatory agency such fees as the provider and such agency shall agree.

10. Except for the hiring restriction based on the department of health and senior services employee disqualification list established pursuant to section [660.315] 197.1036, the department of health and senior services shall promulgate rules and regulations to waive the hiring restrictions pursuant to this section for good cause. For purposes of this section, "good cause" means the department has made a determination by examining the employee's prior work history and other relevant factors that such employee does not present a risk to the health or safety of residents.

[660.320] 197.1040. 1. Reports confidential under section 198.070 and sections [660.300 to 660.315] 197.1030 to 197.1036 shall not be deemed a public record and shall not be subject to the provisions of section 109.180 or chapter 610. The name of the complainant or any person mentioned in the reports shall not be disclosed unless:

(1) The complainant, resident or the in-home services client mentioned agrees to disclosure of his or her name;

(2) The department determines that disclosure is necessary in order to prevent further abuse, neglect, misappropriation of property or funds, or falsification of any documents verifying service delivery to an in-home services client;

(3) Release of a name is required for conformance with a lawful subpoena;

(4) Release of a name is required in connection with a review by the administrative hearing commission in accordance

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with section 198.039;

(5) The department determines that release of a name is appropriate when forwarding a report of findings of an investigation to a licensing authority; or

(6) Release of a name is requested by the division of family services for the purpose of licensure under chapter 210.

2. The department shall, upon request, provide to the division of employment security within the department of labor and industrial relations copies of the investigative reports that led to an employee being placed on the disqualification list.

[660.321**]** 197.1042. Notwithstanding any other provision of law, the department shall not disclose personally identifiable medical, social, personal, or financial records of any eligible adult being served by the division of senior services except when disclosed in a manner that does not identify the eligible adult, or when ordered to do so by a court of competent jurisdiction. Such records shall be accessible without court order for examination and copying only to the following persons or offices, or to their designees:

(1) The department or any person or agency designated by the department for such purposes as the department may determine;

(2) The attorney general, to perform his or her constitutional or statutory duties;

(3) The department of mental health for residents placed through that department, to perform its constitutional or statutory duties;

(4) Any appropriate law enforcement agency, to perform its constitutional or statutory duties;

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(5) The eligible adult, his or her legal guardian or any other person designated by the eligible adult; and

(6) The department of social services for individuals who receive Medicaid benefits, to perform its constitutional or statutory duties.

198.015. 1. No person shall establish, conduct or maintain a residential care facility, assisted living facility, intermediate care facility, or skilled nursing facility in this state without a valid license issued by the department. Any person violating this subsection is guilty of a class A misdemeanor. Any person violating this subsection wherein abuse or neglect of a resident of the facility has occurred is guilty of a class **[**D**]** E felony. The department of health and senior services shall investigate any complaint concerning operating unlicensed facilities. For complaints alleging abuse or neglect, the department shall initiate an investigation within twenty-four hours. All other complaints regarding unlicensed facilities shall be investigated within forty-five days.

2. If the department determines the unlicensed facility is in violation of sections 198.006 to 198.186, the department shall immediately notify the local prosecuting attorney or attorney general's office.

3. Each license shall be issued only for the premises and persons named in the application. A license, unless sooner revoked, shall be issued for a period of up to two years, in order to coordinate licensure with certification in accordance with section 198.045.

4. If during the period in which a license is in effect, a

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licensed operator which is a partnership, limited partnership, or corporation undergoes any of the following changes, or a new corporation, partnership, limited partnership or other entity assumes operation of a facility whether by one or by more than one action, the current operator shall notify the department of the intent to change operators and the succeeding operator shall within ten working days of such change apply for a new license:

(1) With respect to a partnership, a change in the majority interest of general partners;

(2) With respect to a limited partnership, a change in the general partner or in the majority interest of limited partners;

(3) With respect to a corporation, a change in the persons who own, hold or have the power to vote the majority of any class of securities issued by the corporation.

5. Licenses shall be posted in a conspicuous place on the licensed premises.

6. Any license granted shall state the maximum resident capacity for which granted, the person or persons to whom granted, the date, the expiration date, and such additional information and special limitations as the department by rule may require.

7. The department shall notify the operator at least sixty days prior to the expiration of an existing license of the date that the license application is due. Application for a license shall be made to the department at least thirty days prior to the expiration of any existing license.

8. The department shall grant an operator a temporary operating permit in order to allow for state review of the

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application and inspection for the purposes of relicensure if the application review and inspection process has not been completed prior to the expiration of a license and the operator is not at fault for the failure to complete the application review and inspection process.

9. The department shall grant an operator a temporary operating permit of sufficient duration to allow the department to evaluate any application for a license submitted as a result of any change of operator.

198.070. 1. When any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; social worker; or other person with the care of a person sixty years of age or older or an eligible adult has reasonable cause to believe that a resident of a facility has been abused or neglected, he or she shall immediately report or cause a report to be made to the department.

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2. The report shall contain the name and address of the facility, the name of the resident, information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

3. Any person required in subsection 1 of this section to report or cause a report to be made to the department who knowingly fails to make a report within a reasonable time after the act of abuse or neglect as required in this subsection is guilty of a class A misdemeanor.

4. In addition to the penalties imposed by this section, any administrator who knowingly conceals any act of abuse or neglect resulting in death or serious physical injury, as defined in section **[**565.002**]** 556.061, is guilty of a class **[**D**]** E felony.

5. In addition to those persons required to report pursuant to subsection 1 of this section, any other person having reasonable cause to believe that a resident has been abused or neglected may report such information to the department.

6. Upon receipt of a report, the department shall initiate an investigation within twenty-four hours and, as soon as possible during the course of the investigation, shall notify the resident's next of kin or responsible party of the report and the investigation and further notify them whether the report was substantiated or unsubstantiated unless such person is the alleged perpetrator of the abuse or neglect. As provided in section **[**565.186**]** 197.1010, substantiated reports of elder abuse shall be promptly reported by the department to the appropriate law enforcement agency and prosecutor.

7. If the investigation indicates possible abuse or neglect

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of a resident, the investigator shall refer the complaint together with the investigator's report to the department director or the director's designee for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate removal is necessary to protect the resident from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the resident in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the resident, for a period not to exceed thirty days.

8. Reports shall be confidential, as provided pursuant to section **[**660.320**]** 197.1040.

9. Anyone, except any person who has abused or neglected a resident in a facility, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith or with malicious purpose. It is a crime **[**pursuant to section 565.186 and 565.188**]** under section 565.189 for any person to purposely file a false report of elder abuse or neglect.

10. Within five working days after a report required to be made pursuant to this section is received, the person making the

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report shall be notified in writing of its receipt and of the initiation of the investigation.

11. No person who directs or exercises any authority in a facility shall evict, harass, dismiss or retaliate against a resident or employee because such resident or employee or any member of such resident's or employee's family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the facility which the resident, the resident's family or an employee has reasonable cause to believe has been committed or has occurred. Through the existing department information and referral telephone contact line, residents, their families and employees of a facility shall be able to obtain information about their rights, protections and options in cases of eviction, harassment, dismissal or retaliation due to a report being made pursuant to this section.

12. Any person who abuses or neglects a resident of a facility is subject to criminal prosecution under section **[**565.180, 565.182, or**]** 565.184.

13. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who are or have been employed in any facility and who have been finally determined by the department pursuant to section **[**660.315**]** 197.1036 to have knowingly or recklessly abused or neglected a resident. For purposes of this section only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts "knowingly" with respect to the person's conduct when a reasonable person should be aware of the result caused by his

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or her conduct. A person acts "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the person's conduct will result in serious physical injury and such disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

14. The timely self-reporting of incidents to the central registry by a facility shall continue to be investigated in accordance with department policy, and shall not be counted or reported by the department as a hot-line call but rather a self-reported incident. If the self-reported incident results in a regulatory violation, such incident shall be reported as a substantiated report.

198.097. 1. Any person who assumes the responsibility of managing the financial affairs of an elderly or disabled person who is a resident of any facility licensed under this chapter is guilty of a class **[**D**]** E felony if such person misappropriates the funds and fails to pay for the facility care of the elderly or disabled person. For purposes of this subsection, a person assumes the responsibility of managing the financial affairs of an elderly person when he or she receives, has access to, handles, or controls the elderly or disabled person's monetary funds, including but not limited to Social Security income, pension, cash, or other resident income.

2. Evidence of misappropriating funds and failure to pay for the care of an elderly or disabled person may include but not be limited to proof that the facility has sent, by certified mail with confirmation receipt requested, notification of failure to pay facility care expenses incurred by a resident to the person

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who has assumed responsibility of managing the financial affairs of the resident.

3. Nothing in subsection 2 of this section shall be construed as limiting the investigations or prosecutions of violations of subsection 1 of this section or the crime of financial exploitation of an elderly or disabled person as defined by section 570.145.

198.158. 1. A person committing any act in violation of any provision of sections 198.139 to 198.155 is guilty of a class **[**D**]** E felony.

2. A vendor or health care provider convicted of a criminal violation of sections 198.139 to 198.155 shall be prohibited from receiving future moneys under Medicaid or from providing services under Medicaid for or on behalf of any other health care provider. However, the director of the department or his or her designee shall review this prohibition upon the petition of a vendor or health care provider so convicted and, for good cause shown, may reinstate the vendor or health care provider as being eligible to receive funds under Medicaid. The decision of the director or his or her designee shall be made in writing after the director of the fraud investigation division is allowed the opportunity to state his or her position concerning such petition.

3. A vendor or health care provider committing any act or omission in violation of sections 198.139 to 198.155 shall be civilly liable to the state for any moneys obtained under Medicaid as a result of such act or omission.

205.965. 1. Counties, state agencies, issuing agencies,

retail food outlets, wholesale food concerns, banks and all persons who participate in or administer any part of the distribution program of surplus agricultural commodities or a food stamp plan shall comply with all state and federal laws, rules and regulations applicable to such program or plans and shall be subject to inspection and audit by the division of family services with respect to the operation of the program or plan.

2. To the extent authorized by federal law, all food stamp vendors shall be approved and licensed by the division of family services. The division may promulgate rules and regulations necessary to administer the provisions of this section. The division shall set the amount of the fees for licensing food stamp vendors at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of this section. An action may be brought by the department to temporarily or permanently enjoin or restrain any violation of this subsection or the regulations applicable thereto. Any action brought under the provisions of this subsection shall be heard by the court within no more than twenty days after the action has been filed and service made upon the vendor. Any person who in any way conducts business as a food stamp vendor without approval and license by the division of family services shall be guilty of a class A misdemeanor. A second offense within five years after the first conviction shall be a class **[**D**]** E felony.

3. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has

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been promulgated pursuant to the provisions of section 536.024.

210.165. 1. Any person violating any provision of sections 210.110 to 210.165 is guilty of a class A misdemeanor.

2. Any person who intentionally files a false report of child abuse or neglect shall be guilty of a class A misdemeanor.

3. Every person who has been previously convicted of making a false report to the division of family services and who is subsequently convicted of making a false report under subsection 2 of this section is guilty of a class **[**D**]** E felony and shall be punished as provided by law.

4. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

214.410. 1. Any cemetery operator who shall willfully violate any provisions of sections 214.270 to 214.410 for which no penalty is otherwise prescribed shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed five hundred dollars or shall be confined not more than six months or both.

2. Any cemetery operator who shall willfully violate any provision of section 214.320, 214.330, 214.335, 214.340, 214.360, 214.385, or 214.387 shall be deemed guilty of a class **[**D**]** E felony and upon conviction thereof shall be fined a sum not to exceed ten thousand dollars or shall be confined not more than five years or both. This section shall not apply to cemeteries or cemetery associations which do not sell lots in the cemetery.

3. Any trustee who shall willfully violate any applicable

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provisions of sections 214.270 to 214.410 shall have committed an unsafe and unsound banking practice and shall be penalized as authorized by chapters 361 and 362. This subsection shall be enforced exclusively by the Missouri division of finance for state chartered institutions and the Missouri attorney general for federally chartered institutions.

4. Any person who shall willfully violate any provision of section 214.320, 214.330, 214.335, 214.340, 214.360 or 214.385 or violates any rule, regulation or order of the division may, in accordance with the regulations issued by the division, be assessed an administrative penalty by the division. The penalty shall not exceed five thousand dollars for each violation and each day of the continuing violation shall be deemed a separate violation for purposes of administrative penalty assessment. However, no administrative penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing on the violation. Penalty assessments received shall be deposited in the endowed care cemetery audit fund created in section 193.265.

217.360. 1. It shall be an offense for any person to knowingly deliver, attempt to deliver, have in his or her possession, deposit or conceal in or about the premises of any correctional center, or city or county jail, or private prison or jail:

(1) Any controlled substance as that term is defined by law, except upon the written prescription of a licensed physician, dentist, or veterinarian;

(2) Any other alkaloid of any controlled substance, any

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spirituous or malt liquor, or any intoxicating liquor as defined in section 311.020;

(3) Any article or item of personal property which an offender is prohibited by law or by rule and regulation of the division from receiving or possessing;

(4) Any gun, knife, weapon, or other article or item of personal property that may be used in such manner as to endanger the safety or security of the correctional center, or city or county jail, or private prison or jail or as to endanger the life or limb of any offender or employee of such a center.

2. The violation of subdivision (1) of subsection 1 of this section shall be a class **[**C**]** D felony; the violation of subdivision (2) of subsection 1 of this section shall be a class **[**D**]** E felony; the violation of subdivision (3) of subsection 1 of this section shall be a class A misdemeanor; and the violation of subdivision (4) of subsection 1 of this section shall be a class B felony.

3. Any person who has been found guilty of or has pled guilty to a violation of subdivision (2) of subsection 1 of this section involving any alkaloid shall be entitled to expungement of the record of the violation. The procedure to expunge the record shall be pursuant to section 610.123. The record of any person shall not be expunged if such person has been found guilty of or has pled guilty to knowingly delivering, attempting to deliver, having in his or her possession, or depositing or concealing any alkaloid of any controlled substance in or about the premises of any correctional center, or city or county jail, or private prison or jail.

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217.385. 1. No offender shall knowingly commit violence to an employee of the department or to another offender housed in a department correctional center. Violation of this subsection shall be a class B felony.

2. No offender shall knowingly damage any building or other property owned or operated by the department. Violation of this subsection shall be a class **[**C**]** D felony.

217.400. 1. A person commits the crime of furnishing unfit food to offenders if he does any of the following:

(1) Knowingly furnishes or delivers any diseased, putrid or otherwise unwholesome meat from any animal or fowl that was diseased or otherwise unfit for food to any correctional center operated or funded by the department;

(2) Knowingly furnishes or delivers any other unwholesome food, vegetables or provisions whatsoever to such correctional centers to be used as food by the offenders in such correctional centers;

(3) Knowingly receives or consents to receive as an employee of such correctional center any diseased or unwholesome meat, food or provisions.

2. Furnishing unfit food to offenders is a class **[**D**]** E felony.

217.405. 1. Except as provided in subsection 3 of this section, a person commits the crime of "offender abuse" if he knowingly injures the physical well-being of any offender under the jurisdiction of the department by beating, striking, wounding or by sexual contact with such person.

2. Offender abuse is a class **[**C**]** D felony.

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3. No employee of the department shall use any physical force on an offender except the employee shall have the right to use such physical force as is necessary to defend himself or herself, suppress an individual or group revolt or insurrection, enforce discipline or to secure the offender.

217.542. 1. An offender of the department released to the house arrest program commits the crime of failure to return to house arrest if he or she purposely fails to return to his or her place of residence or activity authorized by subsection 3 of section 217.541 when he or she is required to do so.

2. Failure to return to house arrest is a class **[**D**]** E felony.

217.543. 1. The jailer of any city not within a county having custody of pretrial detainees or persons serving sentences for violation of state or local laws may establish a program of house arrest consistent with the provisions of this section.

2. Such jailer shall by rule establish a program of house arrest. Such jailer may extend the limits of confinement for pretrial detainees or persons serving sentences for violation of state or local laws.

3. The inmate or detainee shall remain an inmate of such jailer and shall be subject to the rules and regulations of the house arrest program.

4. Such jailer shall require the inmate or detainee to participate in work or educational or vocational programs and other activities that may be necessary to the supervision and treatment of the inmate or detainee.

5. An inmate or detainee released to house arrest shall be

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authorized to leave his or her place of residence only for the purpose and time necessary to participate in the programs and activities authorized.

6. Such jailer shall supervise every inmate or detainee released to the house arrest program and shall verify compliance with the requirements set forth for each person so released and such other rules and regulations that such jailer shall promulgate, and may do so by remote electronic surveillance. Such jailer may direct to any peace officer the return of any inmate or detainee from house arrest for violation of the conditions of release.

7. Each inmate or detainee who is released on house arrest shall pay a percentage of his or her wages to cover the costs of house arrest, such amount to be established by the jailer.

8. An inmate released to the house arrest program pursuant to this section commits the crime of escape from custody if such inmate purposely fails to return to his or her place of residence or activity as established by the jailer when he or she is required to do so. Escape from custody is a class **[**D**]** E felony.

217.692. 1. Notwithstanding any other provision of law to the contrary, any offender incarcerated in a correctional institution serving any sentence of life with no parole for fifty years or life without parole, whose plea of guilt was entered or whose trial commenced prior to December 31, 1990, and who:

(1) Pleaded guilty to or was found guilty of a homicide of a spouse or domestic partner;

(2) Has no prior violent felony convictions;

(3) No longer has a cognizable legal claim or legal

recourse; and

(4) Has a history of being a victim of continual and substantial physical or sexual domestic violence that was not presented as an affirmative defense at trial or sentencing and such history can be corroborated with evidence of facts or circumstances which existed at the time of the alleged physical or sexual domestic violence of the offender, including but not limited to witness statements, hospital records, social services records, and law enforcement records; shall be eligible for parole after having served fifteen years of such sentence when the board determines by using the guidelines established by this section that there is a strong and reasonable probability that the person will not thereafter violate the law.

2. The board of probation and parole shall give a thorough review of the case history and prison record of any offender described in subsection 1 of this section. At the end of the board's review, the board shall provide the offender with a copy of a statement of reasons for its parole decision.

3. Any offender released under the provisions of this section shall be under the supervision of the parole board for an amount of time to be determined by the board.

4. The parole board shall consider, but not be limited to the following criteria when making its parole decision:

(1) Length of time served;

(2) Prison record and self-rehabilitation efforts;

(3) Whether the history of the case included corroborative material of physical, sexual, mental, or emotional abuse of the offender, including but not limited to witness statements,

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hospital records, social service records, and law enforcement records;

(4) If an offer of a plea bargain was made and if so, why the offender rejected or accepted the offer;

(5) Any victim information outlined in subsection 7 of section 217.690 and section 595.209;

(6) The offender's continued claim of innocence;

(7) The age and maturity of the offender at the time of the board's decision;

(8) The age and maturity of the offender at the time of the crime and any contributing influence affecting the offender's judgment;

(9) The presence of a workable parole plan; and

(10) Community and family support.

5. Nothing in this section shall limit the review of any offender's case who is eligible for parole prior to fifteen years, nor shall it limit in any way the parole board's power to grant parole prior to fifteen years.

6. Nothing in this section shall limit the review of any offender's case who has applied for executive clemency, nor shall it limit in any way the governor's power to grant clemency.

7. It shall be the responsibility of the offender to petition the board for a hearing under this section.

8. A person commits the crime of perjury if he or she, with the purpose to deceive, knowingly makes a false witness statement to the board. Perjury under this section shall be a class **[**C**]** <u>D</u> felony.

9. In cases where witness statements alleging physical or

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sexual domestic violence are in conflict as to whether such violence occurred or was continual and substantial in nature, the history of such alleged violence shall be established by other corroborative evidence in addition to witness statements, as provided by subsection 1 of this section. A contradictory statement of the victim shall not be deemed a conflicting statement for purposes of this section.

221.025. 1. As an alternative to confinement, an individual may be placed on electronic monitoring pursuant to subsection 1 of section 544.455 or subsection 6 of section 557.011, with such terms and conditions as a court shall deem just and appropriate under the circumstances.

2. A judge may, in his or her discretion, credit any such period of electronic monitoring against any period of confinement or incarceration ordered, however, electronic monitoring shall not be considered to be in custody or incarceration for purposes of eligibility for the MO HealthNet program, nor shall it be considered confinement in a correctional center or private or county jail for purposes of determining responsibility for the individual's health care.

3. This section shall not authorize a court to place an individual on electronic monitoring in lieu of the required imprisonment, community service, or court-ordered treatment program involving community service, if that individual is a prior, persistent, aggravated, **[**or**]** chronic<u>, or habitual</u> offender sentenced pursuant to section **[**577.023**]** <u>577.001</u>.

221.111. 1. No person shall knowingly deliver, attempt to deliver, have in such person's possession, deposit or conceal in

or about the premises of any county or private jail or other county correctional facility:

(1) Any controlled substance as that term is defined by law, except upon the written prescription of a licensed physician, dentist, or veterinarian;

(2) Any other alkaloid of any kind or any spiritous or malt liquor;

(3) Any article or item of personal property which a prisoner is prohibited by law or rule made pursuant to section 221.060 from receiving or possessing, except as herein provided;

(4) Any gun, knife, weapon, or other article or item of personal property that may be used in such manner as to endanger the safety or security of the institution or as to endanger the life or limb of any prisoner or employee thereof.

2. The violation of subdivision (1) of subsection 1 of this section shall be a class **[**C**]** D felony; the violation of subdivision (2) of this section shall be a class **[**D**]** E felony; the violation of subdivision (3) of this section shall be a class A misdemeanor; and the violation of subdivision (4) of this section shall be a class B felony.

3. The chief operating officer of a county jail or other county correctional facility or the administrator of a private jail may deny visitation privileges to or refer to the county prosecuting attorney for prosecution any person who knowingly delivers, attempts to deliver, has in such person's possession, deposits or conceals in or about the premises of such jail or facility any personal item which is prohibited by rule or regulation of such jail or facility. Such rules or regulations,

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including a list of personal items allowed in the jail or facility, shall be prominently posted for viewing both inside and outside such jail or facility in an area accessible to any visitor, and shall be made available to any person requesting such rule or regulation. Violation of this subsection shall be an infraction if not covered by other statutes.

221.353. 1. A person commits the crime of damage to jail property if such person knowingly damages any city, county, or private jail building or other jail property.

2. A person commits the crime of damage to jail property if such person knowingly starts a fire in any city, county, or private jail building or other jail property.

3. Damage to jail property is a class **[**D**]** E felony.

252.235. The sale, taking for sale or possession for sale of any species of fish or wildlife, or parts thereof, which shall include eggs, which have been taken or possessed in violation of the rules and regulations of the commission, is prohibited. Any person violating the provisions of this section shall be guilty of a class A misdemeanor for the first offense if the sale amounts to less than five hundred dollars. Any person violating the provisions of this section shall be guilty of a class **[**D**]** E felony for the second and subsequent offense if the sale amounts to less than five hundred dollars. Any person violating the provisions of this section shall be guilty of a class **[**C**]** D felony for the first and all subsequent offenses if the sale amounts to five hundred dollars or more. "Sale" means the exchange of an amount of money, other negotiable instruments, or property of value received by the person or persons selling the

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prohibited species. "Sale", for purposes of this section, shall also mean the intention to exchange an amount of money, other negotiable instruments or property of value for a prohibited species. For the purposes of this section "property" is defined by section 570.010 and value shall be ascertained as set forth in section 570.020.

260.207. 1. The department of natural resources shall not issue a permit to any person for the operation of any solid waste processing facility or solid waste disposal area pursuant to sections 260.200 to 260.345 if such person has been determined to habitually violate Missouri environmental statutes, the environmental statutes of other states or federal statutes pertaining to environmental control or if such person has had three or more convictions, which convictions occurred after August 28, 1990, and within any five-year period, within a court of the United States or of any state other than Missouri or has had two or more convictions within Missouri, after August 28, 1990, and within any five-year period, for any crimes or criminal acts, an element of which involves restraint of trade, price-fixing, intimidation of the customers of another person or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated under this chapter or similar laws of other states or the federal government; except that convictions for violations by entities purchased or acquired by an applicant or permittee which occurred prior to the purchase or acquisition shall not be included. For the purpose of this section the term "person" shall include any business organization or entity, successor

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corporation, partnership or subsidiary of any business organization or entity, and the owners and officers thereof, of the entity submitting the application.

2. The director shall suspend, revoke or not renew the permit of any person with a permit to operate any solid waste processing facility or solid waste disposal area if such person has been determined by the department of natural resources to habitually violate the requirements of the Missouri environmental statutes, of the environmental statutes of other states, or of federal statutes pertaining to environmental control, or if such person has had three or more convictions in any court of the United States or of any state other than Missouri or has had two or more convictions within Missouri of crimes as specified herein, if such convictions occur after August 28, 1990, and within any five-year period.

3. Any person applying for a permit to operate any facility pursuant to sections 260.200 to 260.345 shall notify the director of any conviction for a crime which would have the effect of limiting competition. Any person holding a permit shall notify the department of any such conviction of any crime as specified herein within thirty days of the conviction. Failure to notify the director is a class **[**D**]** E felony and subject to a fine of one thousand dollars per day for each day unreported.

4. Any person who has had a permit denied, revoked or not renewed due to the provisions of this section may apply to the director for reinstatement after five years have elapsed from the time of the most recent conviction.

260.208. No city, county, district, authority or other

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political subdivision of this state shall enter into a contract or other arrangement for solid waste management services with any person who has been convicted as set out in section 260.207, which convictions occur after August 28, 1990, and within any five-year period, except that the prohibitions of this section shall not apply to any person convicted as provided in section 260.207 after five years have elapsed from the most recent conviction. Any person submitting a bid to a city, county, district, authority or other political subdivision for a contract to provide solid waste management services who, after August 28, 1990, has been convicted of crimes which have the effect of limiting competition as set out in section 260.207, shall notify the city, county, district, authority or other political subdivision of such conviction with the submission of the bid. Any person with a contract for solid waste management services with a city, county, district, authority or other political subdivision of this state who is convicted of crimes which would have the effect of limiting competition as set out in section 260.207, shall notify the city, county, district, authority or other political subdivision of such conviction within thirty days of the conviction. Failure to notify the city, county, district, authority, or other political subdivision as required in this section is a class **[**D**]** E felony and subject to a fine of one thousand dollars per day for each day unreported.

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

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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.

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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.

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

6. Any person shall be guilty of conspiracy as defined in section 564.016 if he or she knows or should have known that his or her agent or employee has committed the acts described in

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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 purposely or knowingly disposes of or causes the disposal of more than five hundred pounds or one hundred cubic feet of commercial or residential solid waste on property in this state other than 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. Criminal disposition of solid waste is a class **[**D**]** E felony. In addition to other penalties prescribed by law, a person convicted of criminal disposition of solid waste is subject to a fine, and 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 solid waste under this subsection did so for remuneration as a part of an ongoing commercial activity, the court shall set a

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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. The court shall order any person convicted of illegally disposing of solid 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.

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

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

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

260.379. 1. The department of natural resources shall not issue a permit to any person for the operation of any facility or issue any license to any person under the authority of sections

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260.350 to 260.434, if such person has had three or more convictions, which convictions occurred after July 9, 1990, and within any five-year period within the courts of the United States or of any state except Missouri or had two or more convictions within a Missouri court after July 9, 1990, and within any five-year period, for any crimes or criminal acts, an element of which involves restraint of trade, price-fixing, intimidation of the customers of any person or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated under this chapter or similar laws of other states or the federal government; except that convictions for violations by entities purchased or acquired by an applicant or permittee which occurred prior to the purchase or acquisition shall not be included. For the purpose of this section, the term "person" shall include any business organization or entity, successor corporation, partnership or subsidiary of any business organization or entity, and the owners and officers thereof, or the entity submitting the application.

2. The director shall suspend, revoke or not renew the permit or license of any person issued pursuant to sections 260.350 to 260.434, if such person has had two or more convictions in any court of the United States or of any state other than Missouri or two or more convictions within a Missouri court for crimes as specified herein if such conviction occurred after July 9, 1990, and within any five-year period.

3. Any person applying for a permit or license under sections 260.350 to 260.434 shall notify the director of any

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conviction for any act which would have the effect of limiting competition. Any person with a permit or license shall notify the department of any such conviction within thirty days of the conviction or plea. Failure to notify the director is a class **[**D**]** E felony and subject to a fine of one thousand dollars per day for each day unreported.

4. Provided that after a period of five years after a permit has been revoked under the provisions of this section, the person, firm or corporation affected may apply for rehabilitation and reinstatement to the director of the department. The department shall promulgate the necessary rules and regulations for rehabilitation and reinstatement. The time period for same shall not exceed five years.

270.260. 1. Any person who recklessly or knowingly releases any swine to live in a wild or feral state upon any public land or private land not completely enclosed by a fence capable of containing such animals is guilty of a class A misdemeanor. Each swine so released shall be a separate offense.

2. Every person who has previously pled guilty to or been found guilty of violating the provisions of this section, committed on two separate occasions where such offense occurred within ten years of the date of the occurrence of the present offense and who subsequently pleads guilty to or is found guilty of violating this section shall be guilty of a class **[**D**]** E felony.

3. Nothing in this section shall be construed to criminalize the accidental escape of domestic swine.

276.421. 1. All applications shall be accompanied by a

true and accurate financial statement of the applicant, prepared within six months of the date of application, setting forth all the assets, liabilities and net worth of the applicant. In the event that the applicant has been engaged in business as a grain dealer for at least one year, the financial statement shall set forth the aggregate dollar amount paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the last completed fiscal period of the applicant. In the event the applicant has been engaged in business for less than one year or has not previously engaged in business as a grain dealer, the financial statement shall set forth the estimated aggregate dollar amount to be paid for grain purchased in Missouri and those states with whom Missouri has entered into contracts or agreements as authorized by section 276.566 during the applicant's initial fiscal period. All applications shall also be accompanied by a true and accurate statement of income and expenses for the applicant's most recently completed fiscal year. The financial statements required by this chapter shall be prepared in conformity with generally accepted accounting principles; except that the director may promulgate rules allowing for the valuation of assets by competent appraisal.

2. The financial statement required by subsection 1 of this section shall be audited or reviewed by a certified public accountant. The financial statement may not be audited or reviewed by the applicant, or an employee of the applicant, if an individual, or, if the applicant is a corporation or partnership, by an officer, shareholder, partner, or a direct employee of the

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applicant.

3. The director may require any additional information or verification with respect to the financial resources of the applicant as he deems necessary for the effective administration of this chapter. The director may promulgate rules setting forth minimum standards of acceptance for the various types of financial statements filed in accordance with the provisions of this chapter. The director may promulgate rules requiring a statement of retained earnings, a statement of changes in financial position, and notes and disclosures to the financial statements for all licensed grain dealers or all grain dealers required to be licensed. The additional information or verification referred to herein may include, but is not limited to, requiring that the financial statement information be reviewed or audited in accordance with standards established by the American Institute of Certified Public Accountants.

4. All grain dealers shall provide the director with a copy of all financial statements and updates to financial statements utilized to secure the bonds required by sections 276.401 to 276.582.

5. All financial statements submitted to the director for the purposes of this chapter shall be accompanied by a certification by the applicant or the chief executive officer of the applicant, subject to the penalty provision set forth in subsection 4 of section 276.536, that to the best of his <u>or her</u> knowledge and belief the financial statement accurately reflects the financial condition of the applicant for the fiscal period covered in the statement.

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6. Any person who knowingly prepares or assists in the preparation of an inaccurate or false financial statement which is submitted to the director for the purposes of this chapter, or who during the course of providing bookkeeping services or in reviewing or auditing a financial statement which is submitted to the director for the purposes of this chapter, becomes aware of false information in the financial statement and does not disclose in notes accompanying the financial statements that such false information exists, or does not disassociate himself from the financial statements prior to submission, is guilty of a class **[**C**]** D felony. Additionally, such persons are liable for any damages incurred by sellers of grain selling to a grain dealer who is licensed or allowed to maintain his or her license based upon inaccuracies or falsifications contained in the financial statement.

7. Any licensed grain dealer or applicant for a grain dealer's license shall maintain a minimum net worth equal to five percent of annual grain purchases as set forth in the financial statements required by this chapter. If the dealer or applicant is deficient in meeting this net worth requirement, he or she must post additional bond as required in section 276.436.

8. (1) Any licensed grain dealer or applicant for a grain dealer's license shall have and maintain current assets at least equal to one hundred percent of current liabilities. The financial statement required by this chapter shall set forth positive working capital in the form of a current ratio of the total adjusted current assets to the total adjusted current liabilities of at least one to one.

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(2) The director may allow applicants to offset negative working capital by increasing the grain dealer surety bond required by section 276.426 up to the total amount of negative working capital at the discretion of the director.

(3) Adjusted current assets shall be calculated by deducting from the stated current assets shown on the financial statement submitted by the applicant any current asset resulting from notes receivable from related persons, accounts receivable from related persons, stock subscriptions receivable, and any other related person receivables.

(4) A disallowed current asset shall be netted against any related liability and the net result, if an asset, shall be subtracted from the current assets.

276.536. 1. Upon conviction, any person who does any of the following is guilty of a class B misdemeanor:

(1) Engaging in the business of being a grain dealer without securing a license prior to engaging in said business. If a grain dealer has been charged, and has paid, a penalty fee for operating without a license as set forth in section 276.411, the grain dealer may not be charged with a class B misdemeanor for operating without a license for the time period covered by the penalty fee;

(2) Violating any of the provisions of sections 276.401 to 276.581;

(3) Impeding, hindering, obstructing, or otherwise preventing or attempting to prevent the director, the director's designated representative, employees, or any auditor in the performance of his or her duty in connection with sections

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276.401 to 276.581 or the regulations promulgated pursuant thereto;

(4) On the part of any person, refusing to permit inspection of his or her premises, books, accounts or records as provided in sections 276.401 to 276.581.

2. In case of a continuing violation, each day a violation occurs constitutes a separate and distinct offense.

3. It shall be the duty of the attorney general or each prosecuting attorney to whom any violation of sections 276.401 to 276.581 is reported to cause appropriate proceedings under this section to be instituted and prosecuted in a court of competent jurisdiction without delay. Before a violation is reported for prosecution, the director may give the grain dealer an opportunity to present his or her views at an informal hearing. In the event the director determines that a prosecutor to whom a violation has been reported has failed to institute appropriate proceedings, the director may make a written report of the failure to institute proceedings to the attorney general. The attorney general may investigate the circumstances which resulted in the report. If the attorney general determines additional proceedings are appropriate, he or she shall cause such proceedings to be instituted. When the attorney general causes such a proceeding to be instituted, he or she shall have all the powers and rights of the office of the prosecuting attorney to whom the violation was originally reported. Such powers and rights are restricted to the prosecution of the specific case reported.

4. A grain dealer licensed or required to be licensed

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under sections 276.401 to 276.581, or any officer, agent, or servant of such grain dealer who files false records, scale tickets, financial papers or accounts with the director, or who withholds records, scale tickets, financial papers or accounts from the director, or who alters records, scale tickets, financial papers or accounts in order to conceal amounts owed to sellers of grain or actual amounts of grain received and paid or not paid for or for the purpose of in any way misleading department auditors and officials is, upon conviction, guilty of a class **[**C**]** D felony.

5. Any duly authorized officer or employee appointed under the provisions of sections 276.401 to 276.581 who neglects his or her duty, or who knowingly or carelessly inspects, grades, tests, or weighs any grain improperly, conducts an inspection improperly, intentionally falsifies any inspection report, or intentionally gives false information, or who accepts any money or other valuable consideration, directly or indirectly, for any neglect of duty as such duly authorized officer or employee in the performance of his or her duties as such officer or employee is deemed guilty of a class B misdemeanor.

277.180. 1. Any person who offers a bribe to any livestock market or sale operator or market veterinarian for the purpose of inducing such operator or veterinarian to violate the provisions of this chapter shall be guilty of a class **[**D**]** E felony.

2. Nothing contained in this chapter shall be construed to authorize any private cause of action, or to establish any substitute principal of a law in connection therewith.

285.306. Every employee shall complete the withholding form

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referred to in section 285.300. Any such employee who refuses to complete the withholding form shall be guilty of a class **[**D**]** E felony.

285.308. Any employee who states on the withholding form that he does not owe child support when such employee knowingly owes child support pursuant to a valid court order or administrative order is guilty of a class **[**D**]** E felony.

287.128. 1. It shall be unlawful for any person to knowingly present or cause to be presented any false or fraudulent claim for the payment of benefits pursuant to a workers' compensation claim.

2. It shall be unlawful for any insurance company or self-insurer in this state to knowingly and intentionally refuse to comply with known and legally indisputable compensation obligations with intent to defraud.

3. It shall be unlawful for any person to:

(1) Knowingly present multiple claims for the same occurrence with intent to defraud;

(2) Knowingly assist, abet, solicit or conspire with:

(a) Any person who knowingly presents any false or fraudulent claim for the payment of benefits;

(b) Any person who knowingly presents multiple claims for the same occurrence with an intent to defraud; or

(c) Any person who purposefully prepares, makes or subscribes to any writing with the intent to present or use the same, or to allow it to be presented in support of any such claim;

(3) Knowingly make or cause to be made any false or

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fraudulent claim for payment of a health care benefit;

(4) Knowingly submit a claim for a health care benefit which was not used by, or on behalf of, the claimant;

(5) Knowingly present multiple claims for payment of the same health care benefit with an intent to defraud;

(6) Knowingly make or cause to be made any false or fraudulent material statement or material representation for the purpose of obtaining or denying any benefit;

(7) Knowingly make or cause to be made any false or fraudulent statements with regard to entitlement to benefits with the intent to discourage an injured worker from making a legitimate claim;

(8) Knowingly make or cause to be made a false or fraudulent material statement to an investigator of the division in the course of the investigation of fraud or noncompliance. For the purposes of subdivisions (6), (7), and (8) of this subsection, the term "statement" includes any notice, proof of injury, bill for services, payment for services, hospital or doctor records, X-ray or test results.

4. Any person violating any of the provisions of subsection 1 or 2 of this section shall be guilty of a class **[**D**]** E felony. In addition, the person shall be liable to the state of Missouri for a fine up to ten thousand dollars or double the value of the fraud whichever is greater. Any person violating any of the provisions of subsection 3 of this section shall be guilty of a class A misdemeanor and the person shall be liable to the state of Missouri for a fine up to ten thousand dollars. Any person who has previously pled guilty to or has been found guilty of

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violating any of the provisions of subsection 1, 2 or 3 of this section and who subsequently violates any of the provisions of subsection 1, 2 or 3 of this section shall be guilty of a class **[**C**]** D felony.

5. It shall be unlawful for any person, company, or other entity to prepare or provide an invalid certificate of insurance as proof of workers' compensation insurance. Any person violating any of the provisions of this subsection shall be guilty of a class **[**D**]** E felony and, in addition, shall be liable to the state of Missouri for a fine up to ten thousand dollars or double the value of the fraud, whichever is greater.

6. Any person who knowingly misrepresents any fact in order to obtain workers' compensation insurance at less than the proper rate for that insurance shall be guilty of a class A misdemeanor. Any person who has previously pled guilty to or has been found guilty of violating any of the provisions of this section and who subsequently violates any of the provisions of this section shall be guilty of a class **[**D**]** E felony.

7. Any employer who knowingly fails to insure his liability pursuant to this chapter shall be guilty of a class A misdemeanor and, in addition, shall be liable to the state of Missouri for a penalty in an amount up to three times the annual premium the employer would have paid had such employer been insured or up to fifty thousand dollars, whichever amount is greater. Any person who has previously pled guilty to or has been found guilty of violating any of the provisions of this section and who subsequently violates any of the provisions of this section shall be guilty of a class **[**D**]** E felony.

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8. Any person may file a complaint alleging fraud or noncompliance with this chapter with a legal advisor in the division of workers' compensation. The legal advisor shall refer the complaint to the fraud and noncompliance unit within the division. The unit shall investigate all complaints and present any finding of fraud or noncompliance to the director, who may refer the file to the attorney general. The attorney general may prosecute any fraud or noncompliance associated with this chapter. All costs incurred by the attorney general associated with any investigation and prosecution pursuant to this subsection shall be paid out of the workers' compensation fund. Any fines or penalties levied and received as a result of any prosecution under this section shall be paid to the workers' compensation fund. Any restitution ordered as a part of the judgment shall be paid to the person or persons who were defrauded.

9. Any and all reports, records, tapes, photographs, and similar materials or documentation submitted by any person, including the department of insurance, financial institutions and professional registration, to the fraud and noncompliance unit or otherwise obtained by the unit pursuant to this section, used to conduct an investigation for any violation under this chapter, shall be considered confidential and not subject to the requirements of chapter 610. Nothing in this subsection prohibits the fraud and noncompliance unit from releasing records used to conduct an investigation to the local, state, or federal law enforcement authority or federal or state agency conducting an investigation, upon written request.

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10. There is hereby established in the division of workers' compensation a fraud and noncompliance administrative unit responsible for investigating incidences of fraud and failure to comply with the provisions of this chapter.

11. Any prosecution for a violation of the provisions of this section or section 287.129 shall be commenced within three years after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is not a party to the offense. As used in this subsection, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting attorney having jurisdiction to prosecute the action.

12. By January 1, 2006, the attorney general shall forward to the division and the members of the general assembly the first edition of an annual report of the costs of prosecuting fraud and noncompliance under this chapter. The report shall include the number of cases filed with the attorney general by county by the fraud and noncompliance unit, the number of cases prosecuted by county by the attorney general, fines and penalties levied and received, and all incidental costs.

287.129. 1. A health care provider commits a fraudulent workers' compensation insurance act if he knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented, to or by an insurer, purported insurer, broker, or any agent thereof, any claim for payment or other benefit which involves any one or more of the following false billing practices:

(1) "Unbundling" an insurance claim by claiming a number of

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medical procedures were performed instead of a single comprehensive procedure;

(2) "Upcoding" a medical, hospital or rehabilitative insurance claim by claiming that a more serious or extensive procedure was performed than was actually performed;

(3) "Exploding" a medical, hospital or rehabilitative insurance claim by claiming a series of tests were performed on a single sample of blood, urine, or other bodily fluid, when actually the series of tests were part of one battery of tests; or

(4) "Duplicating" a medical, hospital or rehabilitative insurance claim made by a health care provider by resubmitting the claim through another health care provider in which the original health care provider has an ownership interest. Nothing in this section shall prohibit providers from making good faith efforts to ensure that claims for reimbursement are coded to reflect the proper diagnosis and treatment.

2. If, by its own inquiries or as a result of complaints, the department of insurance, financial institutions and professional registration has reason to believe that a person has engaged in, or is engaging in, any fraudulent workers' compensation insurance act contained in this section, it may administer oaths and affirmations, serve subpoenas ordering the attendance of witnesses or proffering of matter, and collect evidence.

3. If the matter that the department of insurance, financial institutions and professional registration seeks to obtain by request is located outside the state, the person so

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requested may make it available to the division or its representative to examine the matter at the place where it is located. The department may designate representatives, including officials of the state in which the matter is located, to inspect the matter on its behalf, and it may respond to similar requests from officials of other states.

4. Any person violating any of the provisions of subsection 1 of this section is guilty of a class A misdemeanor and the person shall be liable to the state of Missouri for a fine up to twenty thousand dollars. Any person who has previously pled guilty to or has been found guilty of violating any of the provisions of subsection 1 of this section and who subsequently violates any of the provisions of subsection 1 of this section is guilty of a class **[**D**]** E felony.

288.250. 1. Information obtained from any employing unit or individual pursuant to the administration of this law shall be held confidential and shall not be published, further disclosed, or be open to public inspection in any manner revealing the individual's or employing unit's identity, but any claimant or employing unit or their authorized representative shall be supplied with information from the division's records to the extent necessary for the proper preparation and presentation of any claim for unemployment compensation benefits or protest of employer liability. Further, upon receipt of a written request from a claimant or his or her authorized representative, the division shall supply information previously submitted to the division by the claimant, the claimant's wage history and the claimant's benefit payment history. In addition, upon receipt of

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a written request from an authorized representative of an employing unit, the division shall supply information previously submitted to the division by the employing unit, and information concerning the payment of benefits from the employer's account and the unemployment compensation fund, including amounts paid to specific claimants. A state or federal official or agency may receive disclosures to the extent required by federal law. In the division's discretion, any other party may receive disclosures to the extent authorized by state and federal law. Any information obtained by the division in the administration of this law shall be privileged and no individual or type of organization shall be held liable for slander or libel on account of any such information.

2. Any person who intentionally discloses or otherwise fails to protect confidential information in violation of this section shall be guilty of a class A misdemeanor. For a second or subsequent violation, the person shall be guilty of a class **[**D**]** E felony.

288.395. Any person or entity perpetrating a fraud or misrepresentation under this chapter for which a penalty has not herein been specifically provided shall be guilty of a class A misdemeanor and, in addition, shall be liable to this state for a civil penalty not to exceed the value of the fraud. Any person or entity who has previously pled guilty to or has been found guilty of perpetrating a fraud or misrepresentation under this chapter and who subsequently violated any such provisions shall be guilty of a class **[**D**]** E felony.

301.390. 1. No person shall sell, or offer for sale, or

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shall knowingly have the custody or possession of a motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment on which the original manufacturer's number or other distinguishing number has been destroyed, removed, covered, altered or defaced, and no person shall sell, offer for sale, or knowingly have the custody or possession of a motor vehicle or trailer having no manufacturer's number or other original number, or distinguishing number. Every motor vehicle and trailer shall have an original manufacturer's number or other distinguishing number assigned by the manufacturer.

2. Every peace officer who has probable cause to believe and has knowledge of a motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment, the number of which has been removed, covered, altered, destroyed or defaced, and for which no special number has been issued, shall be authorized to immediately seize and take possession of such motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment, and may arrest the supposed owner or custodian thereof and cause prosecution to be begun in a court of competent jurisdiction.

3. The law enforcement authority having seized it shall retain custody of the motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment pending the prosecution of the person arrested. If the person arrested

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should be found guilty, such motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment shall be transferred to the custody of the court until the fine and costs of prosecution are paid. No property shall be released from the custody of the court until a special number shall have been issued by the director of revenue on an application of the supposed owner, approved by the court.

4. In case such fine and costs not be paid within thirty days from the date of judgment, the court shall advertise and sell such motor vehicle, boat, outboard motor, vehicle part, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment in the manner provided by law for the sale of personal property under execution. The advertisement shall contain a description of the motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment and a copy thereof shall be mailed to the director of revenue. The proceeds of such sale shall be applied, first, to the payment of the fine and costs of the prosecution and sale, and any sum remaining shall be paid by the court to the owner, and the motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment shall not be delivered to the purchaser thereof until he shall first have secured a special number from the director of revenue, on the application of the purchaser, approved by the court.

5. If at any time while such motor vehicle, vehicle part,

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boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment remains in the custody of the court or law enforcement authority having seized it, the true owner thereof shall appear and prove to the satisfaction of the court or law enforcement authority proper ownership of and entitlement to said item, it shall be returned to the owner after he has obtained from the director of revenue a special number, on application made by the owner.

6. Violation of any provision of this section is a class **[**D**]** E felony.

301.400. Any person who removes, covers, alters or defaces, or causes to be destroyed, removed, covered, altered or defaced, the manufacturer's number, the motor number or other distinguishing number on any motor vehicle, or number or other distinguishing number on any motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment, the property of another, for any reason, shall be deemed guilty of a class **[**C**]** D felony.

301.401. 1. Any person who removes, covers, alters, or defaces, or causes to be destroyed, removed, covered, altered, or defaced, the manufacturer's serial number, the motor number or other distinguishing number on special mobile equipment or special mobile equipment tires, the property of another, for any reason, shall be deemed guilty of a class **[**D**]** E felony. Further, any person who knowingly buys, sells, receives, disposes of, conceals or has in his possession special mobile equipment or special mobile equipment tires from which the manufacturer's serial number, motor number or other distinguishing number has

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been removed, covered, altered, defaced or destroyed shall be deemed guilty of a class **[**D**]** E felony.

2. Every peace officer who has probable cause to believe that and has knowledge of an item of special mobile equipment on which the original manufacturer's distinguishing number has been removed, covered, altered, or defaced shall be authorized to seize immediately and to take possession of said item of special mobile equipment.

3. If at any time while such special mobile equipment remains in the custody of the law enforcement authority having seized it, the true owner thereof shall appear and prove to the satisfaction of such law enforcement authority his ownership of and entitlement to said item of special mobile equipment, it shall be returned to said owner subject to its being made available for use in any criminal prosecution under this section.

4. If, after twelve months, no person has appeared and proved he is the true owner of an item of special mobile equipment seized under this section, the court in which such prosecution was begun may advertise and sell said item of special mobile equipment under such terms as are reasonable. The proceeds of such sale shall be applied, first, to the payment of any expenses incurred in association with such sale; second, to the payment of the fine and costs of prosecution; and the balance, if any, shall be paid over to the county commission of the county in which the prosecution was begun for its application to that county's general revenues.

301.559. 1. It shall be unlawful for any person to engage in business as or act as a motor vehicle dealer, boat dealer,

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manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle auction or wholesale motor vehicle dealer without first obtaining a license from the department as required in sections 301.550 to 301.573. Any person who maintains or operates any business wherein a license is required pursuant to the provisions of sections 301.550 to 301.573, without such license, is guilty of a class A misdemeanor. Any person committing a second violation of sections 301.550 to 301.573 shall be guilty of a class **[**D**]** E felony.

2. All dealer licenses shall expire on December thirty-first of each year. The department shall notify each person licensed under sections 301.550 to 301.573 of the date of license expiration and the amount of the fee required for renewal. The notice shall be mailed at least ninety days before the date of license expiration to the licensee's last known business address.

3. Every manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, wholesale motor vehicle auction, boat dealer or public motor vehicle auction shall make application to the department for issuance of a license. The application shall be on forms prescribed by the department and shall be issued under the terms and provisions of sections 301.550 to 301.573 and require all applicants, as a condition precedent to the issuance of a license, to provide such information as the department may deem necessary to determine that the applicant is bona fide and of good moral character, except that every application for a license shall contain, in addition to such information as the department may require, a

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statement to the following facts:

(1) The name and business address, not a post office box, of the applicant and the fictitious name, if any, under which he intends to conduct his business; and if the applicant be a partnership, the name and residence address of each partner, an indication of whether the partner is a limited or general partner and the name under which the partnership business is to be conducted. In the event that the applicant is a corporation, the application shall list the names of the principal officers of the corporation and the state in which it is incorporated. Each application shall be verified by the oath or affirmation of the applicant, if an individual, or in the event an applicant is a partnership or corporation, then by a partner or officer;

(2) Whether the application is being made for registration as a manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle auction;

(3) When the application is for a new motor vehicle franchise dealer, the application shall be accompanied by a copy of the franchise agreement in the registered name of the dealership setting out the appointment of the applicant as a franchise holder and it shall be signed by the manufacturer, or his authorized agent, or the distributor, or his authorized agent, and shall include a description of the make of all motor vehicles covered by the franchise. The department shall not require a copy of the franchise agreement to be submitted with each renewal application unless the applicant is now the holder

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of a franchise from a different manufacturer or distributor from that previously filed, or unless a new term of agreement has been entered into;

(4) When the application is for a public motor vehicle auction, that the public motor vehicle auction has met the requirements of section 301.561.

4. No insurance company, finance company, credit union, savings and loan association, bank or trust company shall be required to obtain a license from the department in order to sell any motor vehicle, trailer or vessel repossessed or purchased by the company on the basis of total destruction or theft thereof when the sale of the motor vehicle, trailer or vessel is in conformance with applicable title and registration laws of this state.

5. No person shall be issued a license to conduct a public motor vehicle auction or wholesale motor vehicle auction if such person has a violation of sections 301.550 to 301.573 or other violations of chapter 301, sections 407.511 to 407.556, or **[**section 578.120**]** subsection 8 of section 578.100 which resulted in a felony conviction or finding of guilt or a violation of any federal motor vehicle laws which resulted in a felony conviction or finding of guilt.

301.640. 1. Within five business days after the satisfaction of any lien or encumbrance of a motor vehicle or trailer, the lienholder shall release the lien or encumbrance on the certificate or a separate document, and mail or deliver the certificate or a separate document to the owner or any person who delivers to the lienholder an authorization from the owner to

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receive the certificate or such documentation. The release on the certificate or separate document shall be notarized. Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder. The owner may cause the certificate to be mailed or delivered to the director of revenue, who shall issue a new certificate of ownership upon application and payment of the required fee. A lien or encumbrance shall be satisfied for the purposes of this section when a lienholder receives payment in full in the form of certified funds, as defined in section 381.410, or when the lienholder receives payment in full electronically or by way of electronic funds transfer, whichever first occurs.

2. If the electronic certificate of ownership is in the possession of the director of revenue, the lienholder shall notify the director within five business days after any release of a lien and provide the director with the most current address of the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate or such documentation. The director shall note such release on the electronic certificate and if no other lien exists the director shall mail or deliver the certificate free of any lien to the owner or any person who has delivered to the lienholder an authorization from the owner to receive the certificate or such documentation from the director.

3. If the purchase price of a motor vehicle or trailer did not exceed six thousand dollars at the time of purchase, a lien or encumbrance which was not perfected by a motor vehicle

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financing corporation whose net worth exceeds one hundred million dollars, or a depository institution, shall be considered satisfied within six years from the date the lien or encumbrance was originally perfected unless a new lien or encumbrance has been perfected as provided in section 301.600. This subsection does not apply to motor vehicles or trailers for which the certificate of ownership has recorded in the second lienholder portion the words "subject to future advances".

4. Any lienholder who fails to timely comply with subsection 1 or 2 of this section shall pay to the person or persons satisfying the lien or encumbrance liquidated damages up to a maximum of two thousand five hundred dollars for each lien. Liquidated damages shall be five hundred dollars if the lienholder does not comply within five business days after satisfaction of the lien or encumbrance. Liquidated damages shall be one thousand dollars if the lienholder does not comply within ten business days after satisfaction of the lien or encumbrance. Liquidated damages shall be two thousand dollars if the lienholder does not comply within fifteen business days after satisfaction of the lien or encumbrance. Liquidated damages shall be two thousand five hundred dollars if the lienholder does not comply within twenty business days after satisfaction of the lien or encumbrance. If delivery of the certificate or other lien release is made by mail, the delivery date is the date of the postmark for purposes of this subsection. In computing any period of time prescribed or allowed by this section, the day of the act or event after which the designated period of time begins to run is not to be counted. However, the last day of the period

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so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

5. Any person who knowingly and intentionally sends in a separate document releasing a lien of another without authority to do so shall be guilty of a class **[**C**]** D felony.

302.015. Notwithstanding the provisions of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), the director shall have the authority to establish a license classification system, and shall not be limited to classification of the following:

(1) Any person, other than one subject to sections 302.700 to 302.780, who operates a motor vehicle in the transportation of persons or property, and who receives compensation for such services in wages, salary, commission or fare; or who as an owner or employee operates a motor vehicle carrying passengers or property for hire; or who regularly operates a commercial motor vehicle of another person in the course of or as an incident to his or her employment, but whose principal occupation is not the operating of such motor vehicle, except that a school bus operator who obtains a school bus permit as provided in section 302.272 shall not be considered in this class;

(2) Any person, other than such person defined in subdivision (1) of this section who is in actual physical control of a motor vehicle;

(3) Any person, other than such person defined in subdivisions (1) and (2) of this section who is in actual physical control of a motorcycle or motortricycle.

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302.020. 1. Unless otherwise provided for by law, it shall be unlawful for any person, except those expressly exempted by section 302.080, to:

(1) Operate any vehicle upon any highway in this state unless the person has a valid license;

(2) Operate a motorcycle or motortricycle upon any highway of this state unless such person has a valid license that shows the person has successfully passed an examination for the operation of a motorcycle or motortricycle as prescribed by the director. The director may indicate such upon a valid license issued to such person, or shall issue a license restricting the applicant to the operation of a motorcycle or motortricycle if the actual demonstration, required by section 302.173, is conducted on such vehicle;

(3) Authorize or knowingly permit a motorcycle or motortricycle owned by such person or under such person's control to be driven upon any highway by any person whose license does not indicate that the person has passed the examination for the operation of a motorcycle or motortricycle or has been issued an instruction permit therefor;

(4) Operate a motor vehicle with an instruction permit or license issued to another person.

2. Every person operating or riding as a passenger on any motorcycle or motortricycle, as defined in section 301.010, upon any highway of this state shall wear protective headgear at all times the vehicle is in motion. The protective headgear shall meet reasonable standards and specifications established by the director.

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3. Notwithstanding the provisions of section 302.340 any person convicted of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a misdemeanor. A first violation of subdivision (1) or (2) of subsection 1 of this section shall be punishable **[**by a fine not to exceed three hundred dollars**]** as a class D misdemeanor. A second violation of subdivision (1) or (2) of subsection 1 of this section shall be punishable **[**by imprisonment in the county jail for a term not to exceed one year and/or a fine not to exceed one thousand dollars**]** as a class A misdemeanor. Any person convicted a third or subsequent time of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a class **[**D**]** E felony. Notwithstanding the provisions of section 302.340, violation of subdivisions (3) and (4) of subsection 1 of this section is a misdemeanor, the first violation punishable **[**by a fine not to exceed three hundred dollars**]** as a class D misdemeanor, a second or subsequent violation of this section punishable as a class C misdemeanor, and the penalty for failure to wear protective headgear as required by subsection 2 of this section is an infraction for which a fine not to exceed twenty-five dollars may be imposed. Notwithstanding all other provisions of law and court rules to the contrary, no court costs shall be imposed upon any person due to such violation. No points shall be assessed pursuant to section 302.302 for a failure to wear such protective headgear. Prior pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner as required by section 558.021.

302.060. 1. The director shall not issue any license and

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shall immediately deny any driving privilege:

(1) To any person who is under the age of eighteen years, if such person operates a motor vehicle in the transportation of persons or property as classified in section 302.015;

(2) To any person who is under the age of sixteen years, except as hereinafter provided;

(3) To any person whose license has been suspended, during such suspension, or to any person whose license has been revoked, until the expiration of one year after such license was revoked;

(4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

(5) To any person who has previously been adjudged to be incapacitated and who at the time of application has not been restored to partial capacity;

(6) To any person who, when required by this law to take an examination, has failed to pass such examination;

(7) To any person who has an unsatisfied judgment against such person, as defined in chapter 303, until such judgment has been satisfied or the financial responsibility of such person, as **[**defined**]** described in section 303.120, has been established;

(8) To any person whose application shows that the person has been convicted within one year prior to such application of violating the laws of this state relating to failure to stop after an accident and to disclose the person's identity or driving a motor vehicle without the owner's consent;

(9) To any person who has been convicted more than twice of violating state law, or a county or municipal ordinance where the defendant was represented by or waived the right to an attorney

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in writing, relating to driving while intoxicated; except that, after the expiration of ten years from the date of conviction of the last offense of violating such law or ordinance relating to driving while intoxicated, a person who was so convicted may petition the circuit court of the county in which such last conviction was rendered and the court shall review the person's habits and conduct since such conviction. If the court finds that the petitioner has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding ten years and that the petitioner's habits and conduct show such petitioner to no longer pose a threat to the public safety of this state, the court may order the director to issue a license to the petitioner if the petitioner is otherwise qualified pursuant to the provisions of sections 302.010 to 302.540. No person may obtain a license pursuant to the provisions of this subdivision through court action more than one time;

(10) To any person who has been convicted twice within a five-year period of violating state law, or a county or municipal ordinance, of driving while intoxicated, or any other intoxication-related traffic offense as defined in **[**subdivision (4) of subsection 1 of section 577.023**]** section 577.001, or who has been convicted of the **[**crime**]** offense of involuntary manslaughter while operating a motor vehicle in an intoxicated condition. The director shall not issue a license to such person for five years from the date such person was convicted or pled guilty for involuntary manslaughter while operating a motor vehicle in an intoxicated condition or for driving while intoxicated or any other intoxication-related traffic offense as

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defined in [subdivision (4) of subsection 1 of section 577.023] section 577.001 for the second time;

(11) To any person who is otherwise disqualified pursuant to the provisions of sections 302.010 to 302.780, chapter 303, or section 544.046;

(12) To any person who is under the age of eighteen years, if such person's parents or legal guardians file a certified document with the department of revenue stating that the director shall not issue such person a driver's license. Each document filed by the person's parents or legal guardians shall be made upon a form furnished by the director and shall include identifying information of the person for whom the parents or legal guardians are denying the driver's license. The document shall also contain identifying information of the person's parents or legal guardians. The document shall be certified by the parents or legal guardians to be true and correct. This provision shall not apply to any person who is legally emancipated. The parents or legal guardians may later file an additional document with the department of revenue which reinstates the person's ability to receive a driver's license.

2. Any person whose license is reinstated under the provisions of subdivisions (9) and (10) of subsection 1 of this section 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 reinstatement. The 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

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months immediately following the date of reinstatement. If the person fails to maintain such proof with the director, the license shall be suspended for the remainder of the six-month period or until proof as required by this section is filed with the director. Upon the completion of the six-month period, the license shall be shown as reinstated, if the person is otherwise eligible.

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

2. Any person convicted of driving while revoked is guilty of a misdemeanor. A first violation of this section shall be punishable **[**by a fine not to exceed three hundred dollars**]** as a class D misdemeanor. A second or third violation of this section shall be punishable **[**by imprisonment in the county jail for a term not to exceed one year and/or a fine not to exceed one thousand dollars**]** as a class A misdemeanor. Any person with no prior alcohol-related enforcement contacts as defined in section 302.525, convicted a fourth or subsequent time of driving while revoked or a county or municipal ordinance of driving while suspended or revoked where the defendant was represented by or waived the right to an attorney in writing, and where the prior three driving-while-revoked offenses occurred within ten years of the date of occurrence of the present offense; and any person

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with a prior alcohol-related enforcement contact as defined in section 302.525, convicted a third or subsequent time of driving while revoked or a county or municipal ordinance of driving while suspended or revoked where the defendant was represented by or waived the right to an attorney in writing, and where the prior two driving-while-revoked offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offenses is guilty of a class **[**D**]** E felony. Except upon conviction as a first offense, no court shall suspend the imposition of sentence as to such a person nor sentence such person to pay a fine in lieu of a term of imprisonment, nor shall such person be eligible for parole or probation until such person has served a minimum of forty-eight consecutive hours of imprisonment, unless as a condition of such parole or probation, such person performs at least ten days involving at least forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. Driving while revoked is a class **[**D**]** E felony on the second or subsequent conviction pursuant to section 577.010 or a fourth or subsequent conviction for any other offense. Prior pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner as required by section 558.021.

[577.500.**]** 302.400. 1. A court of competent jurisdiction shall, upon a **[**plea of guilty, conviction or**]** finding of guilt, or, if the court is a juvenile court, upon a finding of fact that the offense was committed by a juvenile, enter an order suspending or revoking the driving privileges of any person

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determined to have committed one of the following offenses and who, at the time said offense was committed, was under twenty-one years of age:

(1) Any alcohol-related traffic offense in violation of state law or a county or**[**, beginning July 1, 1992,**]** municipal ordinance, where the defendant was represented by, or waived in writing the right to, an attorney **[**in writing**]**;

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

(3) Any offense involving the possession or use of a controlled substance as defined in chapter 195 in violation of **[**the**]** state law or**[**, beginning July 1, 1992,**]** a county or municipal ordinance, where the defendant was represented by, or waived in writing the right to, an attorney **[**in writing**]**;

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

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

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2. A court of competent jurisdiction shall, upon a [plea of guilty or nolo contendere, conviction or] finding of guilt, or, if the court is a juvenile court, upon a finding of fact that the offense was committed by a juvenile, enter an order suspending or revoking the driving privileges of any person determined to have committed a [crime or] violation of section 311.325 and who, at the time said [crime or] violation was committed, was more than fifteen years of age and under twenty-one years of age.

3. The court shall require the person against whom a court has entered an order suspending or revoking driving privileges under subsections 1 and 2 of this section to surrender [to it of] any license to operate a motor vehicle, temporary instruction permit, intermediate driver's license, or any other driving privilege then held by [any] such person [against whom a court has entered an order suspending or revoking driving privileges under subsections 1 and 2 of this section].

4. The court, if other than a juvenile court, shall forward to the director of revenue the order of suspension or revocation of driving privileges and any licenses, temporary instruction permits, intermediate driver's licenses, or any other driving privilege acquired under subsection 3 of this section.

5. (1) Notwithstanding chapter 211 to the contrary, the court, if a juvenile court, shall forward to the director of revenue the order of suspension or revocation of driving privileges and any licenses, temporary instruction permits, intermediate driver's licenses, or any other driving privilege acquired under subsection 3 of this section for any person sixteen years of age or older[, the provision of chapter 211 to

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the contrary notwithstanding**]**.

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

6. The period of suspension for a first offense under subsection 1 of this section shall be ninety days. Any second or subsequent offense under subsection 1 of this section shall result in revocation of the offender's driving privileges for one year. The period of suspension for a first offense under subsection 2 of this section shall be thirty days. The period of suspension for a second offense under subsection 2 of this section shall be ninety days. Any third or subsequent offense under subsection 2 of this section shall result in revocation of the offender's driving privileges for one year.

[577.505.**]** 302.405. A court of competent jurisdiction shall enter an order revoking the driving privileges of any person determined to have violated any state, county, or municipal law involving the possession or use of a controlled substance, as defined in chapter 195, while operating a motor vehicle and who, at the time said offense was committed, was twenty-one years of age or older **[**when the person pleads guilty, or is convicted or found guilty of such offense by the court**]**. The court shall require the person to surrender to **[**it of**]** the court all

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operator's and chauffeur's licenses then held by such person. The court shall forward to the director of revenue the order of revocation of driving privileges and any licenses surrendered.

[577.510.**]** 302.410. 1. Upon receipt of a court order suspending or revoking the driving privileges of a person **[**pursuant to sections 577.500 and 577.505**]** under sections 302.400 and 302.505, the director of revenue shall suspend the driving privileges for ninety days or revoke the driving privileges of such person for a period of one year, provided however, that in the case of a person who at the time of the offense was less than sixteen years of age, the period of suspension or revocation shall commence on that person's sixteenth birthday. The provisions of this chapter **[**302**]** to the contrary notwithstanding, the suspension or revocation shall be imposed without further hearing. Any person whose driving privileges have been suspended or revoked **[**pursuant to sections 577.500 and 577.505**]** under sections 302.400 and 302.505 may petition the circuit court for a hardship driving privilege and said application shall be determined and administered in the same manner as allowed in section 302.309.

2. The director of revenue shall permit the issuance of a temporary instruction permit in the same manner as allowed in subsection **[**2**]** 3 of section 302.130 to persons fifteen years of age and under seventeen years of age denied driving privileges by court order pursuant to section **[**577.500**]** 302.400. This exception only applies to instruction permits that entitle a person to operate a motor vehicle on the highways in the presence of an authorized instructor.

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[577.515.**]** 302.415. If a person shall neglect or refuse to surrender all operator's and chauffeur's licenses, as provided for in sections **[**577.500 and 577.505**]** 302.400 and 302.505, the director shall direct the state highway patrol or any peace or police officer to secure possession thereof and return such license or licenses to the director.

[577.520.**]** 302.420. 1. No person who has had his license suspended or revoked under the provisions of sections **[**577.500 and 577.505**]** 302.400 and 302.505 shall have that license reinstated until he or she has paid a twenty-dollar reinstatement fee and has successfully completed a substance abuse traffic offender program as defined in section **[**577.001**]** 302.010.

2. 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**]**, or a program determined to be comparable by the department of mental health. 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 of each month the supplemental fees 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

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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.

3. 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**]** to collect said fees and any accrued interest **[**accrued**]**. The court shall assess attorney fees and court costs against any delinquent program.

[577.525.**]** 302.425. Any court which has jurisdiction over violations of state, county or municipal laws shall enter an order, in addition to other orders authorized by law, requiring the completion of a substance abuse traffic offender program as defined in section **[**577.001**]** 302.010, as a part of the judgment entered in the case, for any person determined to have violated a state, county, or municipal law involving the possession or use of alcohol and who at the time of said offense was under twenty-one years of age when the court, if a juvenile court,

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finds that the offense was committed by such person or, if a city, county, or state court, when the person pleads guilty, or is found guilty of such offense by the court.

[577.530.**]** 302.426. The director of revenue shall have authority to make such rules and regulations as he deems necessary for the administration of sections **[**577.500 to 577.525. No rule or portion of a rule promulgated under the authority of sections 577.500 to 577.530 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024**]** 302.400 to 302.425. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be invalid and void.

302.440. In addition to any other provisions of law, a court may require that any person who is found guilty of a first intoxication-related traffic offense, as defined in section 577.001, and a court shall require that any person who is found guilty of or pleads guilty to a second or subsequent intoxication-related traffic offense, as defined in section 577.001, shall not operate any motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock

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device for a period of not less than six months from the date of reinstatement of the person's driver's license. In addition, any court authorized to grant a limited driving privilege under section 302.309 to any person who is found guilty of a second or subsequent intoxication-related traffic offense shall require the use of an ignition interlock device on all vehicles operated by the person as a required condition of the limited driving privilege. These requirements shall be in addition to any other provisions of this chapter or chapter 577 requiring installation and maintenance of an ignition interlock device. Any person required to use an ignition interlock device shall comply with such requirement subject to the penalties provided by section 577.599.

[577.602.**]** 302.442. 1. If a court imposes a fine and requires the use of an ignition interlock device for the same offense, the amount of the fine may be reduced by the cost of the ignition interlock device.

2. If the court requires the use of an ignition interlock device, it shall order the installation of the device on any vehicle which the offender operates during the period of probation or limited driving privilege.

3. If the court imposes the use of an ignition interlock device on a person having full or limited driving privileges, the court shall require the person to provide proof of compliance with the order to the court or the probation officer within thirty days of this court's order or sooner, as required by the court, in addition to any proof required to be filed with the director of revenue under the provisions of this chapter or

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chapter 302. If the person fails to provide proof of installation within that period, absent a finding by the court of good cause for that failure which is entered in the court record, the court shall revoke or terminate the person's probation or limited driving privilege.

4. Nothing in sections **[**577.600 to 577.614**]** 302.440 to 302.462 shall be construed to authorize a person to operate a motor vehicle whose driving privileges have been suspended or revoked, unless the person has obtained a limited driving privilege or restricted driving privilege under other provisions of law.

5. The person whose driving privilege is restricted pursuant to section **[**577.600**]** 302.440 shall report to the court or the probation officer at least once annually, or more frequently as the court may order, on the operation of each ignition interlock device in the person's vehicle or vehicles. Such person shall be responsible for the cost and maintenance of the ignition interlock device. If such device is broken, destroyed or stolen, such person shall also be liable for the cost of replacement of the device.

6. The court may require a person whose driving privilege is restricted under section **[**577.600**]** 302.440 to report to any officer appointed by the court in lieu of a probation officer.

7. The court shall require periodic calibration checks that are needed for the proper operation of the ignition interlock device.

[577.604.**]** 302.454. The court shall require the use of a certified ignition interlock device during the period of

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probation if the person is permitted to operate a motor vehicle, whether the privilege to operate a motor vehicle is restricted or not, as determined by the court.

[577.606.**]** 302.456. The court shall send the order to the department of revenue in all cases where the driving privilege of a person is restricted pursuant to section **[**577.600**]** 302.440. The order shall contain the requirement for, and the period of, the use of a certified ignition interlock device under sections **[**577.600 to 577.614**]** 302.440 to 302.462. The records of the department of revenue shall contain a record reflecting mandatory use of the device.

[577.608.**]** 302.458. 1. The department of public safety shall certify or cause to be certified ignition interlock devices required by sections **[**577.600 to 577.614**]** 302.440 to 302.462 and publish a list of approved devices.

2. The department of public safety shall adopt guidelines for the proper use of the ignition interlock devices in full compliance with sections **[**577.600 to 577.614**]** sections 302.440 to 302.462.

3. The department of public safety shall use information from an independent agency to certify ignition interlock devices on or off the premises of the manufacturer in accordance with the guidelines. The cost of certification shall be borne by the manufacturers of interlock ignition devices. In certifying the devices, those which do not impede the safe operation of the vehicle and which have the fewest opportunities to be bypassed so as to render the provisions of sections **[**577.600 to 577.614**]** 302.440 to 302.462 ineffective shall be certified.

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4. No model of ignition interlock device shall be certified unless it meets the accuracy requirements specified by the guidelines of the department of public safety.

5. Before certifying any device, the department of public safety shall consult with the National Highway Traffic Safety Administration regarding the use of ignition interlock devices.

[577.610.**]** 302.460. The manufacturer shall affix to each ignition interlock device a label which shall contain a warning that any person tampering, circumventing or otherwise misusing the device is guilty of a class A misdemeanor.

[577.614.**]** 302.462. 1. In addition to any other provisions of law, upon a finding of **[**guilty of, or a plea of guilty to,**]** guilt to a violation of **[**subsection 1 of section 577.600**]** 577.599, the department of revenue shall revoke the person's driving privilege for one year from the date of conviction.

2. In addition to any other provision of law, if a person is found guilty of, or pleads guilty to, a second violation of **[**subsection 1 of section 577.600**]** section 577.599 during the same period of required use of an approved ignition interlock device, the department of revenue shall revoke the person's driving privilege for five years from the date of conviction.

3. The court shall notify the department of revenue of all guilty findings and pleas **[**pursuant to subsection 1 of section 577.600**]** under section 577.599.

4. The department of revenue shall charge a reinstatement fee as required by section 302.304 prior to the reinstatement of any driving privilege suspended or revoked pursuant to this section.

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5. No restricted or limited driving privilege shall be issued for any person whose license is revoked pursuant to this section.

302.500. As used in sections 302.500 to 302.540, the following terms mean:

(1) "Alcohol concentration", the amount of alcohol in a person's blood at the time of the act alleged as shown by chemical analysis of the person's blood, breath, saliva or urine;

(2) "Department", the department of revenue of the state of Missouri;

(3) "Director", the director of the department of revenue or his or her authorized representative;

(4) "Driver's license" or "license", a license, permit, or privilege to drive a motor vehicle issued under or granted by the laws of this state. The term includes any temporary license or instruction permit, any nonresident operating privilege, and the privilege of any person to drive a motor vehicle whether or not the person holds a valid license;

(5) "Revocation", the termination by formal action of the department of a person's license. A revoked license is not subject to renewal or restoration except that an application for a new license may be presented and acted upon by the department after the expiration of the revocation period;

(6) "State", a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any province of Canada;

(7) "Suspension", the temporary withdrawal by formal action of the department of a person's license. The suspension shall be

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for a period specifically designated by the department pursuant to the provisions of sections 302.500 to 302.540.

302.574. 1. If a person who was operating a vehicle refuses upon the request of the officer to submit to any chemical test under section 577.041, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person notice of his or her right to file a petition for review to contest the license revocation.

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

(1) That the officer has:

(a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated 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 has reasonable grounds to believe, after making such stop, that the person had a blood

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alcohol content of two-hundredths of one percent or greater;

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

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

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

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

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

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for 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

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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 the person was arrested or stopped;

(2) Whether 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 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.

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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 302.010, 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 (23) 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 similar offense in the future, except that the court may modify but may not waive the assignment of a person determined to be a prior or persistent

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offender as defined in section 577.001, or of a person determined to have operated a motor vehicle with a blood alcohol content of fifteen-hundredths of one percent or more by weight. 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. 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 to 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,

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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 to 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 for the collection of said fees and accrued interest. The court shall assess attorneys' fees and court costs against any delinquent program.

10. Any person who has had a license to operate a motor vehicle revoked more than once for violation of the provisions of this section 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 person fails to maintain such proof with the director as required by this section, the license shall be rerevoked.

11. The revocation period of any person whose license and driving privilege has been revoked under this section and who has

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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.

12. A person commits the offense of failure to maintain proof with the Missouri department of revenue if, when required to do so, he or she fails to file proof with the director of revenue that any vehicle operated by the person is equipped with a functioning, certified ignition interlock device or fails to file proof of financial responsibility with the department of revenue in accordance with chapter 303. The offense of failure to maintain of proof with the Missouri department of revenue is a class A misdemeanor.

[577.049.**]** 302.580. 1. **[**Upon a plea of guilty or a finding of guilty for an offense of violating the provisions of section 577.010 or 577.012 or violations of county or municipal ordinances involving alcohol- or drug-related traffic offenses, the court shall order the person to participate in and successfully complete a substance abuse traffic offender program defined in section 577.001.

2. 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 enrolling 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 fees 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 to 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.

[3.**]** 2. 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 to 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,

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the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and accrued interest [accrued]. The court shall assess attorney fees and court costs against any delinquent program.

[577.052.] 302.584. Any rule or portion of a rule promulgated pursuant to this act shall become effective only as provided pursuant to chapter 536 including, but not limited to, section 536.028, if applicable, after August 28, 1997. All rulemaking authority delegated prior to August 28, 1997, is of no force and effect and repealed. The provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, if applicable, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

[577.051.] 302.592. 1. A record of the disposition in any court proceeding involving [a violation of any of the provisions of sections 577.005 to 577.023, or violation of county or municipal ordinances involving alcohol- or drug-related driving offenses] any criminal offense, infraction, or ordinance violation related to the operation of a vehicle while intoxicated or with an excessive blood alcohol content shall be forwarded to the department of revenue, within seven days by the clerk of the court in which the proceeding was held. The records shall be forwarded by the department of revenue, within fifteen days of receipt, to the Missouri state highway patrol and shall be

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entered by the highway patrol in the Missouri uniform law enforcement system records. Dispositions that shall be reported are guilty pleas **[**of guilty**]**, findings of **[**guilty**]** guilt, suspended imposition of sentence, suspended execution of sentence, probation, conditional sentences, sentences of confinement, and any other such dispositions that may be required under state or federal regulations. The record forwarded by the clerk shall clearly **[**show**]** state the name of the court, the court case number, the name, address, and motor vehicle operator's or chauffeur's license number of the person who is the subject of the proceeding, the code or number identifying the particular arrest, and any court action or requirements pertaining thereto.

2. All records received by the Missouri state highway patrol or the department of revenue under the provisions of this section shall be entered in the Missouri uniform law enforcement system records and maintained by the Missouri state highway patrol. Records placed in the Missouri uniform law enforcement system under the provisions of this section shall be made available to any law enforcement officer in this state, any prosecuting or circuit attorney in this state, or to any judge of a municipal or state court upon request.

3. **[**Any**]** A person commits the offense of refusal to furnish records of disposition if he or she is required **[**by this section**]** to furnish records to the Missouri state highway patrol or department of revenue **[**who willfully**]** under this section and purposely refuses to furnish such records **[**is guilty of**]**. The offense of refusal to furnish records of disposition is a class **[**C**]** D misdemeanor.

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[4. Records required to be filed with the Missouri state highway patrol or the department of revenue under the provisions of sections 302.225 and 577.001 to 577.051 shall be filed beginning July 1, 1983, and no penalties for nonfiling of records shall be applied prior to July 1, 1983.

5. Forms and procedures for filing of records with the Missouri state highway patrol or department of revenue as required in this chapter shall be promulgated by the director of the department of public safety or department of revenue, as applicable, and approved by the Missouri supreme court.

6. All record-keeping procedures required under the provisions of sections 577.005 to 577.023 shall be in accordance with this section, chapter 610 to the contrary notwithstanding.]

302.605. 1. As used in the compact contained in section 302.600, the term "executive head" shall mean the governor of this state.

2. As used in the compact contained in section 302.600, the term "licensing authority" shall mean the department of revenue of this state. The director of revenue shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of Articles III, IV and V of the compact contained in section 302.600.

3. The director of the department of revenue, as compact administrator provided for in Article VII of the compact contained in section 302.600, shall not be entitled to any additional compensation on account of his or her service as such administrator. However, he or she shall be entitled to expenses

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incurred in connection with his or her duties and responsibilities as such administrator, in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.

4. Any court or other agency of this state, or any subdivision thereof, which has jurisdiction to take any action suspending, revoking or otherwise limiting a license to drive or operate a motor vehicle, shall report any such action and the adjudication upon which it is based to the director of the department of revenue in the manner and within the time prescribed by the director of the department by rule.

5. Article IV of the compact contained in section 302.600 shall apply to those offenses for which a license to drive or operate a motor vehicle may be suspended or revoked under the laws of this state, and any suspension or revocation therefor shall be governed by the provisions of law applicable to such suspension or revocation.

302.700. 1. Sections 302.700 to 302.780 may be cited as the "Uniform Commercial Driver's License Act".

2. When used in sections 302.700 to 302.780, the following words and phrases mean:

(1) "Alcohol", any substance containing any form of alcohol, including, but not limited to, ethanol, methanol, propanol and isopropanol;

(2) "Alcohol concentration", the number of grams of alcohol per one hundred milliliters of blood or the number of grams of alcohol per two hundred ten liters of breath or the number of grams of alcohol per sixty-seven milliliters of urine;

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(3) "Commercial driver's instruction permit", a permit issued pursuant to section 302.720;

(4) "Commercial driver's license", a license issued by this state to an individual which authorizes the individual to operate a commercial motor vehicle;

(5) "Commercial driver's license information system", the information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers;

(6) "Commercial motor vehicle", a motor vehicle designed or used to transport passengers or property:

(a) If the vehicle has a gross combination weight rating of twenty-six thousand one or more pounds inclusive of a towed unit which has a gross vehicle weight rating of ten thousand one pounds or more;

(b) If the vehicle has a gross vehicle weight rating of twenty-six thousand one or more pounds or such lesser rating as determined by federal regulation;

(c) If the vehicle is designed to transport sixteen or more passengers, including the driver; or

(d) If the vehicle is transporting hazardous materials and is required to be placarded under the Hazardous Materials Transportation Act (46 U.S.C. 1801, et seq.);

(7) "Controlled substance", any substance so classified under Section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), and includes all substances listed in schedules I through V of 21 CFR part 1308, as they may be revised from time

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to time;

(8) "Conviction", an unvacated adjudication of guilt, including pleas of guilt and nolo contendre, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative proceeding, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or prorated, including an offense for failure to appear or pay;

(9) "Director", the director of revenue or his or her authorized representative;

(10) "Disqualification", any of the following three actions:

(a) The suspension, revocation, or cancellation of a commercial driver's license;

(b) Any withdrawal of a person's privileges to drive a commercial motor vehicle by a state as the result of a violation of federal, state, county, municipal, or local law relating to motor vehicle traffic control or violations committed through the operation of motor vehicles, other than parking, vehicle weight, or vehicle defect violations;

(c) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 CFR Part 383.52 or Part 391;

(11) "Drive", to drive, operate or be in physical control of a commercial motor vehicle;

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(12) "Driver", any person who drives, operates, or is in physical control of a motor vehicle, or who is required to hold a commercial driver's license;

(13) "Driving under the influence of alcohol", the commission of any one or more of the following acts:

(a) Driving a commercial motor vehicle with the alcohol concentration of four one-hundredths of a percent or more as prescribed by the secretary or such other alcohol concentration as may be later determined by the secretary by regulation;

(b) Driving a commercial or noncommercial motor vehicle while intoxicated in violation of any federal or state law, or in violation of a county or municipal ordinance;

(c) Driving a commercial or noncommercial motor vehicle with excessive blood alcohol content in violation of any federal or state law, or in violation of a county or municipal ordinance;

(d) Refusing to submit to a chemical test in violation of section 577.041, section 302.750, any federal or state law, or a county or municipal ordinance; or

(e) Having any state, county or municipal alcohol-related enforcement contact, as defined in subsection 3 of section 302.525; provided that any suspension or revocation pursuant to section 302.505, committed in a noncommercial motor vehicle by an individual twenty-one years of age or older shall have been committed by the person with an alcohol concentration of at least eight-hundredths of one percent or more, or in the case of an individual who is less than twenty-one years of age, shall have been committed by the person with an alcohol concentration of at least two-hundredths of one percent or more, and if committed in

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a commercial motor vehicle, a concentration of four-hundredths of one percent or more;

(14) "Driving under the influence of a controlled substance", the commission of any one or more of the following acts in a commercial or noncommercial motor vehicle:

(a) Driving a commercial or noncommercial motor vehicle while under the influence of any substance so classified under Section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), including any substance listed in schedules I through V of 21 CFR Part 1308, as they may be revised from time to time;

(b) Driving a commercial or noncommercial motor vehicle while in a drugged condition in violation of any federal or state law or in violation of a county or municipal ordinance; or

(c) Refusing to submit to a chemical test in violation of section 577.041, section 302.750, any federal or state law, or a county or municipal ordinance;

(15) "Employer", any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a driver to operate such a vehicle;

(16) "Farm vehicle", a commercial motor vehicle controlled and operated by a farmer used exclusively for the transportation of agricultural products, farm machinery, farm supplies, or a combination of these, within one hundred fifty miles of the farm, other than one which requires placarding for hazardous materials as defined in this section, or used in the operation of a common or contract motor carrier, except that a farm vehicle shall not be a commercial motor vehicle when the total combined gross

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weight rating does not exceed twenty-six thousand one pounds when transporting fertilizers as defined in subdivision (21) of this subsection;

(17) "Fatality", the death of a person as a result of a motor vehicle accident;

(18) "Felony", any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year;

(19) "Gross combination weight rating" or "GCWR", the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon;

(20) "Gross vehicle weight rating" or "GVWR", the value specified by the manufacturer as the loaded weight of a single vehicle;

(21) "Hazardous materials", any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of CFR Part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR Part 73. Fertilizers, including but not limited to ammonium nitrate, phosphate, nitrogen, anhydrous ammonia, lime, potash, motor fuel or special fuel, shall not be considered hazardous materials when transported by a farm vehicle provided all other provisions of this definition are followed;

(22) "Imminent hazard", the existence of a condition that presents a substantial likelihood that death, serious illness,

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severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begins to lessen the risk of that death, illness, injury, or endangerment;

(23) "Issuance", the initial licensure, license transfers, license renewals, and license upgrades;

(24) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks;

(25) "Noncommercial motor vehicle", a motor vehicle or combination of motor vehicles not defined by the term "commercial motor vehicle" in this section;

(26) "Out of service", a temporary prohibition against the operation of a commercial motor vehicle by a particular driver, or the operation of a particular commercial motor vehicle, or the operation of a particular motor carrier;

(27) "Out-of-service order", a declaration by the Federal Highway Administration, or any authorized enforcement officer of a federal, state, Commonwealth of Puerto Rico, Canadian, Mexican or any local jurisdiction, that a driver, or a commercial motor vehicle, or a motor carrier operation, is out of service;

(28) "School bus", a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier as defined by the Secretary;

(29) "Secretary", the Secretary of Transportation of the United States;

(30) "Serious traffic violation", driving a commercial

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motor vehicle in such a manner that the driver receives a conviction for the following offenses or driving a noncommercial motor vehicle when the driver receives a conviction for the following offenses and the conviction results in the suspension or revocation of the driver's license or noncommercial motor vehicle driving privilege:

(a) Excessive speeding, as defined by the Secretary by regulation;

(b) Careless, reckless or imprudent driving which includes, but shall not be limited to, any violation of section 304.016, any violation of section 304.010, or any other violation of federal or state law, or any county or municipal ordinance while driving a commercial motor vehicle in a willful or wanton disregard for the safety of persons or property, or improper or erratic traffic lane changes, or following the vehicle ahead too closely, but shall not include careless and imprudent driving by excessive speed;

(c) A violation of any federal or state law or county or municipal ordinance regulating the operation of motor vehicles arising out of an accident or collision which resulted in death to any person, other than a parking violation;

(d) Driving a commercial motor vehicle without obtaining a commercial driver's license in violation of any federal or state or county or municipal ordinance;

(e) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession in violation of any federal or state or county or municipal ordinance. Any individual who provides proof to the court which has jurisdiction

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over the issued citation that the individual held a valid commercial driver's license on the date that the citation was issued shall not be guilty of this offense;

(f) Driving a commercial motor vehicle without the proper commercial driver's license class or endorsement for the specific vehicle group being operated or for the passengers or type of cargo being transported in violation of any federal or state law or county or municipal ordinance; or

(g) Any other violation of a federal or state law or county or municipal ordinance regulating the operation of motor vehicles, other than a parking violation, as prescribed by the secretary by regulation;

(31) "State", a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Mexico, and any province of Canada;

(32) "United States", the fifty states and the District of Columbia.

302.705. 1. No person who drives a commercial motor vehicle shall have more than one driver's license.

2. No person is eligible for a commercial driver's license who is under eighteen years of age, except any person transporting a hazardous material must be at least twenty-one years of age.

3. Any driver of a commercial motor vehicle holding a commercial driver's license issued by this state, and who is convicted of violating any state law or county or municipal ordinance regulating the operation of motor vehicles in any other state, other than parking violations, shall notify the director

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in writing on a form prescribed by the director within thirty days of the date of conviction. Upon notification of such conviction the director may apply the conviction information to the driver's record. If such conviction would result in disqualification of the license under sections 302.700 to 302.780, the director shall disqualify the license in accordance with sections 302.700 to 302.780.

4. Any driver of a commercial motor vehicle holding a commercial driver's license issued by this state, and who is convicted of violating any state law or county or municipal ordinance regulating the operation of motor vehicles in this or any other state, other than parking violations, shall notify his or her employer in writing of the conviction within thirty days of the date of conviction.

302.710. A driver whose commercial driver's license is suspended, revoked, or canceled by any state, or who loses the privilege to drive a commercial motor vehicle in any state for any period, including being disqualified from driving a commercial motor vehicle, or who is subject to an out of service order, shall notify his or her employer of that fact before the end of the business day following the day the driver received notice of that fact.

302.727. 1. A person commits the **[**crime**]** offense of driving a commercial motor vehicle while revoked if such person operates a commercial motor vehicle when, as a result of prior violations committed operating a commercial motor vehicle, the driver's commercial driver license is revoked, suspended, or canceled, or the driver is disqualified from operating a

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commercial motor vehicle.

2. Any person convicted of driving a commercial motor vehicle while revoked is guilty of a class A misdemeanor. Any person with no prior alcohol-related enforcement contacts as defined in section 302.525, convicted a fourth or subsequent time of driving a commercial motor vehicle while revoked or a county or municipal ordinance of driving a commercial motor vehicle while suspended or revoked where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, and where the prior three driving a commercial motor vehicle while revoked offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offenses; and any person with a prior alcohol-related enforcement contact as defined in section 302.525, convicted a third or subsequent time of driving a commercial motor vehicle while revoked or a county or municipal ordinance of driving a commercial motor vehicle while suspended or revoked where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, and where the prior two driving a commercial motor vehicle while revoked offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offenses is guilty of a class **[**D**]** E felony. No court shall suspend the imposition of sentence as to such a person nor sentence such person to pay a fine in lieu of a term of imprisonment, nor shall such person be eligible for parole or

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probation until he or she has served a minimum of forty-eight consecutive hours of imprisonment, unless as a condition of such parole or probation, such person performs at least ten days involving at least forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. Driving a commercial motor vehicle while revoked is a class **[**D**]** E felony on the second or subsequent conviction pursuant to section 577.010 or a fourth or subsequent conviction for any other offense.

302.745. 1. All chemical tests required herein for the enforcement of sections 302.700 to 302.780 shall be conducted using the same procedures, methods, waivers of liability, persons and facilities as those described in chapter 577 except as provided in sections 302.700 to 302.780. Nothing contained in chapter 577 shall be construed to require a person to be placed under arrest prior to his or her being requested to submit to a chemical test under this section.

2. A person who drives a commercial motor vehicle within this state is deemed to have given consent, subject to the provisions of this section, to a chemical test or tests of his or her breath, blood, saliva or urine for the purpose of determining his alcohol concentration, or the presence of controlled substances in his or her system.

3. A test or tests may be administered for the purposes of enforcing sections 302.700 to 302.780, at the direction of a law enforcement officer, who has reason to believe that the driver was driving a commercial motor vehicle while having any amount of alcohol or controlled substances in his or her system.

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

5. Upon the request of a person who is tested, full information concerning the test shall be made available to him or her.

6. Upon the trial of any person for violation of this section or upon the trial of any criminal action or violations of county or municipal ordinances arising out of acts alleged to have been committed by any person while driving a commercial motor vehicle under the influence of alcohol or controlled substances, the amount of alcohol or controlled substance in the person's blood at the time of the act alleged as shown by 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. Nothing contained in this section shall be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was operating a commercial motor vehicle while under the influence of alcohol or controlled substances.

302.750. 1. If a person refuses, upon the request of a law enforcement officer pursuant to section 302.745, to submit to any test allowed under that section, evidence of the refusal shall be admissible in any proceeding to determine whether a person was operating a commercial motor vehicle while under the influence of

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alcohol or controlled substances. In this event, the officer shall make a sworn report to the director that he or she requested a test pursuant to section 302.745 and that the person refused to submit to such testing.

2. A person requested to submit to a test as provided by section 302.745 shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test will result in that person being immediately placed out of service for a period of twenty-four hours and being disqualified from operating a commercial motor vehicle for a period of not less than one year if for a first refusal to submit to the test and for life if for a second or subsequent refusal to submit to the test. The director may issue rules and regulations, in accordance with guidelines established by the secretary, under which a disqualification for life under this section may be reduced to a period of not less than ten years.

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

4. If a person has been disqualified from operating a commercial motor vehicle because of his refusal to submit to a chemical test, he or she may request a hearing before a court of record in the county in which the request was made. Upon his or her 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 officer. At the hearing the judge shall determine only:

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

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

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

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

302.755. 1. A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:

(1) Driving a motor vehicle under the influence of alcohol or a controlled substance, or of an alcohol-related enforcement contact as defined in subsection 3 of section 302.525;

(2) Driving a commercial motor vehicle which causes a fatality through the negligent operation of the commercial motor vehicle, including but not limited to the **[**crimes**]** offenses of vehicular manslaughter, homicide by motor vehicle, and negligent homicide;

(3) Driving a commercial motor vehicle while revoked pursuant to section 302.727;

(4) Leaving the scene of an accident involving a commercial or noncommercial motor vehicle operated by the person;

(5) Using a commercial or noncommercial motor vehicle in the commission of any felony, as defined in section 302.700,

except a felony as provided in subsection 4 of this section.

2. If any of the violations described in subsection 1 of this section occur while transporting a hazardous material the person is disqualified for a period of not less than three years.

3. Any person is disqualified from operating a commercial motor vehicle for life if convicted of two or more violations of any of the offenses specified in subsection 1 of this section, or any combination of those offenses, arising from two or more separate incidents. The director may issue rules and regulations, in accordance with guidelines established by the secretary, under which a disqualification for life under this section may be reduced to a period of not less than ten years.

4. Any person is disqualified from driving a commercial motor vehicle for life who uses a commercial or noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

5. Any person is disqualified from operating a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations or one hundred twenty days if convicted of three serious traffic violations, arising from separate incidents occurring within a three-year period.

6. Any person found to be operating a commercial motor vehicle while having any measurable alcohol concentration shall immediately be issued a continuous twenty-four-hour out-of-service order by a law enforcement officer in this state.

7. Any person who is convicted of operating a commercial

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motor vehicle beginning at the time of issuance of the out-of-service order until its expiration is guilty of a class A misdemeanor.

8. Any person convicted for the first time of driving while out of service shall be disqualified from driving a commercial motor vehicle in the manner prescribed in 49 CFR Part 383, or as amended by the Secretary.

9. Any person convicted of driving while out of service on a second occasion during any ten-year period, involving separate incidents, shall be disqualified in the manner prescribed in 49 CFR Part 383, or as amended by the Secretary.

10. Any person convicted of driving while out of service on a third or subsequent occasion during any ten-year period, involving separate incidents, shall be disqualified for a period of three years.

11. Any person convicted of a first violation of an out-of-service order while transporting hazardous materials or while operating a motor vehicle designed to transport sixteen or more passengers, including the driver, is disqualified for a period of one hundred eighty days.

12. Any person convicted of any subsequent violation of an out-of-service order in a separate incident within ten years after a previous violation, while transporting hazardous materials or while operating a motor vehicle designed to transport fifteen passengers, including the driver, is disqualified for a period of three years.

13. Any person convicted of any other offense as specified by regulations promulgated by the Secretary of Transportation

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shall be disqualified in accordance with such regulations.

14. After suspending, revoking, canceling or disqualifying a driver, the director shall update records to reflect such action and notify a nonresident's licensing authority and the commercial driver's license information system within ten days in the manner prescribed in 49 CFR Part 384, or as amended by the Secretary.

15. Any person disqualified from operating a commercial motor vehicle pursuant to subsection 1, 2, 3, or 4 of this section shall have such commercial driver's license canceled, and upon conclusion of the period of disqualification shall take the written and driving tests and meet all other requirements of sections 302.700 to 302.780. Such disqualification and cancellation shall not be withdrawn by the director until such person reapplies for a commercial driver's license in this or any other state after meeting all requirements of sections 302.700 to 302.780.

16. The director shall disqualify a driver upon receipt of notification that the Secretary has determined a driver to be an imminent hazard pursuant to 49 CFR, Part 383.52. Due process of a disqualification determined by the Secretary pursuant to this section shall be held in accordance with regulations promulgated by the Secretary. The period of disqualification determined by the Secretary pursuant to this section shall be served concurrently to any other period of disqualification which may be imposed by the director pursuant to this section. Both disqualifications shall appear on the driving record of the driver.

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17. The director shall disqualify a commercial license holder or operator of a commercial vehicle from operation of any commercial motor vehicle upon receipt of a conviction for an offense of failure to appear or pay, and such disqualification shall remain in effect until the director receives notice that the person has complied with the requirement to appear or pay.

302.780. 1. It shall be unlawful for a person to:

(1) Drive a commercial motor vehicle in a willful or wanton disregard for the safety of persons or property; or

(2) **[**Drive a commercial motor vehicle while having an alcohol concentration of four one-hundredths of a percent or more as prescribed by the secretary or such other alcohol concentration as may be later determined by the secretary by regulation; or

(3)**]** Drive a commercial motor vehicle while under the influence of any substance so classified under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), including any substance listed in schedules I through V of 21 CFR part 1308, as they may be revised from time to time.

2. Except as otherwise provided for in sections 302.700 to 302.780, whenever the doing of anything is required or is prohibited or is declared to be unlawful, any person who shall be convicted of a violation thereof shall be guilty of a class B misdemeanor.

303.024. 1. Each insurer issuing motor vehicle liability policies in this state, or an agent of the insurer, shall furnish an insurance identification card to the named insured for each motor vehicle insured by a motor vehicle liability policy that

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complies with the requirements of sections 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330 and 303.370.

2. The insurance identification card shall include all of the following information:

(1) The name and address of the insurer;

(2) The name of the named insured;

(3) The policy number;

(4) The effective dates of the policy, including month, day and year;

(5) A description of the insured motor vehicle, including year and make or at least five digits of the vehicle identification number or the word Fleet if the insurance policy covers five or more motor vehicles; and

(6) The statement "THIS CARD MUST BE CARRIED IN THE INSURED MOTOR VEHICLE FOR PRODUCTION UPON DEMAND" prominently displayed on the card.

3. A new insurance identification card shall be issued when the insured motor vehicle is changed, when an additional motor vehicle is insured, and when a new policy number is assigned. A replacement insurance identification card shall be issued at the request of the insured in the event of loss of the original insurance identification card.

4. The director shall furnish each self-insurer, as provided for in section 303.220, an insurance identification card for each motor vehicle so insured. The insurance identification card shall include all of the following information:

(1) Name of the self-insurer;

(2) The word self-insured; and

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(3) The statement "THIS CARD MUST BE CARRIED IN THE SELF-INSURED MOTOR VEHICLE FOR PRODUCTION UPON DEMAND" prominently displayed on the card.

5. An insurance identification card shall be carried in the insured motor vehicle at all times. The operator of an insured motor vehicle shall exhibit the insurance identification card on the demand of any peace officer, commercial vehicle enforcement officer or commercial vehicle inspector who lawfully stops such operator or investigates an accident while that officer or inspector is engaged in the performance of the officer's or inspector's duties. If the operator fails to exhibit an insurance identification card, the officer or inspector shall issue a citation to the operator for a violation of section 303.025. A motor vehicle liability insurance policy, a motor vehicle liability insurance binder, or receipt which contains the policy information required in subsection 2 of this section, shall be satisfactory evidence of insurance in lieu of an insurance identification card.

6. Any person who knowingly or intentionally produces, manufactures, sells, or otherwise distributes a fraudulent document intended to serve as an insurance identification card is guilty of a class **[**D**]** E felony. Any person who knowingly or intentionally possesses a fraudulent document intended to serve as an insurance identification card is guilty of a class B misdemeanor.

303.025. 1. No owner of a motor vehicle registered in this state, or required to be registered in this state, shall operate, register or maintain registration of a motor vehicle, or permit

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another person to operate such vehicle, unless the owner maintains the financial responsibility which conforms to the requirements of the laws of this state. No nonresident shall operate or permit another person to operate in this state a motor vehicle registered to such nonresident unless the nonresident maintains the financial responsibility which conforms to the requirements of the laws of the nonresident's state of residence. Furthermore, no person shall operate a motor vehicle owned by another with the knowledge that the owner has not maintained financial responsibility unless such person has financial responsibility which covers the person's operation of the other's vehicle; however, no owner or nonresident shall be in violation of this subsection if he or she fails to maintain financial responsibility on a motor vehicle which is inoperable or being stored and not in operation. The director may prescribe rules and regulations for the implementation of this section.

2. A motor vehicle owner shall maintain the owner's financial responsibility in a manner provided for in section 303.160, or with a motor vehicle liability policy which conforms to the requirements of the laws of this state. A nonresident motor vehicle owner shall maintain the owner's financial responsibility which conforms to the requirements of the laws of the nonresident's state of residence.

3. Any person who violates this section is guilty of a misdemeanor. A first violation of this section shall be punishable **[**by a fine not to exceed three hundred dollars**]** <u>as a class D misdemeanor</u>. A second or subsequent violation of this section shall be punishable by imprisonment in the county jail

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for a term not to exceed fifteen days and/or a fine not to exceed **[**three**]** five hundred dollars. Prior pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner as required by section 558.021. However, no person shall be found guilty of violating this section if the operator demonstrates to the court that he or she met the financial responsibility requirements of this section at the time the peace officer, commercial vehicle enforcement officer or commercial vehicle inspector wrote the citation. In addition to any other authorized punishment, the court shall notify the director of revenue of any person convicted pursuant to this section and shall do one of the following:

(1) Enter an order suspending the driving privilege as of the date of the court order. If the court orders the suspension of the driving privilege, the court shall require the defendant to surrender to it any driver's license then held by such person. The length of the suspension shall be as prescribed in subsection 2 of section 303.042. The court shall forward to the director of revenue the order of suspension of driving privilege and any license surrendered within ten days;

(2) Forward the record of the conviction for an assessment of four points;

(3) In lieu of an assessment of points, render an order of supervision as provided in section 302.303. An order of supervision shall not be used in lieu of points more than one time in any thirty-six-month period. Every court having jurisdiction pursuant to the provisions of this section shall forward a record of conviction to the Missouri state highway

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patrol, or at the written direction of the Missouri state highway patrol, to the department of revenue, in a manner approved by the director of the department of public safety. The director shall establish procedures for the record keeping and administration of this section; or

(4) For a nonresident, suspend the nonresident's driving privileges in this state in accordance with section 303.030 and notify the official in charge of the issuance of licenses and registration certificates in the state in which such nonresident resides in accordance with section 303.080.

4. Nothing in sections 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330 and 303.370 shall be construed as prohibiting the department of insurance, financial institutions and professional registration from approving or authorizing those exclusions and limitations which are contained in automobile liability insurance policies and the uninsured motorist provisions of automobile liability insurance policies.

5. If a court enters an order of suspension, the offender may appeal such order directly pursuant to chapter 512 and the provisions of section 302.311 shall not apply.

304.070. 1. Any person who violates any of the provisions of subsections 1, 3, and 6 of section 304.050 is guilty of a class A misdemeanor. In addition, **[**beginning July 1, 2005,**]** the court may suspend the driver's license of any person who violates the provision of subsection 1 of section 304.050. If ordered by the court, the director shall suspend the driver's license for ninety days for a first offense of subsection 1 of section 304.050, and one hundred twenty days for a second or subsequent

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offense of subsection 1 of section 304.050. Any person who violates subsection 1 of section 304.050 where such violation results in the injury of any child shall be guilty of a class **[**D**]** E felony. Any person who violates subsection 1 of section 304.050 where such violation causes the death of any child shall be guilty of a class **[**C**]** D felony.

2. Any appeal of a suspension imposed under subsection 1 of this section shall be a direct appeal of the court order and subject to review by the presiding judge of the circuit court or another judge within the circuit other than the judge who issued the original order to suspend the driver's license. The director of revenue's entry of the court-ordered suspension on the driving record is not a decision subject to review pursuant to section 302.311. Any suspension of the driver's license ordered by the court under this section shall be in addition to any other suspension that may occur as a result of the conviction pursuant to other provisions of law.

[577.217.**]** 305.125. If a person refuses upon the request of the officer to submit to a chemical test under section 577.041, then no test shall be given. Any refusal to submit to a test shall be an infraction which may be punished by a fine of up to one thousand dollars. The officer shall inform the person that his or her failure to submit to the test may result in a fine and administrative penalties by the Federal Aviation Administration.

[577.221.**]** 305.126. **[**All positive test results and test refusals**]** Whenever a person operating an aircraft or acting as a flight crew member of any aircraft has a positive chemical test under chapter 577 or refuses a chemical test pursuant to section

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577.041, the test result and refusal shall be reported by law enforcement agencies to the Federal Aviation Administration. If a person pleads guilty to or is found guilty of a violation of sections [577.201 and 577.203] 577.015 and 577.016, a report of the conviction shall be forwarded by the court in which the conviction occurred to the Federal Aviation Administration.

306.110. 1. No person shall [operate any motorboat or watercraft, or] manipulate any water skis, surfboard or other waterborne device in a reckless or negligent manner so as to endanger the life or property of any person.

2. No person shall [operate any motorboat or watercraft, or] manipulate any water skis, surfboard or other waterborne device while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana.

306.111. [1.] A person commits the crime of negligent operation of a vessel if when operating a vessel he or she acts with criminal negligence, as defined in subsection 5 of section 562.016, to cause physical injury to any other person or damage to the property of any other person. A person convicted of negligent operation of a vessel is guilty of a class B misdemeanor upon conviction for the first violation, guilty of a class A misdemeanor upon conviction for the second violation, and guilty of a class [D] E felony for conviction for the third and subsequent violations.

[2. A person commits the crime of operating a vessel while intoxicated if he or she operates a vessel on the Mississippi River, Missouri River or the lakes of this state while in an intoxicated condition. Operating a vessel while intoxicated is a

class B misdemeanor.

3. A person commits the crime of involuntary manslaughter with a vessel if, while in an intoxicated condition, he or she operates any vessel and, when so operating, acts with criminal negligence to cause the death of any person. Involuntary manslaughter with a vessel is a class C felony.

4. A person commits the crime of assault with a vessel in the second degree if, while in an intoxicated condition, he or she operates any vessel and, when so operating, acts with criminal negligence to cause physical injury to any other person. Assault with a vessel in the second degree is a class D felony.

5. For purposes of this section, a person is in an intoxicated condition when he or she is under the influence of alcohol, a controlled substance or drug, or any combination thereof.**]**

306.420. 1. Upon the satisfaction of a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft, the lienholder shall within ten days execute a release of his or her lien or encumbrance, on the certificate or separate document, and mail or deliver the certificate or separate document to the owner or any person who delivers to the lienholder an authorization from the owner to receive the documentation. The release on the certificate or separate document shall be notarized. Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder. The owner may cause the certificate of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on

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the certificate and issue a new certificate of title.

2. If the electronic certificate of title is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists, the director shall mail or deliver the certificate free of any lien to the owner.

3. Any person who knowingly and intentionally sends in a separate document releasing a lien of another without authority to do so shall be guilty of a class **[**C**]** D felony.

311.315. 1. A person commits the offense of manufacturing a false identification if he or she possesses any means of identification for the purpose of manufacturing and providing or selling a false identification card to a person under the age of twenty-one for the purpose of purchasing or obtaining alcohol.

2. The offense of manufacturing a false identification is a class A misdemeanor.

311.325. 1. Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor as defined in section 311.020 or who is visibly in an intoxicated condition as defined in section 577.001, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood is guilty of a misdemeanor. A first violation of this section shall be punishable **[**by a fine not to exceed three hundred dollars**]** as a class D misdemeanor. A

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second or subsequent violation of this section shall be punishable **[**by imprisonment in the county jail for a term not to exceed one year and/or a fine not to exceed one thousand dollars**]** as a class A misdemeanor. Prior pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner as required by section 558.021. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

2. For purposes of determining violations of any provision of this chapter, or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

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3. Any person under the age of twenty-one years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition as defined in section 577.001, shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this subsection shall be limited to not more than two such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the state department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose. The state department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to be considered valid and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the state department of health and senior services. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction

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of a law enforcement officer. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. Full information is limited to the following:

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

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

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

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

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

4. The provisions of this section shall not apply to a student who:

(1) Is eighteen years of age or older;

(2) Is enrolled in an accredited college or university and is a student in a culinary course;

(3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and

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(4) Tastes a beverage under subdivision (3) of this subsection only for instructional purposes during classes that are part of the curriculum of the accredited college or university. The beverage must at all times remain in the possession and control of an authorized instructor of the college or university, who must be twenty-one years of age or older. Nothing in this subsection may be construed to allow a student under the age of twenty-one to receive any beer, ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum.

313.004. 1. There is hereby created the "Missouri Gaming Commission" consisting of five members appointed by the governor, with the advice and consent of the senate. Each member of the Missouri gaming commission shall be a resident of this state. No member shall have pled guilty to or shall have been convicted of a felony or gambling-related offense. Not more than three members shall be affiliated with the same political party. No member of the commission shall be an elected official. The overall membership of the commission shall reflect experience in law enforcement, civil and criminal investigation and financial principles.

2. The initial members of the commission shall be appointed within thirty days of April 29, 1993. Of the members first appointed, one shall be appointed for a one-year term, two shall be appointed for a two-year term and two shall be appointed for a three-year term. Thereafter, all members appointed shall serve

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for a three-year term. No person shall serve as a member more than six years. The governor shall designate one of the members as the chair. The governor may remove any member of the commission from office for malfeasance or neglect of duty in office. The governor may also replace any member of the commission, with the advice and consent of the senate, when any responsibility concerning the state lottery, pari-mutuel wagering or any other form of gaming is placed under the jurisdiction of the commission.

3. The commission shall meet at least quarterly in accordance with its rules. In addition, special meetings may be called by the chair or any two members of the commission upon twenty-four-hour written notice to each member. No action of the commission shall be binding unless taken at a meeting at which at least three of the five members are present and shall vote in favor thereof.

4. The commission shall perform all duties and have all the powers and responsibilities conferred and imposed upon it relating to excursion gambling boats and, after June 30, 1994, the lawful operation of the game of bingo under this chapter. Within the commission, there shall be established a division of gambling and after June 30, 1994, the division of bingo. Subject to appropriations, the commission may hire an executive director and any employees as it may deem necessary to carry out the commission's duties. The commission shall have authority to require investigations of any employee or applicant for employment as deemed necessary and use such information or any other information in the determination of employment. The

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commission shall promulgate rules and regulations establishing a code of ethics for its employees which shall include, but not be limited to, restrictions on which employees shall be prohibited from participating in or wagering on any game or gaming operation subject to the jurisdiction of the commission. The commission shall determine if any other employees of the commission or any licensee of the commission shall participate or wager in any operation under the jurisdiction of the commission.

5. On April 29, 1993, all the authority, powers, duties, functions, records, personnel, property, matters pending and all other pertinent vestiges of the state tourism commission relating to the regulation of excursion gambling boats and, after June 30, 1994, of the department of revenue relating to the regulation of the game of bingo shall be transferred to the Missouri gaming commission.

6. The commission shall be assigned to the department of public safety as a type III division, but the director of the department of public safety has no supervision, authority or control over the actions or decisions of the commission.

7. Members of the Missouri gaming commission shall receive as compensation, the amount of one hundred dollars for every day in which the commission holds a meeting, when such meeting is subject to the recording of minutes as provided in chapter 610, and shall be reimbursed for reasonable expenses incurred in the performance of their duties. The chair shall receive as additional compensation one hundred dollars for each month such person serves on the commission in that capacity.

8. No member or employee of the commission shall be

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appointed or continue to be a member or employee who is licensed by the commission as an excursion gambling boat operator or supplier and no member or employee of the commission shall be appointed or continue to be a member or employee who is related to any person within the second degree of consanguinity or affinity who is licensed by the commission as an excursion gambling boat operator or supplier. The commission shall determine by rule and regulation appropriate restrictions on the relationship of members and employees of the commission to persons holding or applying for occupational licenses from the commission or to employees of any licensee of the commission. No peace officer, as defined by section 590.100, who is designated to have direct regulator authority related to excursion gambling boats shall be employed by any excursion gambling boat or supplier licensed by the commission while employed as a peace officer. No member or employee of the commission or any employee of the state attorney general's office or the state highway patrol who has direct authority over the regulation or investigation of any applicant or licensee of the commission or any peace officer of any city or county which has approved excursion boat gambling shall accept any gift or gratuity from an applicant or licensee while serving as a member or while under such employment. Any person knowingly in violation of the provisions of this subsection is guilty of a class A misdemeanor. Any such member, officer or employee who personally or whose prohibited relative knowingly violates the provisions of this subsection, in addition to the foregoing penalty, shall, upon conviction, immediately and thereupon forfeit his office or

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employment.

9. The commission may enter into agreements with the Federal Bureau of Investigation, the Federal Internal Revenue Service, the state attorney general or any state, federal or local agency the commission deems necessary to carry out the duties of the commission. No state agency shall count employees used in any agreements entered into with the commission against any personnel cap authorized by any statute. Any consideration paid by the commission for the purpose of entering into, or to carry out, any agreement shall be considered an administrative expense of the commission. When such agreements are entered into for responsibilities relating to excursion gambling boats, the commission shall require excursion gambling boat licensees to pay for such services under rules and regulations of the commission. The commission may provide by rules and regulations for the offset of any prize or winnings won by any person making a wager subject to the jurisdiction of the commission, when practical, when such person has an outstanding debt owed the state of Missouri.

10. No person who has served as a member or employee of the commission, as a member of the general assembly, as an elected or appointed official of the state or of any city or county of this state in which the licensing of excursion gambling boats has been approved in either the city or county or both or any employee of the state highway patrol designated by the superintendent of the highway patrol or any employee of the state attorney general's office designated by the state attorney general to have direct regulatory authority related to excursion gambling boats shall,

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while in such office or during such employment and during the first two years after termination of his office or position, obtain direct ownership interest in or be employed by any excursion gambling boat licensed by the commission or which has applied for a license to the commission or enter into a contractual relationship related to direct gaming activity. A "direct ownership interest" shall be defined as any financial interest, equitable interest, beneficial interest, or ownership control held by the public official or employee, or such person's family member related within the second degree of consanguinity or affinity, in any excursion gambling boat operation or any parent or subsidiary company which owns or operates an excursion gambling boat or as a supplier to any excursion gambling boat which has applied for or been granted a license by the commission, provided that a direct ownership interest shall not include any equity interest purchased at fair market value or equity interest received as consideration for goods and services provided at fair market value of less than one percent of the total outstanding shares of stock of any publicly traded corporation or certificates of partnership of any limited partnership which is listed on a regulated stock exchange or automated quotation system. Any person who knowingly violates the provisions of this subsection is guilty of a class **[**D**]** E felony. Any such member, officer or employee who personally and knowingly violates the provisions of this subsection, in addition to the foregoing penalty, shall, upon conviction, immediately and thereupon forfeit his office or employment. For purposes of this subsection, "appointed official" shall mean any official of this

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state or of any city or county authorized under subsection 10 of section 313.812 appointed to a position which has discretionary powers over the operations of any licensee or applicant for licensure by the commission. This shall only apply if the appointed official has a direct ownership interest in an excursion gambling boat licensed by the commission or which has applied for a license to the commission to be docked within the jurisdiction of his or her appointment. No elected or appointed official, his or her spouse or dependent child shall, while in such office or within two years after termination of his or her office or position, be employed by an applicant for an excursion gambling boat license or an excursion gambling boat licensed by the commission. Any other person related to an elected or appointed official within the second degree of consanguinity or affinity employed by an applicant for an excursion gambling boat license or excursion gambling boat licensed by the commission shall disclose this relationship to the commission. Such disclosure shall be in writing and shall include who is employing such individual, that person's relationship to the elected or appointed official, and a job description for which the person is being employed. The commission may require additional information as it may determine necessary.

11. The commission may enter into contracts with any private entity the commission deems necessary to carry out the duties of the commission, other than criminal law enforcement, provision of legal counsel before the courts and other agencies of this state, and the enforcement of liquor laws. The commission may require provisions for special auditing

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requirements, investigations and restrictions on the employees of any private entity with which a contract is entered into by the commission.

12. Notwithstanding the provisions of chapter 610 to the contrary, all criminal justice records shall be available to any agency or commission responsible for licensing or investigating applicants or licensees applying to any gaming commission of this state.

313.040. The conducting of bingo is subject to the following restrictions:

(1) (a) The entire net receipts over and above the actual cost of conducting the game shall be exclusively devoted to the lawful, charitable, religious or philanthropic purposes of the organization permitted to conduct that game and no receipts shall be used to compensate in any manner any person who works for or is in any way affiliated with the licensed organization. Any person who violates the provisions of this paragraph shall be guilty of a class **[**D**]** E felony;

(b) Proceeds from the game of bingo may not be loaned to any person, except that this provision shall not prohibit the investment of the proceeds in any licensed banking or savings institution, instrument of the United States, Missouri, or any political subdivision thereof. Any person who violates the provisions of this paragraph shall be guilty of a class C misdemeanor; and

(c) The actual cost of conducting the game shall only include the following:

a. The cost of the prizes;

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b. The purchasing of the bingo cards from a licensed supplier;

c. The purchasing or leasing of the equipment used in conducting the game;

d. The lease rental on the premises in which the game is conducted to include an allocation of utility costs, if applicable, costs of providing security, including the employment of a reasonable number of security personnel at a compensation level which complies with rules and regulations promulgated by the commission and such personnel is actually present and engaged in security duties, and bookkeeping and accounting expenses;

e. The actual cost of providing reasonable janitorial services. The cost of such services shall not be above the fair market rate charged for similar services in the community where the bingo game is being conducted;

f. Subject to constitutional restrictions, if any, the fair market cost of advertising each bingo occasion. Such advertising shall be procured in accordance with the rules and regulations of the commission;

(2) No person shall participate in conducting or managing the game of bingo except a person who has been a bona fide member of the licensed organization for at least two years immediately preceding such participation, who is not a paid staff person of the licensed organization employed and compensated specifically for conducting or managing the game of bingo and who volunteers the time and service necessary to conduct the game. Subject to constitutional restrictions, if any, no person shall participate in the actual operation of the game of bingo under the direction

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of a person conducting or managing the game of bingo, except a person who has been a bona fide member of the licensed organization for at least one year immediately preceding such participation, who is not a paid staff person of the licensed organization employed and compensated specifically for operating the game of bingo and who volunteers the time and service necessary to operate the game. If any post or organization, by its national charter, has established an auxiliary organization for spouses, then members of the auxiliary organization shall be considered bona fide members of the licensed organization and members of the post or organization shall be considered bona fide members of the auxiliary organization for the purposes of this subdivision. Any person who is a duly ordained member of the clergy and any person who is a full-time employee or staff member of the licensed organization employed for at least two years by that organization in a capacity not directly related to the conducting or managing of the game of bingo, who has specific assigned duties under a definite job description with the licensed organization, and who volunteers time and assistance to the organization without compensation for such time and assistance in the conducting and managing of the game of bingo by the organization shall not be considered a paid staff person for the purposes of this subdivision. No full-time employee or staff member shall volunteer such time and assistance to more than one organization nor more than one day in any week. The commission shall establish guidelines for the determination of whether a person is a paid staff person within the meaning of this subdivision and shall specifically approve any full-time employee

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or staff member of the organization before such employee or staff member may volunteer time and assistance in the conducting and managing of bingo games for any organization. The commission may suspend the approval of any employee or staff member;

(3) No person, firm, partnership or corporation shall receive any remuneration, profit or gift for participating in the management, conduct or operation of the game, including the granting or use of bingo cards without charge or at a reduced charge from the licensed organization or from any other source;

(4) The aggregate retail value of all prizes or merchandise awarded, except prizes or merchandise awarded by pull-tab cards and progressive bingo games, in any single day of bingo may not exceed the amount set by the commission per regulation;

(5) The number of games may not exceed sixty-two in any one day, including regular and special games. For purposes of this subdivision, the use of a pull-tab card and progressive bingo games shall not count as one of the sixty-two games per day, as limited by this subdivision, but no pull-tab card may be used except in conjunction with one of such sixty-two games;

(6) The price paid for a single bingo card under the license may not exceed one dollar. The commission may establish by rule or regulation the number of bingo cards which may be placed on a single bingo sheet. The price for a single pull-tab card may not exceed one dollar. A licensee may not require a player to purchase more than a standard pack in order to participate in the bingo occasion;

(7) The number of bingo days conducted by a licensee under the provisions of sections 313.005 to 313.080 shall be limited to

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two days per week;

(8) Any person, officer or director of any firm or corporation, and any partner of any partnership renting or leasing to a licensed organization equipment or premises for use in a game shall meet all the qualifications set forth in subdivisions (1) to (5) and (8) of section 313.035 and shall not be a paid staff person of the licensee. Proof of compliance with this subdivision shall be submitted to the commission by the licensee in the manner required by the commission;

(9) Subject to constitutional restrictions, if any, an organization licensed to conduct bingo in the state of Missouri may advertise a bingo occasion or special event bingo if expenditures for advertisement do not exceed ten percent of the total amount expended from receipts of bingo conducted by the licensed organization for charitable, religious or philanthropic purposes;

(10) No person under the age of sixteen years may play or participate in the conducting of bingo. Any person under the age of sixteen years may be within the area where bingo is being played only when accompanied by his parent or guardian;

(11) No licensee shall lease premises in which it conducts bingo games from someone who is not a hall provider licensed by the commission;

(12) No licensee shall pay any consulting fees to any person for any service performed in relation to the bingo game;

(13) No licensee shall pay concession fees to any person who provides refreshments to the participants in the bingo game;

(14) No licensee shall conduct a bingo session at any time

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during the period between 1:00 a.m. and 7:00 a.m.;

(15) No licensee, while a bingo game is being conducted, shall knowingly permit entry to any part of the licensed premises to any person of notorious or unsavory reputation or who has an extensive police record or who has been convicted of a felony;

(16) No vending machine or any mechanized coin-operated machine may be used to sell pull-tab cards or to pay prize money, merchandise gifts or any other form of a prize;

(17) No rented or reusable bingo cards may be used to conduct any game. All games must be conducted with disposable paper bingo cards that are marked by permanent ink as prescribed by the rules and regulations of the commission, or by electronic bingo card monitoring device as approved by the commission;

(18) No licensee shall purchase or use any bingo supplies from a person who is not licensed by the state of Missouri as a bingo supplier.

313.290. 1. No person shall sell a ticket or share at a price other than that fixed by rule or regulation of the commission. No person other than a licensed lottery game retailer shall sell lottery tickets or shares, but nothing in this section shall be construed to prevent any person from giving lottery tickets or shares to another as a gift. Any violation of this section is a class A misdemeanor.

2. Any person who falsely or fraudulently makes, forges, alters or counterfeits, or causes or procures to be made, forged, altered or counterfeited, any state lottery ticket, or any part thereof, or who knowingly and willfully utters, publishes, passes or tenders as true, any forged, altered or counterfeited state

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lottery ticket is guilty of a class **[**C**]** D felony. Any person who with intent to defraud secures, manufactures, or causes to be secured or manufactured, or has in his possession any counterfeit state lottery ticket or device, is guilty of a class **[**D**]** E felony.

313.550. 1. The commission may issue subpoenas for the attendance of witnesses or the production of any records, books, memoranda, documents, or other papers or things, to enable any of them to effectually discharge its or his duties, and may administer oaths or affirmations as necessary in connection therewith. In addition, the commission shall have the authority to issue subpoenas under section 536.077 in contested cases.

2. Any person subpoenaed who fails to appear at the time and place specified in answer to the subpoena and to bring any papers or things specified in the subpoena, or who upon such appearance, refuses to testify or produce such records or things, upon conviction, is guilty of a class A misdemeanor.

3. Any person who testifies falsely under oath in any proceeding before, or any investigation by, the commission, its secretary, or the stewards, upon conviction, shall be guilty of a class **[**D**]** E felony.

313.660. 1. No individual shall for a fee, directly or indirectly, accept anything of value to be wagered or to be transmitted or delivered for wager in any pari-mutuel system of wagering on horse racing or for a fee deliver anything of value which has been received outside of the enclosure of a race track holding a horse race licensed under sections 313.500 to 313.710 to be placed as wagers in the pari-mutuel pool within such

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enclosure.

2. Any individual violating the provisions of this section shall upon conviction be guilty of a class **[**C**]** D felony.

313.830. 1. A person is guilty of a class **[**D**]** E felony for any of the following:

(1) Operating a gambling excursion where wagering is used or to be used without a license issued by the commission;

(2) Operating a gambling excursion where wagering is permitted other than in the manner specified by section 313.817; or

(3) Acting, or employing a person to act, as a shill or decoy to encourage participation in a gambling game.

2. A person is guilty of a class B misdemeanor for the first offense and a class A misdemeanor for the second and subsequent offenses for any of the following:

(1) Permitting a person under the age of twenty-one to make a wager while on an excursion gambling boat;

(2) Making or attempting to make a wager while on an excursion gambling boat when such person is under the age of twenty-one years; or

(3) Aiding a person who is under the age of twenty-one in entering an excursion gambling boat or in making or attempting to make a wager while on an excursion gambling boat.

3. A person wagering or accepting a wager at any location outside the excursion gambling boat is in violation of section 572.040.

4. A person commits a class **[**D**]** E felony and, in addition, shall be barred for life from excursion gambling boats under the

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jurisdiction of the commission, if the person:

(1) Offers, promises, or gives anything of value or benefit to a person who is connected with an excursion gambling boat operator including, but not limited to, an officer or employee of a licensee or holder of an occupational license pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission;

(2) Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with an excursion gambling boat including, but not limited to, an officer or employee of a licensee, or holder of an occupational license, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission;

(3) Uses a device to assist in any of the following:

(a) In projecting the outcome of the game;

(b) In keeping track of the cards played;

(c) In analyzing the probability of the occurrence of an event relating to the gambling game; or

(d) In analyzing the strategy for playing or betting to be used in the game, except as permitted by the commission;

(4) Cheats at a gambling game;

(5) Manufactures, sells, or distributes any cards, chips,

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dice, game or device which is intended to be used to violate any provision of sections 313.800 to 313.850;

(6) Instructs a person in cheating or in the use of a device for that purpose with the knowledge or intent that the information or use conveyed may be employed to violate any provision of sections 313.800 to 313.850;

(7) Alters or misrepresents the outcome of a gambling game on which wagers have been made after the outcome is made sure but before it is revealed to the players;

(8) Places a bet after acquiring knowledge, not available to all players, of the outcome of the gambling game which is the subject of the bet or to aid a person in acquiring the knowledge for the purpose of placing a bet contingent on that outcome;

(9) Claims, collects, or takes, or attempts to claim, collect, or take, money or anything of value in or from the gambling games, with intent to defraud, without having made a wager contingent on winning a gambling game, or claims, collects, or takes an amount of money or thing of value of greater value than the amount won;

(10) Knowingly entices or induces a person to go to any place where a gambling game is being conducted or operated in violation of the provisions of sections 313.800 to 313.850 with the intent that the other person plays or participates in that gambling game;

(11) Uses counterfeit chips or tokens in a gambling game;

(12) Knowingly uses, other than chips, tokens, coin, of other methods of credit approved by the commission, legal tender of the United States of America, or to use coin not of the

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denomination as the coin intended to be used in the gambling games;

(13) Has in the person's possession any device intended to be used to violate a provision of sections 313.800 to 313.850;

(14) Has in the person's possession, except a gambling licensee or employee of a gambling licensee acting in furtherance of the employee's employment, any key or device designed for the purpose of opening, entering, or affecting the operation of a gambling game, drop box, or an electronic or mechanical device connected with the gambling game or for removing coins, tokens, chips or other contents of the gambling game; or

(15) Knowingly makes a false statement of any material fact to the commission, its agents or employees.

5. The possession of one or more of the devices described in subdivision (3), (5), (13) or (14) of subsection 4 of this section permits a rebuttable inference that the possessor intended to use the devices for cheating.

6. Except for wagers on gambling games or exchanges for money as provided in section 313.817, or as payment for food or beverages on the excursion gambling boat, a licensee who exchanges tokens, chips, or other forms of credit to be used on gambling games for anything of value commits a class B misdemeanor.

7. If the commission determines that reasonable grounds to believe that a violation of sections 313.800 to 313.850 has occurred or is occurring which is a criminal offense, the commission shall refer such matter to both the state attorney general and the prosecuting attorney or circuit attorney having

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jurisdiction. The state attorney general and the prosecuting attorney or circuit attorney with such jurisdiction shall have concurrent jurisdiction to commence actions for violations of sections 313.800 to 313.850 where such violations have occurred.

8. Venue for all crimes committed on an excursion gambling boat shall be the jurisdiction of the home dock city or county or such county where a home dock city is located.

317.018. 1. Combative fighting is prohibited in the state of Missouri.

2. Anyone who promotes or participates in combative fighting, or anyone who serves as an agent, principal partner, publicist, vendor, producer, referee, or contractor of or for combative fighting is guilty of a class **[**D**]** E felony.

3. Any medical personnel who administers to, treats or assists any participants of combative fighting shall not be subject to the provisions of this section.

4. Nothing in section 317.001 or this section is intended to regulate, or interfere with or make illegal, traditional, sanctioned amateur or scholastic boxing, amateur or scholastic wrestling, amateur or scholastic kickboxing, or amateur or scholastic full-contact karate or amateur or scholastic mixed martial arts.

[571.085.**]** 319.1000. Residents of the state of Missouri may purchase firearms in any state, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, and regulations thereunder, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Missouri and in the state in

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which the purchase is made.

[571.087.**]** 319.1005. Residents of any state may purchase firearms in the state of Missouri, provided that such residents conform to the applicable provisions of the Federal Gun Control Act of 1968, and regulations thereunder, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Missouri and in the state in which such persons reside.

[571.093.**]** 319.1007. If any sheriff retains records of permits to obtain concealable firearms issued under former section 571.090, as repealed by senate bills nos. 62 and 41 of the ninety-fourth general assembly, then such records shall be closed to the public. No such record shall be made available for any purpose whatsoever unless its disclosure is mandated by a valid court order relating to a criminal investigation.

[571.095.**]** 319.1010. Upon conviction for or attempting to commit a felony in violation of any law perpetrated in whole or in part by the use of a firearm, the court may, in addition to the penalty provided by law for such offense, order the confiscation and disposal or sale or trade to a licensed firearms dealer of firearms and ammunition used in the commission of the crime or found in the possession or under the immediate control of the defendant at the time of his or her arrest. The proceeds of any sale or gains from trade shall be the property of the police department or sheriff's department responsible for the defendant's arrest or the confiscation of the firearms and ammunition. If such firearms or ammunition are not the property of the convicted felon, they shall be returned to their rightful

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owner if he or she is known and was not a participant in the crime. Any proceeds collected under this section shall be deposited with the municipality or by the county treasurer into the county sheriff's revolving fund established in section 50.535.

[571.101.**]** 319.1025. 1. All applicants for concealed carry endorsements issued pursuant to subsection 7 of this section must satisfy the requirements of sections **[**571.101 to 571.121**]** 319.1025 to 319.1043. If the said applicant can show qualification as provided by sections **[**571.101 to 571.121**]** 319.1025 to 319.1043, the county or city sheriff shall issue a certificate of qualification for a concealed carry endorsement. Upon receipt of such certificate, the certificate holder shall apply for a driver's license or nondriver's license with the director of revenue in order to obtain a concealed carry endorsement. Any person who has been issued a concealed carry endorsement on a driver's license or nondriver's license and such endorsement or license has not been suspended, revoked, cancelled, or denied may carry concealed firearms on or about his or her person or within a vehicle. A concealed carry endorsement shall be valid for a period of three years from the date of issuance or renewal. The concealed carry endorsement is valid throughout this state.

2. A certificate of qualification for a concealed carry endorsement issued pursuant to subsection 7 of this section shall be issued by the sheriff or his or her designee of the county or city in which the applicant resides, if the applicant:

(1) Is at least twenty-one years **[**of age**]** old, is a citizen

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of the United States and either:

(a) Has assumed residency in this state; or

(b) Is a member of the armed forces stationed in Missouri, or the spouse of such member of the military;

(2) Has not **[**pled guilty to or entered a plea of nolo contendere or**]** been **[**convicted of a crime**]** found guilty of an offense punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(3) Has not been **[**convicted of, pled guilty to or entered a plea of nolo contendere to**]** found guilty of one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a certificate of qualification for a concealed carry endorsement or if the applicant has not been **[**convicted**]** found guilty of of two or more misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification for a concealed carry endorsement;

(4) Is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state of the United States other than a crime classified as a misdemeanor under the laws of any state and

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punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun;

(5) Has not been discharged under dishonorable conditions from the United States armed forces;

(6) Has not engaged in a pattern of behavior, documented in public records, that causes the sheriff to have a reasonable belief that the applicant presents a danger to himself or others;

(7) Is not adjudged mentally incompetent at the time of application or for five years prior to application, or has not been committed to a mental health facility, as defined in section 632.005, or a similar institution located in another state following a hearing at which the defendant was represented by counsel or a representative;

(8) Submits a completed application for a certificate of qualification as described in subsection 3 of this section;

(9) Submits an affidavit attesting that the applicant complies with the concealed carry safety training requirement pursuant to subsections 1 and 2 of section **[**571.111**]** 319.1034;

(10) Is not the respondent of a valid full order of protection which is still in effect.

3. The application for a certificate of qualification for a concealed carry endorsement issued by the sheriff of the county of the applicant's residence shall contain only the following information:

(1) The applicant's name, address, telephone number, gender, and date and place of birth;

(2) An affirmation that the applicant has assumed residency

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in Missouri or is a member of the armed forces stationed in Missouri or the spouse of such a member of the armed forces and is a citizen of the United States;

(3) An affirmation that the applicant is at least twenty-one years **[**of age**]** old;

(4) An affirmation that the applicant has **[**not pled**]** been found guilty **[**to or been convicted of a crime**]** of an offense punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun;

(5) An affirmation that the applicant has not been **[**convicted of, pled guilty to, or entered a plea of nolo contendere to**]** found guilty of one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a certificate of qualification to obtain a concealed carry endorsement or if the applicant has not been **[**convicted**]** found guilty of two or more misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification to obtain a concealed carry endorsement;

(6) An affirmation that the applicant is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a

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term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(7) An affirmation that the applicant has not been discharged under dishonorable conditions from the United States armed forces;

(8) An affirmation that the applicant is not adjudged mentally incompetent at the time of application or for five years prior to application, or has not been committed to a mental health facility, as defined in section 632.005, or a similar institution located in another state, except that a person whose release or discharge from a facility in this state pursuant to chapter 632, or a similar discharge from a facility in another state, occurred more than five years ago without subsequent recommitment may apply;

(9) An affirmation that the applicant has received firearms safety training that meets the standards of applicant firearms safety training defined in subsection 1 or 2 of section **[**571.111**]** 319.1034;

(10) An affirmation that the applicant, to the applicant's best knowledge and belief, is not the respondent of a valid full order of protection which is still in effect; and

(11) A conspicuous warning that false statements made by the applicant will result in prosecution for perjury pursuant to the laws of the state of Missouri.

4. An application for a certificate of qualification for a

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concealed carry endorsement shall be made to the sheriff of the county or any city not within a county in which the applicant resides. An application shall be filed in writing, signed under oath and under the penalties of perjury, and shall state whether the applicant complies with each of the requirements specified in subsection 2 of this section. In addition to the completed application, the applicant for a certificate of qualification for a concealed carry endorsement must also submit the following:

(1) A photocopy of a firearms safety training certificate of completion or other evidence of completion of a firearms safety training course that meets the standards established in subsection 1 or 2 of section **[**571.111**]** 319.1034; and

(2) A nonrefundable certificate of qualification fee as provided by subsection 10 or 11 of this section.

5. Before an application for a certificate of qualification for a concealed carry endorsement is approved, the sheriff shall make only such inquiries as he or she deems necessary into the accuracy of the statements made in the application. The sheriff may require that the applicant display a Missouri driver's license or nondriver's license or military identification and orders showing the person being stationed in Missouri. In order to determine the applicant's suitability for a certificate of qualification for a concealed carry endorsement, the applicant shall be fingerprinted. The sheriff shall request a criminal background check through the appropriate law enforcement agency within three working days after submission of the properly completed application for a certificate of qualification for a concealed carry endorsement. If no disqualifying record is

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identified by the fingerprint check at the state level, the fingerprints shall be forwarded to the Federal Bureau of Investigation for a national criminal history record check. Upon receipt of the completed background check, the sheriff shall issue a certificate of qualification for a concealed carry endorsement within three working days. The sheriff shall issue the certificate within forty-five calendar days if the criminal background check has not been received, provided that the sheriff shall revoke any such certificate and endorsement within twenty-four hours of receipt of any background check that results in a disqualifying record, and shall notify the department of revenue.

6. The sheriff may refuse to approve an application for a certificate of qualification for a concealed carry endorsement if he or she determines that any of the requirements specified in subsection 2 of this section have not been met, or if he or she has a substantial and demonstrable reason to believe that the applicant has rendered a false statement regarding any of the provisions of sections **[**571.101 to 571.121**]** 319.1025 to 319.1043. If the applicant is found to be ineligible, the sheriff is required to deny the application, and notify the applicant in writing, stating the grounds for denial and informing the applicant of the right to submit, within thirty days, any additional documentation relating to the grounds of the denial. Upon receiving any additional documentation, the sheriff shall reconsider his or her decision and inform the applicant within thirty days of the result of the reconsideration. The applicant shall further be informed in writing of the right to appeal the

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denial pursuant to subsections 2, 3, 4, and 5 of section **[**571.114**]** 319.1037. After two additional reviews and denials by the sheriff, the person submitting the application shall appeal the denial pursuant to subsections 2, 3, 4, and 5 of section **[**571.114**]** 319.1037.

7. If the application is approved, the sheriff shall issue a certificate of qualification for a concealed carry endorsement to the applicant within a period not to exceed three working days after his or her approval of the application. The applicant shall sign the certificate of qualification in the presence of the sheriff or his or her designee and shall within seven days of receipt of the certificate of qualification take the certificate of qualification to the department of revenue. Upon verification of the certificate of qualification and completion of a driver's license or nondriver's license application pursuant to chapter 302, the director of revenue shall issue a new driver's license or nondriver's license with an endorsement which identifies that the applicant has received a certificate of qualification to carry concealed weapons issued pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043 if the applicant is otherwise qualified to receive such driver's license or nondriver's license. Notwithstanding any other provision of chapter 302, a nondriver's license with a concealed carry endorsement shall expire three years from the date the certificate of qualification was issued pursuant to this section. The requirements for the director of revenue to issue a concealed carry endorsement pursuant to this subsection shall not be effective until July 1, 2004, and the certificate of qualification issued by a county

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sheriff pursuant to subsection 1 of this section shall allow the person issued such certificate to carry a concealed weapon pursuant to the requirements of subsection 1 of section **[**571.107**]** 319.1031 in lieu of the concealed carry endorsement issued by the director of revenue from October 11, 2003, until the concealed carry endorsement is issued by the director of revenue on or after July 1, 2004, unless such certificate of qualification has been suspended or revoked for cause.

8. The sheriff shall keep a record of all applications for a certificate of qualification for a concealed carry endorsement and his or her action thereon. The sheriff shall report the issuance of a certificate of qualification to the Missouri uniform law enforcement system. All information on any such certificate that is protected information on any driver's or nondriver's license shall have the same personal protection for purposes of sections **[**571.101 to 571.121**]** 319.1025 to 319.1043. An applicant's status as a holder of a certificate of qualification or a concealed carry endorsement shall not be public information and shall be considered personal protected information. Any person who violates the provisions of this subsection by disclosing protected information shall be guilty of a class A misdemeanor.

9. Information regarding any holder of a certificate of qualification or a concealed carry endorsement is a closed record.

10. For processing an application for a certificate of qualification for a concealed carry endorsement pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043, the sheriff

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in each county shall charge a nonrefundable fee not to exceed one hundred dollars which shall be paid to the treasury of the county to the credit of the sheriff's revolving fund.

11. For processing a renewal for a certificate of qualification for a concealed carry endorsement pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043, the sheriff in each county shall charge a nonrefundable fee not to exceed fifty dollars which shall be paid to the treasury of the county to the credit of the sheriff's revolving fund.

12. For the purposes of sections **[**571.101 to 571.121**]** 319.1025 to 319.1043, the term "sheriff" shall include the sheriff of any county or city not within a county or his or her designee and in counties of the first classification the sheriff may designate the chief of police of any city, town, or municipality within such county.

[571.104.**]** 319.1028. 1. (1) A concealed carry endorsement issued pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043 shall be suspended or revoked if the concealed carry endorsement holder becomes ineligible for such concealed carry endorsement under the criteria established in subdivisions (2), (3), (4), (5), and (7) of subsection 2 of section **[**571.101**]** 319.1025 or upon the issuance of a valid full order of protection.

(2) When a valid full order of protection, or any arrest warrant, discharge, or commitment for the reasons listed in subdivision (2), (3), (4), (5), or (7) of subsection 2 of section **[**571.101**]** 319.1025, is issued against a person holding a concealed carry endorsement issued pursuant to sections **[**571.101

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to 571.121**]** 319.1025 to 319.1043 upon notification of said order, warrant, discharge or commitment or upon an order of a court of competent jurisdiction in a criminal proceeding, a commitment proceeding or a full order of protection proceeding ruling that a person holding a concealed carry endorsement presents a risk of harm to themselves or others, then upon notification of such order, the holder of the concealed carry endorsement shall surrender the driver's license or nondriver's license containing the concealed carry endorsement to the court, to the officer, or other official serving the order, warrant, discharge, or commitment.

(3) The official to whom the driver's license or nondriver's license containing the concealed carry endorsement is surrendered shall issue a receipt to the licensee for the license upon a form, approved by the director of revenue, that serves as a driver's license or a nondriver's license and clearly states the concealed carry endorsement has been suspended. The official shall then transmit the driver's license or a nondriver's license containing the concealed carry endorsement to the circuit court of the county issuing the order, warrant, discharge, or commitment. The concealed carry endorsement issued pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043 shall be suspended until the order is terminated or until the arrest results in a dismissal of all charges. Upon dismissal, the court holding the driver's license or nondriver's license containing the concealed carry endorsement shall return it to the individual.

(4) Any conviction, discharge, or commitment specified in

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sections [571.101 to 571.121] 319.1025 to 319.1043 shall result in a revocation. Upon conviction, the court shall forward a notice of conviction or action and the driver's license or nondriver's license with the concealed carry endorsement to the department of revenue. The department of revenue shall notify the sheriff of the county which issued the certificate of qualification for a concealed carry endorsement and shall report the change in status of the concealed carry endorsement to the Missouri uniform law enforcement system. The director of revenue shall immediately remove the endorsement issued pursuant to sections [571.101 to 571.121] 319.1025 to 319.1043 from the individual's driving record within three days of the receipt of the notice from the court. The director of revenue shall notify the licensee that he or she must apply for a new license pursuant to chapter 302 which does not contain such endorsement. This requirement does not affect the driving privileges of the licensee. The notice issued by the department of revenue shall be mailed to the last known address shown on the individual's driving record. The notice is deemed received three days after mailing.

2. A concealed carry endorsement shall be renewed for a qualified applicant upon receipt of the properly completed renewal application and the required renewal fee by the sheriff of the county of the applicant's residence. The renewal application shall contain the same required information as set forth in subsection 3 of section [571.101] 319.1025, except that in lieu of the fingerprint requirement of subsection 5 of section [571.101] 319.1025 and the firearms safety training, the

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applicant need only display his or her current driver's license or nondriver's license containing a concealed carry endorsement. Upon successful completion of all renewal requirements, the sheriff shall issue a certificate of qualification which contains the date such certificate was renewed.

3. A person who has been issued a certificate of qualification for a concealed carry endorsement who fails to file a renewal application on or before its expiration date must pay an additional late fee of ten dollars per month for each month it is expired for up to six months. After six months, the sheriff who issued the expired certificate shall notify the director of revenue that such certificate is expired. The director of revenue shall immediately cancel the concealed carry endorsement and remove such endorsement from the individual's driving record and notify the individual of such cancellation. The notice of cancellation of the endorsement shall be conducted in the same manner as described in subsection 1 of this section. Any person who has been issued a certificate of qualification for a concealed carry endorsement pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043 who fails to renew his or her application within the six-month period must reapply for a new certificate of qualification for a concealed carry endorsement and pay the fee for a new application. The director of revenue shall not issue an endorsement on a renewed driver's license or renewed nondriver's license unless the applicant for such license provides evidence that he or she has renewed the certification of qualification for a concealed carry endorsement in the manner provided for such renewal pursuant to sections **[**571.101 to

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571.121**]** 319.1025 to 319.1043. If an applicant for renewal of a driver's license or nondriver's license containing a concealed carry endorsement does not want to maintain the concealed carry endorsement, the applicant shall inform the director at the time of license renewal of his or her desire to remove the endorsement. When a driver's or nondriver's license applicant informs the director of his or her desire to remove the concealed carry endorsement, the director shall renew the driver's license or nondriver's license without the endorsement appearing on the license if the applicant is otherwise qualified for such renewal.

4. Any person issued a concealed carry endorsement pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043 shall notify the department of revenue and the sheriffs of both the old and new jurisdictions of the endorsement holder's change of residence within thirty days after the changing of a permanent residence. The endorsement holder shall furnish proof to the department of revenue and the sheriff in the new jurisdiction that the endorsement holder has changed his or her residence. The sheriff of the new jurisdiction may charge a processing fee of not more than ten dollars for any costs associated with notification of a change in residence. The change of residence shall be made by the department of revenue onto the individual's driving record and the new address shall be accessible by the Missouri uniform law enforcement system within three days of receipt of the information.

5. Any person issued a driver's license or nondriver's license containing a concealed carry endorsement pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043 shall notify

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the sheriff or his or her designee of the endorsement holder's county or city of residence within seven days after actual knowledge of the loss or destruction of his or her driver's license or nondriver's license containing a concealed carry endorsement. The endorsement holder shall furnish a statement to the sheriff that the driver's license or nondriver's license containing the concealed carry endorsement has been lost or destroyed. After notification of the loss or destruction of a driver's license or nondriver's license containing a concealed carry endorsement, the sheriff shall reissue a new certificate of qualification within three working days of being notified by the concealed carry endorsement holder of its loss or destruction. The reissued certificate of qualification shall contain the same personal information, including expiration date, as the original certificate of qualification. The applicant shall then take the certificate to the department of revenue, and the department of revenue shall proceed on the certificate in the same manner as provided in subsection 7 section **[**571.101**]** 319.1025. Upon application for a license pursuant to chapter 302, the director of revenue shall issue a driver's license or nondriver's license containing a concealed carry endorsement if the applicant is otherwise eligible to receive such license.

6. If a person issued a concealed carry endorsement changes his or her name, the person to whom the endorsement was issued shall obtain a corrected certificate of qualification for a concealed carry endorsement with a change of name from the sheriff who issued such certificate upon the sheriff's verification of the name change. The sheriff may charge a

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processing fee of not more than ten dollars for any costs associated with obtaining a corrected certificate of qualification. The endorsement holder shall furnish proof of the name change to the department of revenue and the sheriff within thirty days of changing his or her name and display his or her current driver's license or nondriver's license containing a concealed carry endorsement. The endorsement holder shall apply for a new driver's license or nondriver's license containing his or her new name. Such application for a driver's license or nondriver's license shall be made pursuant to chapter 302. The director of revenue shall issue a driver's license or nondriver's license with concealed carry endorsement with the endorsement holder's new name if the applicant is otherwise eligible for such license. The director of revenue shall take custody of the old driver's license or nondriver's license. The name change shall be made by the department of revenue onto the individual's driving record and the new name shall be accessible by the Missouri uniform law enforcement system within three days of receipt of the information.

7. A concealed carry endorsement shall be automatically invalid after thirty days if the endorsement holder has changed his or her name or changed his or her residence and not notified the department of revenue and sheriff of a change of name or residence as required in subsections 4 and 6 of this section.

[571.107.**]** 319.1031. 1. A concealed carry endorsement issued pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043 or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall

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authorize the person in whose name the permit or endorsement is issued to carry concealed firearms on or about his or her person or vehicle throughout the state. No driver's license or nondriver's license containing a concealed carry endorsement issued pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043 or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall authorize any person to carry concealed firearms into:

(1) Any police, sheriff, or highway patrol office or station without the consent of the chief law enforcement officer in charge of that office or station. Possession of a firearm in a vehicle on the premises of the office or station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(2) Within twenty-five feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(3) The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention, or correctional institution, prison or jail shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(4) Any courthouse solely occupied by the circuit, appellate or supreme court, or any courtrooms, administrative offices, libraries or other rooms of any such court whether or

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not such court solely occupies the building in question. This subdivision shall also include, but not be limited to, any juvenile, family, drug, or other court offices, any room or office wherein any of the courts or offices listed in this subdivision are temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as may be specified by supreme court rule pursuant to subdivision (6) of this subsection. Nothing in this subdivision shall preclude those persons listed in subdivision (1) of subsection **[**2 of section 571.030**]** 1 of section 571.041 while within their jurisdiction and on duty, those persons listed in subdivisions (2), (4), and **[**(10)**]** (9) of subsection **[**2 of section 571.030**]** 1 of section 571.041, or such other persons who serve in a law enforcement capacity for a court as may be specified by supreme court rule pursuant to subdivision (6) of this subsection from carrying a concealed firearm within any of the areas described in this subdivision. Possession of a firearm in a vehicle on the premises of any of the areas listed in this subdivision shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(5) Any meeting of the governing body of a unit of local government; or any meeting of the general assembly or a committee of the general assembly, except that nothing in this subdivision shall preclude a member of the body holding a valid concealed carry endorsement from carrying a concealed firearm at a meeting of the body which he or she is a member. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so

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long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. Nothing in this subdivision shall preclude a member of the general assembly, a full-time employee of the general assembly employed under section 17, article III, Constitution of Missouri, legislative employees of the general assembly as determined under section 21.155, or statewide elected officials and their employees, holding a valid concealed carry endorsement, from carrying a concealed firearm in the state capitol building or at a meeting whether of the full body of a house of the general assembly or a committee thereof, that is held in the state capitol building;

(6) The general assembly, supreme court, county or municipality may by rule, administrative regulation, or ordinance prohibit or limit the carrying of concealed firearms by endorsement holders in that portion of a building owned, leased or controlled by that unit of government. Any portion of a building in which the carrying of concealed firearms is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute, rule or ordinance shall exempt any building used for public housing by private persons, highways or rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of a firearm. The statute, rule or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute, rule or ordinance may be denied entrance to the building, ordered to leave the building and if employees of the unit of government, be subjected to disciplinary measures

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for violation of the provisions of the statute, rule or ordinance. The provisions of this subdivision shall not apply to any other unit of government;

(7) Any establishment licensed to dispense intoxicating liquor for consumption on the premises, which portion is primarily devoted to that purpose, without the consent of the owner or manager. The provisions of this subdivision shall not apply to the licensee of said establishment. The provisions of this subdivision shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty persons and that receives at least fifty-one percent of its gross annual income from the dining facilities by the sale of food. This subdivision does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. Nothing in this subdivision authorizes any individual who has been issued a concealed carry endorsement to possess any firearm while intoxicated;

(8) Any area of an airport to which access is controlled by the inspection of persons and property. Possession of a firearm in a vehicle on the premises of the airport shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(9) Any place where the carrying of a firearm is prohibited by federal law;

(10) Any higher education institution or elementary or secondary school facility without the consent of the governing

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body of the higher education institution or a school official or the district school board. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(11) Any portion of a building used as a child care facility without the consent of the manager. Nothing in this subdivision shall prevent the operator of a child care facility in a family home from owning or possessing a firearm or a driver's license or nondriver's license containing a concealed carry endorsement;

(12) Any riverboat gambling operation accessible by the public without the consent of the owner or manager pursuant to rules promulgated by the gaming commission. Possession of a firearm in a vehicle on the premises of a riverboat gambling operation shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(13) Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(14) Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the

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premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(15) Any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one or more signs displayed in a conspicuous place of a minimum size of eleven inches by fourteen inches with the writing thereon in letters of not less than one inch. The owner, business or commercial lessee, manager of a private business enterprise, or any other organization, entity, or person may prohibit persons holding a concealed carry endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry endorsement from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. An employer may prohibit employees or other persons holding a concealed carry endorsement from carrying a concealed firearm in vehicles owned by the employer;

(16) Any sports arena or stadium with a seating capacity of five thousand or more. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

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(17) Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

2. Carrying of a concealed firearm in a location specified in subdivisions (1) to (17) of subsection 1 of this section by any individual who holds a concealed carry endorsement issued pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043 shall not be a criminal act but may subject the person to denial to the premises or removal from the premises. If such person refuses to leave the premises and a peace officer is summoned, such person may be issued a citation for an amount not to exceed one hundred dollars for the first offense. If a second citation for a similar violation occurs within a six-month period, such person shall be fined an amount not to exceed two hundred dollars and his or her endorsement to carry concealed firearms shall be suspended for a period of one year. If a third citation for a similar violation is issued within one year of the first citation, such person shall be fined an amount not to exceed five hundred dollars and shall have his or her concealed carry endorsement revoked and such person shall not be eligible for a concealed carry endorsement for a period of three years. Upon conviction of charges arising from a citation issued pursuant to this subsection, the court shall notify the sheriff of the county which issued the certificate of qualification for a concealed carry endorsement and the department of revenue. The sheriff shall suspend or revoke the certificate of qualification for a concealed carry endorsement and the department of revenue shall

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issue a notice of such suspension or revocation of the concealed carry endorsement and take action to remove the concealed carry endorsement from the individual's driving record. The director of revenue shall notify the licensee that he or she must apply for a new license pursuant to chapter 302 which does not contain such endorsement. A concealed carry endorsement suspension pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043 shall be reinstated at the time of the renewal of his or her driver's license. The notice issued by the department of revenue shall be mailed to the last known address shown on the individual's driving record. The notice is deemed received three days after mailing.

[571.111.**]** 319.1034. 1. An applicant for a concealed carry endorsement shall demonstrate knowledge of firearms safety training. This requirement shall be fully satisfied if the applicant for a concealed carry endorsement:

(1) Submits a photocopy of a certificate of firearms safety training course completion, as defined in subsection 2 of this section, signed by a qualified firearms safety instructor as defined in subsection 5 of this section; or

(2) Submits a photocopy of a certificate that shows the applicant completed a firearms safety course given by or under the supervision of any state, county, municipal, or federal law enforcement agency; or

(3) Is a qualified firearms safety instructor as defined in subsection 5 of this section; or

(4) Submits proof that the applicant currently holds any type of valid peace officer license issued under the requirements

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of chapter 590; or

(5) Submits proof that the applicant is currently allowed to carry firearms in accordance with the certification requirements of section 217.710; or

(6) Submits proof that the applicant is currently certified as any class of corrections officer by the Missouri department of corrections and has passed at least one eight-hour firearms training course, approved by the director of the Missouri department of corrections under the authority granted to him or her by section 217.105, that includes instruction on the justifiable use of force as prescribed in chapter 563.

2. A certificate of firearms safety training course completion may be issued to any applicant by any qualified firearms safety instructor. On the certificate of course completion the qualified firearms safety instructor shall affirm that the individual receiving instruction has taken and passed a firearms safety course of at least eight hours in length taught by the instructor that included:

(1) Handgun safety in the classroom, at home, on the firing range and while carrying the firearm;

(2) A physical demonstration performed by the applicant that demonstrated his or her ability to safely load and unload a revolver and a semiautomatic pistol and demonstrated his or her marksmanship with both;

(3) The basic principles of marksmanship;

(4) Care and cleaning of concealable firearms;

(5) Safe storage of firearms at home;

(6) The requirements of this state for obtaining a

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certificate of qualification for a concealed carry endorsement from the sheriff of the individual's county of residence and a concealed carry endorsement issued by the department of revenue;

(7) The laws relating to firearms as prescribed in this chapter;

(8) The laws relating to the justifiable use of force as prescribed in chapter 563;

(9) A live firing exercise of sufficient duration for each applicant to fire both a revolver and a semiautomatic pistol, from a standing position or its equivalent, a minimum of fifty rounds from each handgun at a distance of seven yards from a B-27 silhouette target or an equivalent target;

(10) A live fire test administered to the applicant while the instructor was present of twenty rounds from each handgun from a standing position or its equivalent at a distance from a B-27 silhouette target, or an equivalent target, of seven yards.

3. A qualified firearms safety instructor shall not give a grade of passing to an applicant for a concealed carry endorsement who:

(1) Does not follow the orders of the qualified firearms instructor or cognizant range officer; or

(2) Handles a firearm in a manner that, in the judgment of the qualified firearm safety instructor, poses a danger to the applicant or to others; or

(3) During the live fire testing portion of the course fails to hit the silhouette portion of the targets with at least fifteen rounds, with both handguns.

4. Qualified firearms safety instructors who provide

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firearms safety instruction to any person who applies for a concealed carry endorsement shall:

(1) Make the applicant's course records available upon request to the sheriff of the county in which the applicant resides;

(2) Maintain all course records on students for a period of no less than four years from course completion date; and

(3) Not have more than forty students in the classroom portion of the course or more than five students per range officer engaged in range firing.

5. A firearms safety instructor shall be considered to be a qualified firearms safety instructor by any sheriff issuing a certificate of qualification for a concealed carry endorsement pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043 if the instructor:

(1) Is a valid firearms safety instructor certified by the National Rifle Association holding a rating as a personal protection instructor or pistol marksmanship instructor; or

(2) Submits a photocopy of a certificate from a firearms safety instructor's course offered by a local, state, or federal governmental agency; or

(3) Submits a photocopy of a certificate from a firearms safety instructor course approved by the department of public safety; or

(4) Has successfully completed a firearms safety instructor course given by or under the supervision of any state, county, municipal, or federal law enforcement agency; or

(5) Is a certified police officer firearms safety

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instructor.

6. Any firearms safety instructor who knowingly provides any sheriff with any false information concerning an applicant's performance on any portion of the required training and qualification shall be guilty of a class C misdemeanor.

[571.114.**]** 319.1037. 1. In any case when the sheriff refuses to issue a certificate of qualification or to act on an application for such certificate, the denied applicant shall have the right to appeal the denial within thirty days of receiving written notice of the denial. Such appeals shall be heard in small claims court as defined in section 482.300, and the provisions of sections 482.300, 482.310 and 482.335 shall apply to such appeals.

2. A denial of or refusal to act on an application for a certificate of qualification may be appealed by filing with the clerk of the small claims court a copy of the sheriff's written refusal and a form substantially similar to the appeal form provided in this section. Appeal forms shall be provided by the clerk of the small claims court free of charge to any person:

SMALL CLAIMS COURT

In the Circuit Court of ....., Missouri ...., Denied Applicant

)

)

vs.) Case Number .....

)

) ...., Sheriff

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Return Date .....

APPEAL OF A DENIAL
OF CERTIFICATE OF
QUALIFICATION FOR A
CONCEALED CARRY ENDORSEMENT

The denied applicant states that his or her properly completed application for a certificate of qualification for a concealed carry endorsement was denied by the sheriff of ..... County, Missouri, without just cause. The denied applicant affirms that all of the statements in the application are true.

....., Denied Applicant

3. The notice of appeal in a denial of a certificate of qualification for a concealed carry endorsement appeal shall be made to the sheriff in a manner and form determined by the small claims court judge.

4. If at the hearing the person shows he or she is entitled to the requested certificate of qualification for a concealed carry endorsement, the court shall issue an appropriate order to cause the issuance of the certificate of qualification for a concealed carry endorsement. Costs shall not be assessed against the sheriff unless the action of the sheriff is determined by the judge to be arbitrary and capricious.

5. Any person aggrieved by any final judgment rendered by a small claims court in a denial of a certificate of qualification for a concealed carry endorsement appeal may have a right to trial de novo as provided in sections 512.180 to 512.320.

[571.117.**]** 319.1040. 1. Any person who has knowledge that another person, who was issued a certificate of qualification for

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a concealed carry endorsement pursuant to sections [571.101 to 571.121] 319.1025 to 319.1043, never was or no longer is eligible for such endorsement under the criteria established in sections [571.101 to 571.121] 319.1025 to 319.1043 may file a petition with the clerk of the small claims court to revoke that person's certificate of qualification for a concealed carry endorsement and such person's concealed carry endorsement. The petition shall be in a form substantially similar to the petition for revocation of concealed carry endorsement provided in this section. Appeal forms shall be provided by the clerk of the small claims court free of charge to any person:

SMALL CLAIMS COURT

In the Circuit Court of ....., Missouri

....., PLAINTIFF

)

)

vs.) Case Number .....

)

)

....., DEFENDANT,

Carry Endorsement Holder

....., DEFENDANT,

Sheriff of Issuance

PETITION FOR REVOCATION

OF CERTIFICATE OF QUALIFICATION

OR CONCEALED CARRY ENDORSEMENT

Plaintiff states to the court that the defendant, ..., has a certificate of qualification or a concealed

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carry endorsement issued pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043, RSMo, and that the defendant's certificate of qualification or concealed carry endorsement should now be revoked because the defendant either never was or no longer is eligible for such a certificate or endorsement pursuant to the provisions of sections **[**571.101 to 571.121**]** 319.1025 to 319.1043, RSMo, specifically plaintiff states that defendant, ..., never was or no longer is eligible for such certificate or endorsement for one or more of the following reasons:

(CHECK BELOW EACH REASON
THAT APPLIES TO THIS DEFENDANT)

[ ] Defendant is not at least twenty-one years of age.

[ ] Defendant is not a citizen of the United States.

[ ] Defendant had not resided in this state prior to issuance of the permit and does not qualify as a military member or spouse of a military member stationed in Missouri.

[ ] Defendant has **[**pled guilty to or been convicted of a crime**]** been found guilty of an offense punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun.

[ ] Defendant has been **[**convicted of, pled guilty to or entered a plea of nolo contendere to**]** found guilty of one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a

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certificate of qualification or concealed carry endorsement issued pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043, RSMo, or if the applicant has been convicted of two or more misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification or a concealed carry endorsement issued pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043, RSMo.

[ ] Defendant is a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun.

[ ] Defendant has been discharged under dishonorable conditions from the United States armed forces.

[ ] Defendant is reasonably believed by the sheriff to be a danger to self or others based on previous, documented pattern.

[ ] Defendant is adjudged mentally incompetent at the time of application or for five years prior to application, or has been committed to a mental health facility, as defined in section 632.005, RSMo, or a similar institution located in another state, except that a person whose release or discharge from a facility in this state pursuant to chapter 632, RSMo, or a similar discharge from a facility in another state, occurred more than

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five years ago without subsequent recommitment may apply.

[ ] Defendant failed to submit a completed application for a certificate of qualification or concealed carry endorsement issued pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043, RSMo.

[ ] Defendant failed to submit to or failed to clear the required background check.

[ ] Defendant failed to submit an affidavit attesting that the applicant complies with the concealed carry safety training requirement pursuant to subsection 1 of section **[**571.111**]** 1034, RSMo.

The plaintiff subject to penalty for perjury states that the information contained in this petition is true and correct to the best of the plaintiff's knowledge, is reasonably based upon the petitioner's personal knowledge and is not primarily intended to harass the defendant/respondent named herein.

....., PLAINTIFF

2. If at the hearing the plaintiff shows that the defendant was not eligible for the certificate of qualification or the concealed carry endorsement issued pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043, at the time of issuance or renewal or is no longer eligible for a certificate of qualification or the concealed carry endorsement issued pursuant to the provisions of sections **[**571.101 to 571.121**]** 319.1025 to 319.1043, the court shall issue an appropriate order to cause the revocation of the certificate of qualification or concealed carry endorsement. Costs shall not be assessed against the sheriff.

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3. The finder of fact, in any action brought against an endorsement holder pursuant to subsection 1 of this section, shall make findings of fact and the court shall make conclusions of law addressing the issues at dispute. If it is determined that the plaintiff in such an action acted without justification or with malice or primarily with an intent to harass the endorsement holder or that there was no reasonable basis to bring the action, the court shall order the plaintiff to pay the defendant/respondent all reasonable costs incurred in defending the action including, but not limited to, attorney's fees, deposition costs, and lost wages. Once the court determines that the plaintiff is liable to the defendant/respondent for costs and fees, the extent and type of fees and costs to be awarded should be liberally calculated in defendant/respondent's favor. Notwithstanding any other provision of law, reasonable attorney's fees shall be presumed to be at least one hundred fifty dollars per hour.

4. Any person aggrieved by any final judgment rendered by a small claims court in a petition for revocation of a certificate of qualification or concealed carry endorsement may have a right to trial de novo as provided in sections 512.180 to 512.320.

5. The office of the county sheriff or any employee or agent of the county sheriff shall not be liable for damages in any civil action arising from alleged wrongful or improper granting, renewing, or failure to revoke a certificate of qualification or a concealed carry endorsement issued pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043, so long as the sheriff acted in good faith.

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[571.121.**]** 319.1043. 1. Any person issued a concealed carry endorsement pursuant to sections **[**571.101 to 571.121**]** 319.1025 to 319.1043 shall carry the concealed carry endorsement at all times the person is carrying a concealed firearm and shall display the concealed carry endorsement upon the request of any peace officer. Failure to comply with this subsection shall not be a criminal offense but the concealed carry endorsement holder may be issued a citation for an amount not to exceed thirty-five dollars.

2. Notwithstanding any other provisions of law, the director of revenue, by carrying out his or her requirement to issue a driver's or nondriver's license reflecting that a concealed carry permit has been granted, shall bear no liability and shall be immune from any claims for damages resulting from any determination made regarding the qualification of any person for such permit or for any actions stemming from the conduct of any person issued such a permit. By issuing the permit on the driver's or nondriver's license, the director of revenue is merely acting as a scrivener for any determination made by the sheriff that the person is qualified for the permit.

320.089. 1. No person or other legal entity shall label personal protective equipment as meeting the standards set forth in subsection 2 of section 320.088 unless such equipment does in fact meet such standards.

2. Any person who violates the provisions of subsection 1 of this section is guilty of a class **[**D**]** E felony.

320.161. Any person violating any provision of sections 320.106 to 320.161 is guilty of a class A misdemeanor, except

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that a person violating section 320.136 is guilty of a class **[**C**]** D felony.

324.1142. Any person who knowingly falsifies the fingerprints or photographs or other information required to be submitted under sections 324.1100 to 324.1148 is guilty of a class **[**D**]** E felony; and any person who violates any of the other provisions of sections 324.1100 to 324.1148 is guilty of a class A misdemeanor.

324.1148. Any person who violates sections 324.1100 to 324.1148 is guilty of a class A misdemeanor. Any second or subsequent violation of sections 324.1100 to 324.1148 is a class **[**D**]** E felony.

334.250. 1. Any person who violates section 334.010 shall, upon conviction, be adjudged guilty of a class **[**C**]** D felony for each and every offense; and treating each patient is considered a separate offense.

2. Any person filing or attempting to file as his own a license of another, or forged affidavit of identification, shall be guilty of a class **[**C**]** D felony and upon conviction thereof shall be subjected to such fine and imprisonment as is provided by the statutes of this state for the crime of forgery.

335.096. Any person who violates any of the provisions of chapter 335 is guilty of a class **[**D**]** E felony and, upon conviction, shall be punished as provided by law.

338.195. Any person, who is not licensed under this chapter, who violates any provision of sections 338.010 to 338.315 shall, upon conviction, be adjudged guilty of a class **[**C**]** D felony.

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338.315. It shall be unlawful for any pharmacist, pharmacy owner or person employed by a pharmacy to knowingly purchase or receive any legend drugs under 21 U.S.C. Section 353 from other than a licensed or registered drug distributor or licensed pharmacy. Any person who violates the provisions of this section shall, upon conviction, be adjudged guilty of a class A misdemeanor. Any subsequent conviction shall constitute a class **[**D**]** E felony.

338.370. Every person who violates any provision of sections 338.333, 338.337, and 338.340 shall, upon conviction thereof, be adjudged guilty of a class **[**C**]** D felony.

[566.265.**]** 351.493. If a corporation or other business **[**pleads guilty to or**]** is found guilty of violating section 566.203, 566.206, 566.209, **[**566.212, 566.213,**]** 566.210, 566.211, or 566.215, in addition to the criminal penalties described in such sections and other remedies provided for by law, the court may:

(1) Order its dissolution or reorganization;

(2) Order the suspension or revocation of any license, permit, or prior approval granted to it by the state;

(3) Order the surrender of its charter if it is organized under Missouri law or the revocation of its certificate to conduct business in Missouri if it is not organized under Missouri law.

354.320. No officer, enrollment representative or employee of any corporation subject to the provisions of sections 354.010 to 354.380, formed under the laws of this state, or doing business herein, shall, directly or indirectly, use or employ, or

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permit others to use or employ, any of the money, funds or securities of such corporation for private profit or gain, except for reasonable compensation for services performed and reimbursement for expenses incurred, and any such use shall, upon conviction thereof, be a class **[**D**]** E felony.

362.170. 1. As used in this section, the term "unimpaired capital" includes common and preferred stock, capital notes, the surplus fund, undivided profits and any reserves, not subject to known charges as shown on the next preceding published report of the bank or trust company to the director of finance or obtained by the director pursuant to subsection 3 of section 361.130. For purposes of lending limitations, goodwill may comprise no more than ten percent of unimpaired capital.

2. No bank or trust company subject to the provisions of this chapter shall:

(1) Directly or indirectly, lend to any individual, partnership, corporation, limited liability company or body politic, either by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange, or other obligations of the individual, partnership, corporation, limited liability company or body politic an amount or amounts in the aggregate which will exceed the greater of: (i) twenty-five percent of the unimpaired capital of the bank or trust company, provided such bank or trust company has a composite rating of 1 or 2 under the Capital, Assets, Management, Earnings, Liquidity and Sensitivity (CAMELS) rating system of the Federal Financial Institute Examination Counsel (FFIEC); (ii) fifteen percent of the unimpaired capital of the bank or trust company if located in

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a city having a population of one hundred thousand or over; twenty percent of the unimpaired capital of the bank or trust company if located in a city having a population of less than one hundred thousand and over seven thousand; and twenty-five percent of the unimpaired capital of the bank or trust company if located elsewhere in the state, with the following exceptions:

(a) The restrictions in this subdivision shall not apply to:

a. Bonds or other evidences of debt of the government of the United States or its territorial and insular possessions, or of the state of Missouri, or of any city, county, town, village, or political subdivision of this state;

b. Bonds or other evidences of debt, the issuance of which is authorized under the laws of the United States, and as to which the government of the United States has guaranteed or contracted to provide funds to pay both principal and interest;

c. Bonds or other evidences of debt of any state of the United States other than the state of Missouri, or of any county, city or school district of the foreign state, which county, city, or school district shall have a population of fifty thousand or more inhabitants, and which shall not have defaulted for more than one hundred twenty days in the payment of any of its general obligation bonds or other evidences of debt, either principal or interest, for a period of ten years prior to the time of purchase of the investment and provided that the bonds or other evidences of debt shall be a direct general obligation of the county, city, or school district;

d. Loans to the extent that they are insured or covered by

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guaranties or by commitments or agreements to take over or purchase made by any department, bureau, board, commission, or establishment of the United States or of the state of Missouri, including any corporation, wholly owned, directly or indirectly, by the United States or of the state of Missouri, pursuant to the authority of any act of Congress or the Missouri general assembly heretofore or hereafter adopted or amended or pursuant to the authority of any executive order of the President of the United States or the governor of Missouri heretofore or hereafter made or amended under the authority of any act of Congress heretofore or hereafter adopted or amended, and the part of the loan not so agreed to be purchased or discounted is within the restrictive provisions of this section;

e. Obligations to any bank or trust company in the form of notes of any person, copartnership, association, corporation or limited liability company, secured by not less than a like amount of direct obligations of the United States which will mature in not exceeding five years from the date the obligations to the bank are entered into;

f. Loans to the extent they are secured by a segregated deposit account in the lending bank if the lending bank has obtained a perfected security interest in such account;

g. Evidences of debt which are direct obligations of, or which are guaranteed by, the Government National Mortgage Association, the Federal National Mortgage Association, the Student Loan Marketing Association, the Federal Home Loan Banks, the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation, or evidences of debt which are fully collateralized

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by direct obligations of, and which are issued by, the Government National Mortgage Association, the Federal National Mortgage Association, the Student Loan Marketing Association, a Federal Home Loan Bank, the Federal Farm Credit Bank or the Federal Home Loan Mortgage Corporation;

(b) The total liabilities to the bank or trust company of any individual, partnership, corporation or limited liability company may equal but not exceed thirty-five percent of the unimpaired capital of the bank or trust company; provided, that all of the total liabilities in excess of the legal loan limit of the bank or trust company as defined in this subdivision are upon paper based upon the collateral security of warehouse receipts covering agricultural products or the manufactured or processed derivatives of agricultural products in public elevators and public warehouses subject to state supervision and regulation in this state or in any other state of the United States, under the following conditions: first, that the actual market value of the property held in store and covered by the receipt shall at all times exceed by at least fifteen percent the amount loaned upon it; and second, that the property covered by the receipts shall be insured to the full market value thereof against loss by fire and lightning, the insurance policies to be issued by corporations or individuals licensed to do business by the state in which the property is located, and when the insurance has been used to the limit that it can be secured, then in corporations or with individuals licensed to do an insurance business by the state or country of their incorporation or residence; and all policies covering property on which the loan is made shall have

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endorsed thereon, "loss, if any, payable to the holder of the warehouse receipts"; and provided further, that in arriving at the amount that may be loaned by any bank or trust company to any individual, partnership, corporation or limited liability company on elevator or warehouse receipts there shall be deducted from the thirty-five percent of its unimpaired capital the total of all other liabilities of the individual, partnership, corporation or limited liability company to the bank or trust company;

(c) In computing the total liabilities of any individual to a bank or trust company there shall be included all liabilities to the bank or trust company of any partnership of which the individual is a member, and any loans made for the individual's benefit or for the benefit of the partnership; of any partnership to a bank or trust company there shall be included all liabilities of and all loans made for the benefit of the partnership; of any corporation to a bank or trust company there shall be included all loans made for the benefit of the corporation and of any limited liability company to a bank or trust company there shall be included all loans made for the benefit of the limited liability company;

(d) The purchase or discount of drafts, or bills of exchange drawn in good faith against actually existing values, shall not be considered as money borrowed within the meaning of this section; and the purchase or discount of negotiable or nonnegotiable paper which carries the full recourse endorsements or guaranty or agreement to repurchase of the person, copartnership, association, corporation or limited liability company negotiating the same shall not be considered as money

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borrowed by the endorser or guarantor or the repurchaser within the meaning of this section, provided that the files of the bank or trust company acquiring the paper contain the written certification by an officer designated for this purpose by its board of directors that the responsibility of the makers has been evaluated and the acquiring bank or trust company is relying primarily upon the makers thereof for the payment of the paper;

(e) For the purpose of this section, a loan guaranteed by an individual who does not receive the proceeds of the loan shall not be considered a loan to the guarantor;

(f) Investments in mortgage-related securities, as described in the Secondary Mortgage Market Enhancement Act of 1984, P.L. 98-440, excluding those described in subparagraph g. of paragraph (a) of subdivision (1) of this subsection, shall be subject to the restrictions of this section, provided that a bank or trust company may invest up to two times its legal loan limit in any such securities that are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization;

(2) Nor shall any of its directors, officers, agents, or employees, directly or indirectly purchase or be interested in the purchase of any certificate of deposit, pass book, promissory note, or other evidence of debt issued by it, for less than the principal amount of the debt, without interest, for which it was issued. Every bank or trust company or person violating the provisions of this subdivision shall forfeit to the state the face value of the note or other evidence of debt so purchased;

(3) Make any loan or discount on the security of the shares

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of its own capital stock, or be the purchaser or holder of these shares, unless the security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired shall be sold at public or private sale, or otherwise disposed of, within six months from the time of its purchase or acquisition unless the time is extended by the finance director. Any bank or trust company violating any of the provisions of this subdivision shall forfeit to the state the amount of the loan or purchase;

(4) Knowingly lend, directly or indirectly, any money or property for the purpose of enabling any person to pay for or hold shares of its stock, unless the loan is made upon security having an ascertained or market value of at least fifteen percent more than the amount of the loan. Any bank or trust company violating the provision of this subdivision shall forfeit to the state the amount of the loan;

(5) Loans or other extensions of credit to officers and directors shall be in accordance with Federal Reserve Board Regulation O (12 CFR 215.1, et seq.). Every bank or trust company or officer thereof knowingly violating the provisions of this subdivision shall, for each offense, forfeit to the state the amount of the loan or extension of credit;

(6) Invest or keep invested in the stock of any private corporation, provided however, a bank or trust company may invest in equity stock in the Federal Home Loan Bank up to twice the limit described in subdivision (1) of this subsection and except as otherwise provided in this chapter.

3. Provided, that the provisions in this section shall not

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be so construed as in any way to interfere with the rules and regulations of any clearinghouse association in this state in reference to the daily balances; and provided, that this section shall not apply to balances due from any correspondent subject to draft.

4. Provided, that a trust company which does not accept demand deposits shall be permitted to make loans secured by a first mortgage or deed of trust on real estate to any individual, partnership, corporation or limited liability company, and to deal and invest in the interest-bearing obligations of any state, or any city, county, town, village, or political subdivision thereof, in an amount not to exceed its unimpaired capital, the loans on real estate not to exceed sixty-six and two-thirds percent of the appraised value of the real estate.

5. Any officer, director, agent, clerk, or employee of any bank or trust company who willfully and knowingly makes or concurs in making any loan, either directly or indirectly, to any individual, partnership, corporation or limited liability company or by means of letters of credit, by acceptance of drafts, or by discount or purchase of notes, bills of exchange or other obligation of any person, partnership, corporation or limited liability company, in excess of the amounts set out in this section, shall be deemed guilty of a class **[**C**]** D felony.

6. A trust company in existence on October 15, 1967, or a trust company incorporated thereafter which does not accept demand deposits, may invest in but shall not invest or keep invested in the stock of any private corporation an amount in excess of fifteen percent of the capital and surplus fund of the

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trust company; provided, however, that this limitation shall not apply to the ownership of the capital stock of a safe deposit company as provided in section 362.105; nor to the ownership by a trust company in existence on October 15, 1967, or its stockholders of a part or all of the capital stock of one bank organized under the laws of the United States or of this state, nor to the ownership of a part or all of the capital of one corporation organized under the laws of this state for the principal purpose of receiving savings deposits or issuing debentures or loaning money on real estate or dealing in or guaranteeing the payment of real estate securities, or investing in other securities in which trust companies may invest under this chapter; nor to the continued ownership of stocks lawfully acquired prior to January 1, 1915, and the prohibition for investments in this subsection shall not apply to investments otherwise provided by law other than subdivision (4) of subsection 3 of section 362.105.

7. Any bank or trust company to which the provisions of subsection 2 of this section apply may continue to make loans pursuant to the provisions of subsection 2 of this section for up to five years after the appropriate decennial census indicates that the population of the city in which such bank or trust company is located has exceeded the limits provided in subsection 2 of this section.

367.031. 1. At the time of making any secured personal credit loan, the lender shall execute and deliver to the borrower a receipt for and describing the tangible personal property subjected to the security interest to secure the payment of the

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loan. The receipt shall contain the following:

(1) The name and address of the pawnshop;

(2) The name and address of the pledgor, the pledgor's description, and the driver's license number, military identification number, identification certificate number, or other official number capable of identifying the pledgor;

(3) The date of the transaction;

(4) An identification and description of the pledged goods, including serial numbers if reasonably available;

(5) The amount of cash advanced or credit extended to the pledgor;

(6) The amount of the pawn service charge;

(7) The total amount which must be paid to redeem the pledged goods on the maturity date;

(8) The maturity date of the pawn transaction; and

(9) A statement to the effect that the pledgor is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker sixty days after the specified maturity date.

2. The pawnbroker may be required, in accordance with local ordinances, to furnish appropriate law enforcement authorities with copies of information contained in subdivisions (1) to (4) of subsection 1 of this section and information contained in subdivision (6) of subsection 4 of section 367.040. The pawnbroker may satisfy such requirements by transmitting such information electronically to a database in accordance with this section, except that paper copies shall be made available for an on-site inspection upon request of any appropriate law

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enforcement authority.

3. As used in this section, the following terms mean: (1) "Database", a computer database established and maintained by a third party engaged in the business of establishing and maintaining one or more databases; (2) "Permitted user", persons authorized by law enforcement personnel to access the database; (3) "Reportable data", the information required to be recorded by pawnbrokers for pawn transactions pursuant to subdivisions (1) to (4) of subsection 1 of this section and the information required to be recorded by pawnbrokers for purchase transactions pursuant to subdivision (6) of subsection 4 of section 367.040; (4) "Reporting pawnbroker", a pawnbroker who chooses to transmit reportable data electronically to the database; (5) "Search", the accessing of a single database record.

4. The database shall provide appropriate law enforcement officials with the information contained in subdivisions (1) to (4) of subsection 1 of this section and other useful information to facilitate the investigation of alleged property crimes while protecting the privacy rights of pawnbrokers and pawnshop customers with regard to their transactions.

5. The database shall contain the pawn and purchase transaction information recorded by reporting pawnbrokers pursuant to this section and section 367.040 and shall be updated as requested. The database shall also contain such security features and protections as may be necessary to ensure that the reportable data maintained in the database can only be accessed by permitted users in accordance with the provisions of this section.

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6. The third party's charge for the database shall be based on the number of permitted users. Law enforcement agencies shall be charged directly for access to the database, and the charge shall be reasonable in relation to the costs of the third party in establishing and maintaining the database. No reporting pawnbroker or customer of a reporting pawnbroker shall be charged any costs for the creation or utilization of the database.

7. (1) The information in the database shall only be accessible through the Internet to permitted users who have provided a secure identification or access code to the database but shall allow such permitted users to access database information from any jurisdiction transmitting such information to that database. Such permitted users shall provide the database with an identifier number of a criminal action for which the identity of the pawn or purchase transaction customer is needed and a representation that the information is connected to an inquiry or to the investigation of a complaint or alleged crime involving goods delivered by that customer in that transaction. The database shall record, for each search, the identity of the permitted user, the pawn or purchase transaction involved in the search, and the identity of any customer accessed through the search. Each search record shall be made available to other permitted users regardless of their jurisdiction. The database shall enable reporting pawnbrokers to transmit to the database through the Internet reportable data for each pawn and purchase transaction.

(2) Any person who gains access to information in the database through fraud or false pretenses shall be guilty of a

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class **[**C**]** D felony.

8. Any pawnbroker licensed under section 367.043 shall meet the following requirements:

(1) Provide all reportable data to appropriate users by transmitting it through the Internet to the database;

(2) Transmit all reportable data for one business day to the database prior to the end of the following business day;

(3) Make available for on-site inspection to any appropriate law enforcement official, upon request, paper copies of any pawn or purchase transaction documents.

9. If a reporting pawnbroker or permitted user discovers any error in the reportable data, notice of such error shall be given to the database, which shall have a period of thirty days in which to correct the error. Any reporting pawnbroker experiencing a computer malfunction preventing the transmission of reportable data or receipt of search requests shall be allowed a period of at least thirty but no more than sixty days to repair such malfunction, and during such period such pawnbroker shall not be deemed to be in violation of this section if good faith efforts are made to correct the malfunction. During the periods specified in this subsection, the reporting pawnbroker and permitted user shall arrange an alternative method or methods by which the reportable data shall be made available.

10. No reporting pawnbroker shall be obligated to incur any cost, other than Internet service costs, in preparing, converting, or delivering its reportable data to the database.

11. If the pawn ticket is lost, destroyed, or stolen, the pledgor may so notify the pawnbroker in writing, and receipt of

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such notice shall invalidate such pawn ticket, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn ticket, the pawnbroker shall require the pledgor to make a written affidavit of the loss, destruction or theft of the ticket. The pawnbroker shall record on the written statement the identifying information required, the date the statement is given, and the number of the pawn ticket lost, destroyed, or stolen. The affidavit shall be signed by a notary public appointed by the secretary of state pursuant to section 486.205 to perform notarial acts in this state.

367.045. 1. When the tangible personal property subject to the pawn or sales transaction has been delivered or awarded to a claimant pursuant to section 367.044, and within ten business days after a written demand for payment and notice is deposited by the pawnbroker as certified or registered mail in the United States mail and addressed to the conveying customer, the conveying customer fails to repay the pawnbroker the full amount incurred by the pawnbroker in connection with such property and the procedure described in section 367.044, the conveying customer shall have committed the crime of fraudulently pledging or selling misappropriated property.

2. Fraudulently pledging or selling property is a class B misdemeanor if the amount received by the conveying customer from the pawnbroker was less than fifty dollars. Fraudulently pledging or selling property is a class A misdemeanor if the amount received by the conveying customer from the pawnbroker was more than fifty dollars and less than one hundred fifty dollars. Fraudulently pledging or selling property is a class **[**C**]** D felony

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if the amount received by the conveying customer from the pawnbroker was one hundred fifty dollars or more.

374.210. 1. It is unlawful for any person in any investigation, examination, inquiry, or other proceeding under this chapter, chapter 354, and chapters 375 to 385, to:

(1) Knowingly make or cause to be made a false statement upon oath or affirmation or in any record that is submitted to the director or used in any proceeding under this chapter, chapter 354, and chapters 375 to 385; or

(2) Make any false certificate or entry or memorandum upon any of the books or papers of any insurance company, or upon any statement or exhibit offered, filed or offered to be filed in the department, or used in the course of any examination, inquiry, or investigation under this chapter, chapter 354 and chapters 375 to 385.

2. If a person does not appear or refuses to testify, file a statement, produce records, or otherwise does not obey a subpoena as required by the director, the director may apply to the circuit court of any county of the state or any city not within a county, or a court of another state to enforce compliance. The court may:

(1) Hold the person in contempt;

(2) Order the person to appear before the director;

(3) Order the person to testify about the matter under investigation or in question;

(4) Order the production of records;

(5) Grant injunctive relief;

(6) Impose a civil penalty of up to fifty thousand dollars

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for each violation; and

(7) Grant any other necessary or appropriate relief. The director may also suspend, revoke or refuse any license or certificate of authority issued by the director to any person who does not appear or refuses to testify, file a statement, produce records, or does not obey a subpoena.

3. This section does not preclude a person from applying to the circuit court of any county of the state or any city not within a county for relief from a request to appear, testify, file a statement, produce records, or obey a subpoena.

4. A person is not excused from attending, testifying, filing a statement, producing a record or other evidence, or obeying a subpoena of the director under an action or proceeding instituted by the director on the grounds that the required testimony, statement, record, or other evidence, directly or indirectly, may tend to incriminate the individual or subject the individual to a criminal fine, penalty, or forfeiture. If the person refuses to testify, file a statement, or produce a record or other evidence on the basis of the individual's privilege against self-incrimination, the director may apply to the circuit court of any county of the state or any city not within a county to compel the testimony, the filing of the statement, the production of the record, or the giving of other evidence. The testimony, record, or other evidence compelled under such an order may not be used as evidence against the person in a criminal case, except in a prosecution for perjury or contempt or otherwise failing to comply with the order.

5. If the director determines that a person has engaged, is

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engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section, or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046. A violation of subsection 1 of this section is a level four violation under section 374.049. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.

6. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048. A violation of subsection 1 of this section is a level four violation under section 374.049.

7. Any person who knowingly engages in any act, practice, omission, or course of business in violation of subsection 1 of this section is guilty of a class **[**D**]** E felony. If the offender holds a license or certificate of authority under the insurance laws of this state, the court imposing sentence shall order the

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department to revoke such license or certificate of authority.

8. The director may refer such evidence as is available concerning violations of this section to the proper prosecuting attorney, who with or without a criminal reference, or the attorney general under section 27.030, may institute the appropriate criminal proceedings.

9. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime under any other state statute.

374.216. 1. A person commits the crime of filing a false insurance statement if he prepares, makes, submits or files a financial report or statement with the department of insurance, financial institutions and professional registration with the purpose to misrepresent the financial condition of the company in whose behalf such report or statement is prepared, made, submitted or filed. The crime shall require no mental state other than that specifically provided herein.

2. The crime of filing a false insurance statement is a class **[**C**]** D felony.

374.702. 1. No person shall engage in the bail bond business as a bail bond agent or a general bail bond agent without being licensed as provided in sections 374.695 to 374.775.

2. No judge, attorney, court official, law enforcement officer, state, county, or municipal employee who is either elected or appointed shall be licensed as a bail bond agent or a general bail bond agent.

3. A licensed bail bond agent shall not execute or issue an

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appearance bond in this state without holding a valid appointment from a general bail bond agent and without attaching to the appearance bond an executed and prenumbered power of attorney referencing the general bail bond agent or insurer.

4. A person licensed as an active bail bond agent shall hold the license for at least two years prior to owning or being an officer of a licensed general bail bond agent.

5. A general bail bond agent shall not engage in the bail bond business:

(1) Without having been licensed as a general bail bond agent pursuant to sections 374.695 to 374.775; or

(2) Except through an agent licensed as a bail bond agent pursuant to sections 374.695 to 374.775.

6. A general bail bond agent shall not permit any unlicensed person to solicit or engage in the bail bond business on the general bail bond agent's behalf, except for individuals who are employed solely for the performance of clerical, stenographic, investigative, or other administrative duties which do not require a license pursuant to sections 374.695 to 374.789.

7. Any person who is convicted of a violation of this section is guilty of a class A misdemeanor. For any subsequent convictions, a person who is convicted of a violation of this section is guilty of a class **[**D**]** E felony.

374.757. 1. Any agent licensed by sections 374.695 to 374.775 who intends to apprehend any person in this state shall inform law enforcement authorities in the city or county in which such agent intends such apprehension, before attempting such

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apprehension. Such agent shall present to the local law enforcement authorities a certified copy of the bond and all other appropriate paperwork identifying the principal and the person to be apprehended. Local law enforcement may accompany the agent. Failure of any agent to whom this section applies to comply with the provisions of this section shall be a class A misdemeanor for the first violation and a class **[**D**]** E felony for subsequent violations; and shall also be a violation of section 374.755 and may in addition be punished pursuant to that section.

2. The surety recovery agent shall inform the local law enforcement in the county or city where such agent is planning to enter a residence. Such agent shall have a certified copy of the bond and all appropriate paperwork to identify the principal. Local law enforcement, when notified, may accompany the surety recovery agent to that location to keep the peace if an active warrant is effective for a felony or misdemeanor. If a warrant is not active, the local law enforcement officers may accompany the surety recovery agent to such location. Failure to report to the local law enforcement agency is a class A misdemeanor. For any subsequent violations, failure to report to the local law enforcement agency is a class **[**D**]** E felony.

374.789. 1. A person is guilty of a class **[**D**]** E felony if he or she does not hold a valid surety recovery agent license or a bail bond license and commits any of the following acts:

(1) Holds himself or herself out to be a licensed surety recovery agent within this state;

(2) Claims that he or she can render surety recovery agent services; or

(3) Engages in fugitive recovery in this state.

2. Any person who engages in fugitive recovery in this state and wrongfully causes damage to any person or property, including, but not limited to, unlawful apprehension, unlawful detainment, or assault, shall be liable for such damages and may be liable for punitive damages.

375.310. 1. It is unlawful for any person, association of individuals, or any corporation to transact in this state any insurance business unless the person, association, or corporation is duly authorized by the director under a certificate of authority or appropriate licensure, or is an insurance company exempt from certification under section 375.786.

2. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046. A violation of this section is a level four violation under section 374.049.

3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially

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aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048. A violation of this section is a level four violation under section 374.049.

4. Any person who knowingly engages in any act, practice, omission, or course of business in violation of this section is guilty of a class **[**D**]** E felony.

5. The director may refer such evidence as is available concerning violations of this chapter to the proper prosecuting attorney, who with or without a criminal reference, or the attorney general under section 27.030, may institute the appropriate criminal proceedings.

6. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime under any other state statute.

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

(1) "Chief executive officer", the person, irrespective of his title, designated by the board of directors or trustees of an insurer as the person charged with the responsibility of administering and implementing the insurer's policies and procedures;

(2) "Director", the director of the department of insurance, financial institutions and professional registration;

(3) "Impaired", a financial situation in which the assets of an insurer are less than the sum of the insurer's minimum required capital, minimum required surplus and all liabilities as

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determined in accordance with the requirements for the preparation and filing of the annual statement of an insurer;

(4) "Insurer", any insurance company or other insurer licensed to do business in this state.

2. Whenever an insurer is impaired, its chief executive officer shall immediately notify the director in writing of such impairment and shall also immediately notify in writing all of the board of directors or trustees of the insurer.

3. Any officer, director or trustee of an insurer shall notify the person serving as chief executive officer of the impairment of such insurer in the event such officer, director or trustee knows or has reason to know that the insurer is impaired.

4. Any person who knowingly or recklessly violates subsection 2 or 3 of this section shall, upon conviction thereof, be fined not more than fifty thousand dollars or be imprisoned for not more than one year, or both. Any person who knowingly does any of the following shall be guilty of a class **[**D**]** E felony:

(1) Conceals any property belonging to an insurer;

(2) Transfers or conceals in contemplation of a state insolvency proceeding his own property or property belonging to an insurer;

(3) Conceals, destroys, mutilates, alters or makes a false entry in any document which affects or relates to the property of an insurer or withholds any such document from a receiver, trustee or other officer of a court entitled to its possession;

(4) Gives, obtains or receives a thing of value for acting or forbearing to act in any court proceedings; and any such act

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or acts results in or contributes to an insurer's becoming impaired or insolvent.

375.720. 1. Whenever, by this chapter, or by any other law of this state, the director is authorized or required to take possession of any of the general assets of any insurer, it is unlawful for any person or company to knowingly neglect or refuse to deliver to the director, on order or demand of the director, any books, papers, evidences of title or debt, or any property belonging to any such insurer in its, his or their possession, or under his, its or their control.

2. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046. A violation of this section is a level three violation under section 374.049. The director may also suspend or revoke the license or certificate of authority of such person for any willful violation.

3. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially

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aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048. A violation of this section is a level three violation under section 374.049.

4. Any person who knowingly engages in any act, practice, omission, or course of business in violation of this section is guilty of a class **[**C**]** D felony. If the offender holds a license or certificate of authority under the insurance laws of this state, the court imposing sentence shall order the director to revoke such license.

5. The director may refer such evidence as is available concerning violations of this section to the proper prosecuting attorney, who with or without a criminal reference, or the attorney general under section 27.030, may institute the appropriate criminal proceedings.

6. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime under any other state statute.

375.786. 1. It is unlawful for any insurance company to transact insurance business in this state, as set forth in subsection 2, without a certificate of authority from the director; provided, however, that this section shall not apply to:

(1) The lawful transaction of insurance as provided in chapter 384;

(2) The lawful transaction of reinsurance by insurance companies;

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(3) Transactions in this state involving a policy lawfully solicited, written and delivered outside of this state covering only subjects of insurance not resident, located or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy;

(4) Attorneys acting in the ordinary relation of attorney and client in the adjustment of claims or losses;

(5) Transactions in this state involving group life and group sickness and accident or blanket sickness and accident insurance or group annuities where the master policy of such groups was lawfully issued and delivered in and pursuant to the laws of a state in which the insurance company was authorized to do an insurance business, to a group organized for purposes other than the procurement of insurance, and where the policyholder is domiciled or otherwise has a bona fide situs;

(6) Transactions in this state involving any policy of insurance or annuity contract issued prior to August 13, 1972;

(7) Transactions in this state relative to a policy issued or to be issued outside this state involving insurance on vessels, craft or hulls, cargoes, marine builder's risk, marine protection and indemnity or other risk, including strikes and war risks commonly insured under ocean or wet marine forms of policy;

(8) Except as provided in chapter 384, transactions in this state involving contracts of insurance issued to one or more industrial insureds; provided that nothing herein shall relieve an industrial insured from taxation imposed upon independently procured insurance. An "industrial insured" is hereby defined as an insured:

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(a) Which procures the insurance of any risk or risks other than life, health and annuity contracts by use of the services of a full-time employee acting as an insurance manager or buyer or the services of an insurance producer whose services are wholly compensated by such insured and not by the insurer;

(b) Whose aggregate annual premiums for insurance excluding workers' compensation insurance premiums total at least one hundred thousand dollars; and

(c) Which has at least twenty-five full-time employees;

(9) Transactions in this state involving life insurance, health insurance or annuities provided to educational or religious or charitable institutions organized and operated without profit to any private shareholder or individual for the benefit of such institutions and individuals engaged in the service of such institutions, provided that any company issuing such contracts under this paragraph shall:

(a) File a copy of any policy or contract issued to Missouri residents with the director;

(b) File a copy of its annual statement prepared pursuant to the laws of its state of domicile, as well as such other financial material as may be requested, with the director; and

(c) Provide, in such form as may be acceptable to the director, for the appointment of the director as its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against such company arising out of any policy or contract it has issued to, or which is currently held by, a Missouri citizen, and process so served against such company shall have the same form and validity as if served upon

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the company;

(10) Transactions in this state involving accident, health, personal effects, liability or any other travel or auto-related products or coverages provided or sold by a rental company after January 1, 1994, to a renter in connection with and incidental to the rental of motor vehicles.

2. Any of the following acts in this state effected by mail or otherwise by or on behalf of an unauthorized insurance company is deemed to constitute the transaction of an insurance business in this state: (The venue of an act committed by mail is at the point where the matter transmitted by mail is delivered and takes effect. Unless otherwise indicated, the term "insurance company" as used in sections 375.786 to 375.790 includes all corporations, associations, partnerships and individuals engaged as principals in the business of insurance and also includes interinsurance exchanges and mutual benefit societies.)

(1) The making of or proposing to make an insurance contract;

(2) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety;

(3) The taking or receiving of any application for insurance;

(4) The receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration for any insurance or any part thereof;

(5) The issuance or delivery of contracts of insurance to

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residents of this state or to persons authorized to do business in this state;

(6) Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of another any person or insurance company in the solicitation, negotiation, procurement or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurance company in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state. The provisions of this subsection shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of such employer;

(7) The transaction of any kind of insurance business specifically recognized as transacting an insurance business within the meaning of the statutes relating to insurance;

(8) The transacting or proposing to transact any insurance business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of the statutes.

3. (1) The failure of an insurance company transacting insurance business in this state to obtain a certificate of authority shall not impair the validity of any act or contract of such insurance company and shall not prevent such insurance

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company from defending any action at law or suit in equity in any court of this state, but no insurance company transacting insurance business in this state without a certificate of authority shall be permitted to maintain an action in any court of this state to enforce any right, claim or demand arising out of the transaction of such business until such insurance company shall have obtained a certificate of authority.

(2) In the event of failure of any such unauthorized insurance company to pay any claim or loss within the provisions of such insurance contract, any person who assisted or in any manner aided directly or indirectly in the procurement of such insurance contract shall be liable to the insured for the full amount of the claim or loss in the manner provided by the provisions of such insurance contract.

4. If the director determines that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046. A violation of this section is a level four violation under section 374.049.

5. If the director believes that a person has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice or course of business constituting a violation

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of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048. A violation of this section is a level four violation under section 374.049.

6. Any person who transacts insurance business without a certificate of authority, as provided in this section, is guilty of a class **[**C**]** D felony.

7. The director may refer such evidence as is available concerning violations of this chapter to the proper prosecuting attorney, who with or without a criminal reference, or the attorney general under section 27.030, may institute the appropriate criminal proceedings.

8. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime in any other state statute.

375.991. 1. As used in sections 375.991 to 375.994, the term "statement" means any communication, notice statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of damages, bills for services, diagnosis, prescription, hospital or doctor records, x-rays, test results or other evidence of loss, injury or expense.

2. For the purposes of sections 375.991 to 375.994, a person commits a "fraudulent insurance act" if such person knowingly presents, causes to be presented, or prepares with knowledge or belief that it will be presented, to or by an

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insurer, purported insurer, broker, or any agent thereof, any oral or written statement including computer generated documents as part of, or in support of, an application for the issuance of, or the rating of, an insurance policy for commercial or personal insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance, which such person knows to contain materially false information concerning any fact material thereto or if such person conceals, for the purpose of misleading another, information concerning any fact material thereto.

3. A "fraudulent insurance act" shall also include but not be limited to knowingly filing false insurance claims with an insurer, health services corporation, or health maintenance organization by engaging in any one or more of the following false billing practices: (1) "Unbundling", an insurance claim by claiming a number of medical procedures were performed instead of a single comprehensive procedure; (2) "Upcoding", an insurance claim by claiming that a more serious or extensive procedure was performed than was actually performed; (3) "Exploding", an insurance claim by claiming a series of tests was performed on a single sample of blood, urine, or other bodily fluid, when actually the series of tests was part of one battery of tests; or (4) "Duplicating", a medical, hospital or rehabilitative insurance claim made by a health care provider by resubmitting the claim through another health care provider in which the original health care provider has an ownership interest. Nothing in sections 375.991 to 375.994 shall prohibit providers from making good faith efforts to ensure that claims for reimbursement

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are coded to reflect the proper diagnosis and treatment.

4. If, by its own inquiries or as a result of complaints, the department of insurance, financial institutions and professional registration has reason to believe that a person has engaged in, or is engaging in, any fraudulent insurance act or has violated any provision of chapters 375 to 385, it may administer oaths and affirmations, serve subpoenas ordering the attendance of witnesses or proffering of matter, and collect evidence. The director may refer such evidence as is available concerning violations of this chapter to the proper prosecuting attorney or circuit attorney who may, with or without such reference, initiate the appropriate criminal proceedings.

5. If the matter that the department of insurance, financial institutions and professional registration seeks to obtain by request is located outside the state, the person so requested may make it available to the department or its representative to examine the matter at the place where it is located. The department may designate representatives, including officials of the state in which the matter is located, to inspect the matter on its behalf, and it may respond to similar requests from officials of other states.

6. A fraudulent insurance act for a first offense is a class **[**D**]** E felony. Any person who pleads guilty to or is found guilty of a fraudulent insurance act who has previously pled guilty to or has been found guilty of a fraudulent insurance act shall be guilty of a class **[**C**]** D felony.

7. Any person who pleads guilty or is found guilty of a fraudulent insurance act shall be ordered by the court to make

restitution to any person or insurer for any financial loss sustained as a result of such violation. The court shall determine the extent and method of restitution.

8. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime by any other state statute.

375.1176. 1. An order to liquidate the business of a domestic insurer shall appoint the director and his successors as liquidator and shall direct the liquidator forthwith to take immediate possession of the assets of the insurer and to administer them subject to the supervision of the court until the liquidator is discharged by the court. The liquidation of any insurer shall be considered to be the business of insurance for purposes of application of any law of this state. The liquidator shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of the insurer ordered liquidated, wherever located, as of the entry of the order of liquidation. The order shall require the liquidator to take immediate possession of and to secure all of the records and property of the insurer wherever it is located, and to take all measures necessary to preserve the integrity of the insurer's records. The filing or recording of the order with the clerk of the court and the recorder of deeds of the county in which its principal office or place of business is located or, in the case of real estate, with the recorder of deeds of the county where the property is located, shall impart the same notice as a deed, bill of sale or other evidence of title duly filed or recorded with that recorder of deeds would

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have imparted.

2. With the approval of the court, the director as liquidator may appoint a special deputy or deputies to act for him under sections 375.1175 to 375.1230. The special deputy shall not be an employee of the department of insurance, financial institutions and professional registration. The special deputy shall have all powers of the liquidator granted by sections 375.1175 to 375.1230. The special deputy shall administer and liquidate the insolvent insurer subject to the general supervision of the director and the specific supervision of the court as provided in sections 375.1175 to 375.1230.

3. Upon issuance of the order of liquidation, the rights and liabilities of any such insurer and of its creditors, policyholders, shareholders, members and any other persons interested in its estate shall become fixed and the termination of any period fixed by any statute of limitations provided by law shall be suspended as of the date of entry of the order of liquidation, except as provided in sections 375.1178, 375.1206 and 375.1210. Rights of shareholders provided by any law other than as provided by sections 375.1150 to 375.1246 shall be suspended upon issuance of the order of liquidation.

4. An order to liquidate the business of an alien insurer domiciled in this state shall be in the same terms and have the same legal effect as an order to liquidate a domestic insurer, except that the assets and the business in the United States shall be the only assets and business included therein.

5. At the time of petitioning for an order of liquidation, or at any time thereafter, the director, after making

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determination of an insurer's insolvency, may petition the court for a judicial declaration of such insolvency. After providing such notice and hearing as it deems proper, the court may make the declaration.

6. (1) Any order issued under this section shall require periodic financial reports to the court by the liquidator. Financial reports shall include, at a minimum, the assets and liabilities of the insurer and all funds received or disbursed by the liquidator during the current period. Financial reports shall be filed within one year of the liquidation order and at least annually thereafter.

(2) After an order of liquidation has been entered, the liquidator of such insurer shall file with the director a statement which shall reflect the claims reserves, including losses incurred but not reported, and unearned premium reserves which have been established by the liquidator and which shall also set forth the amounts of such reserves that are allocable to particular reinsurers of the insolvent company. A similar statement shall be filed by each liquidator not less frequently than annually and shall be considered for all intents and purposes as the annual statement which was required to be filed by the insurer with the director prior to the liquidation proceedings. To the extent that any reinsurer of an insurer in liquidation would have been required under any agreement pertaining to reinsurance to post letters of credit or other security prior to an order of liquidation to cover such reserves reflected upon a statement filed with a regulatory authority, such reinsurer shall be required to post letters of credit or

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other security to cover such reserves after an insurer has been placed in liquidation. If a reinsurer shall fail to post letters of credit or other security required by a reinsurance agreement or the provisions of this section, the director may issue an order barring such reinsurer from thereafter reinsuring any insurer which is incorporated under the laws of the state of Missouri.

7. (1) Within five days after the initiation of an appeal of an order of liquidation, the liquidator shall present for the court's approval a plan for the continued performance of the defendant company's policy claims obligations, including the duty to defend insureds under liability insurance policies, during the pendency of an appeal. Such plan shall provide for the continued performance and payment of policy claims obligations in the normal course of events, notwithstanding the grounds alleged in support of the order of liquidation including the ground of insolvency. In the event the defendant company's financial condition, in the judgment of the liquidator, will not support the full performance of all policy claims obligations during the appeal pendency period, the plan may prefer the claims of certain policyholders and claimants over creditors and interested parties as well as other policyholders and claimants, as the liquidator finds to be fair and equitable considering the relative circumstances of such policyholders and claimants. The court shall examine the plan submitted by the liquidator and if it finds the plan to be in the best interests of the parties, the court shall approve the plan. No action shall lie against the liquidator or any of his deputies, agents, clerks, assistants or

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attorneys by any party based on preference in an appeal pendency plan approved by the court.

(2) The appeal pendency plan shall not supersede or affect the obligations of any insurance guaranty association.

(3) Any such plans shall provide for equitable adjustments to be made by the liquidator to any distributions of assets to guaranty associations, in the event that the liquidator pays claims from assets of the estate, which would otherwise be the obligations of any particular guaranty association but for the appeal of the order of liquidation, such that all guaranty associations equally benefit on a pro rata basis from the assets of the estate. Further, in the event an order of liquidation is set aside upon any appeal, the company shall not be released from delinquency proceedings unless and until all funds advanced by any guaranty association, including reasonable allocated loss adjustment expenses in connection therewith relating to obligations of the company, shall be repaid in full, together with interest at the judgment rate of interest or unless an arrangement for repayment thereof has been made with the consent of all applicable guaranty associations.

8. Any person who shall knowingly destroy, conceal, convert or alter any records or property of an insurer after entry of an order of liquidation, without having received prior written permission of the liquidator or of the court, or who shall knowingly neglect or refuse, upon the order or demand of the liquidator, to deliver to the liquidator any records or property of an insurer in his possession or control, shall be guilty of a class **[**C**]** D felony.

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375.1287. 1. A notice of transfer regarding an assumption reinsurance agreement shall be provided to the policyholders of a transferring insurer in the following manner:

(1) The transferring insurer shall provide or cause to be provided to each policyholder a notice of transfer by first class mail, addressed to the policyholder's last known address or to the address to which premium notices or other policy documents are sent or, with respect to home service business, by personal delivery with acknowledged receipt. A notice of transfer shall also be sent to the transferring insurer's agents and brokers of record on the affected policies;

(2) The notice of transfer shall state or provide:

(a) The date on which the transfer and novation of the policyholder's contract of insurance is proposed to take place;

(b) The name and addresses and telephone numbers of the transferring insurer and assuming insurer;

(c) That the policyholder has the right to either consent to or reject the transfer and novation;

(d) The procedures and time limit for consenting to or rejecting the transfer and novation;

(e) A summary of any effect that consenting to or rejecting the transfer and novation will have on the policyholder's rights;

(f) A statement that the assuming insurer is licensed to write the type of business being assumed in the state where the policyholder resides, or is otherwise authorized, as provided herein, to assume such business;

(g) The name and address of the person at the transferring insurer to whom the policyholder should send its written

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statement of acceptance or rejection of the transfer and novation;

(h) The address and phone number of the insurance department where the policyholder resides so that the policyholder may write or call its insurance department for further information regarding the financial condition of the assuming insurer; and

(i) The following financial data for both companies:

a. Ratings for the last five years if available or for such lesser period as is available from two nationally recognized insurance rating services acceptable to the director including the rating service's explanation of the rating's meaning. If ratings are unavailable for any year of the five-year period, this shall also be disclosed;

b. A balance sheet as of December thirty-first for the previous three years if available or for such lesser period as is available and as of the date of the most recent quarterly statement;

c. A copy of the management's discussion and analysis that was filed as a supplement to the previous year's annual statement; and

d. An explanation of the reason for the transfer;

(3) Notice in a form identical or substantially similar to the following, or as specified by the director of the department of insurance, financial institutions and professional registration by regulation, shall be deemed to comply with the requirements of this subsection:

(FIRST, SECOND OR THIRD AND FINAL)

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NOTICE OF TRANSFER

IMPORTANT: THIS NOTICE AFFECTS YOUR CONTRACT RIGHTS. PLEASE READ IT CAREFULLY.

TRANSFER OF POLICY

The (name of assuming insurance company) has agreed to replace us as your insurer under (insert policy/certificate name and number) effective (insert date). The (assuming insurance company's) principal place of business is (insert address) and certain financial information concerning both companies are attached, including: (1) ratings for the last five years if available or for such lesser period as is available from two nationally recognized insurance rating services; (2) balance sheets for the previous three years if available or for such lesser period as is available and as of a date no later than ninety days prior to the current date; (3) a copy of the management's discussion and analysis that was filed as a supplement to the previous year's annual statement; and (4) an explanation of the reason for the transfer. You may obtain additional information concerning (name of assuming insurance company) from reference materials in your local library or by contacting your state insurance director at (insert address). The (name of assuming insurance company) is licensed to write this coverage in your state.

Your Rights

You may choose to accept or reject the transfer of your policy to (name of assuming insurance company). If you want your policy transferred, you must notify us in writing immediately by signing and returning the enclosed preaddressed, postage-paid or by writing to us at: (Insert name, address and facsimile number of

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contact person.) Payment of your premiums to the assuming company will also constitute acceptance of the transaction. However, a method will be provided to allow you to pay the premium while reserving the right to reject the transfer. If you reject the transfer, you may keep your policy with us or exercise any option under your policy. If we do not receive a written rejection from you within thirty months of our first notice of transfer, (insert date of initial mailing), you will, as a matter of law, have consented to the transfer. However, before this consent is final, you will be provided a second notice, twelve months after our first notice, and a third and final notice, twenty-four months after our first notice. After the third and final notice is provided, you will have only six months to reply. If you have paid your premium to (the assuming insurance company) without reserving your right to reject the transfer, you will not receive a subsequent notice.

Effect of Transfer

If you accept this transfer, (name of assuming insurance company) will be your insurer. It will have direct responsibility to you for the payment of all claims, benefits and for all other policy obligations. We will no longer have any obligations to you. If you accept this transfer, you should make all premium payments and claims submissions to (name of assuming insurance company) and direct all questions to (name of assuming insurance company). If you have any further questions about this agreement, you may contact (name of transferring insurance company) or (name of assuming insurance company).

Sincerely,..... .....

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(Name of Transferring Insurance Company Address Telephone Number) (Name of Assuming Insurance Company Address Telephone Number)

For your convenience, we have enclosed a preaddressed postage-paid response card. Please take time now to read the enclosed notice and complete and return the response card to us.

(Notice Date)

RESPONSE CARD

..... Yes, I accept the transfer of my policy from (name of transferring company) to (name of assuming company).

..... No, I reject the proposed transfer of my policy from (name of transferring company) to (name of assuming company) and wish to retain my policy with (name of transferring company).

(Date) ..... (Signature) .....

Name: .....

Street Address: .....

City, State, Zip: .....

(4) The notice to transfer shall include a preaddressed, postage-paid response card which a policyholder may return as its written statement of acceptance or rejection of the transfer and novation;

(5) The notice of transfer proposed to be used shall be filed as part of the prior approval requirement set forth below in subdivision (1) of subsection 2 of this section.

2. (1) Prior approval by the director is required for any transaction where an insurer domiciled in this state assumes or transfers obligations or risks on contracts of insurance under an

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assumption reinsurance agreement. No insurer licensed in this state shall transfer obligations or risks on contracts of insurance owned by policyholders residing in this state to any insurer that is not licensed in this state. An insurer domiciled in this state shall not assume obligations or risks on contracts of insurance owned by policyholders residing in any other state unless it is licensed in the other state, or the insurance regulatory official of that state has approved such assumption in writing;

(2) Any licensed foreign insurer that enters into an assumption reinsurance agreement, which transfers the obligations or risks on contracts of insurance owned by policyholders residing in this state, shall file or cause to be filed the assumption certificate with the director of the department of insurance, financial institutions and professional registration of this state, a copy of the notice of transfer, and an affidavit that the transaction is subject to substantially similar requirements in the state of domicile of both the transferring and assuming insurer;

(3) Any licensed foreign insurer that enters into an assumption reinsurance agreement, which transfers the obligations or risks on contracts of insurance owned by policyholders residing in this state, shall obtain the prior approval of the director of the department of insurance, financial institutions and professional registration of this state and shall be subject to all other requirements of sections 375.1280 to 375.1295 unless the transferring and assuming insurers are subject to assumption reinsurance requirements adopted by statute or regulation in the

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jurisdiction of their domicile which are substantially similar to sections 375.1280 to 375.1295;

(4) No insurer required to receive approval of assumption reinsurance transactions under this section shall enter into an assumption reinsurance transaction until:

(a) Thirty days after the director has received a request for approval and has not within such period disapproved such transaction; or

(b) The director shall have approved the transaction within the thirty-day period;

(5) The following factors, along with such other factors as the director deems appropriate under the circumstances, shall be considered by the director in reviewing the request for approval:

(a) The financial condition of the transferring and assuming insurer and the effect the transaction will have on the financial condition of each company;

(b) The competence, experience and integrity of those persons who control the operation of the assuming insurer;

(c) The plans or proposals the assuming party has with respect to the administration of the policies subject to the proposed transfer;

(d) Whether the transfer is fair and reasonable to the policyholders of both companies;

(e) Whether the notice of transfer to be provided by the insurer is fair, adequate and not misleading; and

(f) Whether the transfer lessens competition or restrains trade.

3. Any officer, director or stockholder of any insurer

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violating or consenting to the violation of any provision of subsection 2 of this section is guilty of a class **[**D**]** E felony.

380.391. 1. It is unlawful for any officer, director, member, agent or employee of any company operating under the provisions of sections 380.201 to 380.611 to directly or indirectly use or employ, or permit others to use or employ, any of the money, funds or securities of the company for private profit or gain.

2. Any person who willfully engages in any act, practice, omission, or course of business in violation of this section is guilty of a class **[**D**]** E felony.

3. The director may refer such evidence as is available concerning violations of this section to the proper prosecuting attorney, who with or without a criminal reference, or the attorney general under section 27.030, may institute the appropriate criminal proceedings.

4. Nothing in this section shall limit the power of the state to punish any person for any conduct that constitutes a crime in any other state statute.

382.275. Any officer, director, or employee of an insurance holding company system who knowingly subscribes to or makes or causes to be made any false statements or false reports or false filings with the intent to deceive the director in the performance of his duties under this chapter, upon conviction thereof, shall be guilty of a class **[**D**]** E felony. Any fines imposed shall be paid by the officer, director, or employee in his individual capacity.

389.653. 1. Any person who commits the following acts

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shall be deemed guilty of a "trespass to railroad property":

(1) Throwing an object at a railroad train or rail-mounted work equipment; or

(2) Maliciously or wantonly causing in any manner the derailment of a railroad train, railroad car or rail-mounted work equipment.

2. Any person committing a trespass to railroad property pursuant to this section shall be deemed guilty of a class A misdemeanor.

3. Notwithstanding subsection 2 of this section, any person committing a trespass to railroad property pursuant to this section resulting in the damage or destruction of railroad property in an amount exceeding one thousand five hundred dollars or resulting in the injury or death of any person shall be deemed guilty of a class **[**D**]** E felony.

4. Notwithstanding subsection 2 of this section, any person committing a trespass to railroad property pursuant to this section who discharges a firearm or a weapon at a railroad train or rail-mounted work equipment shall be deemed guilty of a class **[**D**]** E felony.

5. Nothing in this section shall be construed to interfere with either the lawful use of a public or private railroad crossing, or as limiting a representative of a labor organization which represents or is seeking to represent the employees of the railroad, from conducting such business as provided by the Railway Labor Act.

6. As used in this section, "railroad property" includes, but is not limited to, any train, locomotive, railroad car,

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caboose, rail-mounted work equipment, rolling stock, work equipment, safety device, switch, electronic signal, microwave communication equipment, connection, railroad track, rail, bridge, trestle, right-of-way or any other property owned, leased, operated or possessed by a railroad.

407.020. 1. The act, use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in section 407.453, in or from the state of Missouri, is declared to be an unlawful practice. The use by any person, in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in section 407.453, in or from the state of Missouri of the fact that the attorney general has approved any filing required by this chapter as the approval, sanction or endorsement of any activity, project or action of such person, is declared to be an unlawful practice. Any act, use or employment declared unlawful by this subsection violates this subsection whether committed before, during or after the sale, advertisement or solicitation.

2. Nothing contained in this section shall apply to:

(1) The owner or publisher of any newspaper, magazine, publication or printed matter wherein such advertisement appears, or the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher or

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operator has no knowledge of the intent, design or purpose of the advertiser; or

(2) Any institution, company, or entity that is subject to chartering, licensing, or regulation by the director of the department of insurance, financial institutions and professional registration under chapter 354 or chapters 374 to 385, the director of the division of credit unions under chapter 370, or director of the division of finance under chapters 361 to 369, or chapter 371, unless such directors specifically authorize the attorney general to implement the powers of this chapter or such powers are provided to either the attorney general or a private citizen by statute.

3. Any person who willfully and knowingly engages in any act, use, employment or practice declared to be unlawful by this section with the intent to defraud shall be guilty of a class **[**D**]** E felony.

4. It shall be the duty of each prosecuting attorney and circuit attorney in their respective jurisdictions to commence any criminal actions under this section, and the attorney general shall have concurrent original jurisdiction to commence such criminal actions throughout the state where such violations have occurred.

5. It shall be an unlawful practice for any long-term care facility, as defined in section 660.600, except a facility which is a residential care facility or an assisted living facility, as defined in section 198.006, which makes, either orally or in writing, representation to residents, prospective residents, their families or representatives regarding the quality of care

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provided, or systems or methods utilized for assurance or maintenance of standards of care to refuse to provide copies of documents which reflect the facility's evaluation of the quality of care, except that the facility may remove information that would allow identification of any resident. If the facility is requested to provide any copies, a reasonable amount, as established by departmental rule, may be charged.

6. Any long-term care facility, as defined in section 660.600, which commits an unlawful practice under this section shall be liable for damages in a civil action of up to one thousand dollars for each violation, and attorney's fees and costs incurred by a prevailing plaintiff, as allowed by the circuit court.

407.095. 1. Whenever it appears to the attorney general that a person has engaged in, is engaging in or is about to engage in any method, act, use, practice or solicitation declared to be unlawful by any provision of this chapter, he may issue and cause to be served upon such person, and any other person or persons concerned with or who, in any way, have participated, are participating or are about to participate in such unlawful method, act, use, practice or solicitation, an order prohibiting such person or persons from engaging or continuing to engage in such unlawful method, act, use, practice or solicitation. Such order shall not be issued until the attorney general has notified each person who will be subject to such order of the statutory section which such person is alleged to have violated, be violating or be about to violate, and the nature of the method, act, use, practice or solicitation which is the basis of such

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alleged violation. The person to whom such notice is given shall have two business days from the receipt of such notice to file an answer to such notice with the attorney general before the order authorized by this subsection may be issued.

2. All orders issued by the attorney general under subsection 1 of this section shall be signed by the attorney general or, in the event of his absence, his duly authorized representative, and shall be served in the manner provided in section 407.040, for the service of civil investigative demands and shall expire of their own force ten days after being served.

3. Any person who has been duly served with an order issued under subsection 1 of this section and who willfully and knowingly violates any provision of such order while such order remains in effect, either as originally issued or as modified, is guilty of a class **[**D**]** E felony. The attorney general shall have original jurisdiction to commence all criminal actions necessary to enforce this section.

407.420. Any person willfully violating any of the provisions of section 407.405 is guilty of a class **[**D**]** E felony. It shall be the duty of each prosecuting attorney and circuit attorney in their respective jurisdictions to commence any criminal actions under this section, and the attorney general shall have concurrent original jurisdiction to commence such criminal actions throughout the state where such violations have occurred.

407.436. 1. Any person who willfully and knowingly, and with the intent to defraud, engages in any practice declared to be an unlawful practice in sections 407.430 to 407.436 of this

credit user protection law shall be guilty of a class **[**D**]** E felony.

2. The violation of any provision of sections 407.430 to 407.436 of this credit user protection law constitutes an unlawful practice pursuant to sections 407.010 to 407.130, and the violator shall be subject to all penalties, remedies and procedures provided in sections 407.010 to 407.130. The attorney general shall have all powers, rights, and duties regarding violations of sections 407.430 to 407.436 as are provided in sections 407.010 to 407.130, in addition to rulemaking authority as provided in section 407.145.

407.521. 1. A person commits the crime of odometer fraud in the second degree if he, with the intent to defraud disconnects, resets, or alters the odometer of any motor vehicle with the intent to change the number of miles indicated thereon.

2. The disconnection, resetting, or altering of any odometer while in the possession of the person shall be prima facie evidence of intent to defraud.

3. Odometer fraud in the second degree is a class **[**D**]** E felony.

407.536. 1. Any person transferring ownership of a motor vehicle previously titled in this or any other state shall do so by assignment of title and shall place the mileage registered on the odometer at the time of transfer above the signature of the transferor. The signature of the transferor below the mileage shall constitute an odometer mileage statement. The transferee shall sign such odometer mileage statement before an application for certificate of ownership may be made. If the true mileage is

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known to the transferor to be different from the number of miles shown on the odometer or the true mileage is unknown, a statement from the transferor shall accompany the assignment of title which shall contain all facts known by the transferor concerning the true mileage of the motor vehicle. That statement shall become a part of the permanent record of the motor vehicle with the Missouri department of revenue. The department of revenue shall place on all new titles issued after September 28, 1977, a box titled "mileage at the time of transfer".

2. Any person transferring the ownership of a motor vehicle previously untitled in this or any other state to another person shall give an odometer mileage statement to the transferee. The statement shall include above the signature of the transferor and transferee the cumulative mileage registered on the odometer at the time of transfer. If the true mileage is known to the transferor to be different from the number of miles shown on the odometer or the true mileage is unknown, a statement from the transferor shall accompany the assignment of title which shall contain all facts known by the transferor concerning the true mileage of the motor vehicle. That statement shall become a permanent part of the records of the Missouri department of revenue.

3. If, upon receiving an application for registration or for a certificate of ownership of a motor vehicle, the director of revenue has credible evidence that the odometer reading provided by a transferor is materially inaccurate, he may place an asterisk on the face of the title document issued by the Missouri department of revenue, provided that the process

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required thereby does not interfere with his obligations under subdivision (2) of subsection 3 of section 301.190. The asterisk shall refer to a statement on the face and at the bottom of the title document which shall read as follows: "This may not be the true and accurate mileage of this motor vehicle. Consult the documents on file with the Missouri department of revenue for an explanation of the inaccuracy." Nothing in this section shall prevent any person from challenging the determination by the director of revenue in the circuit courts of the state of Missouri. The burden of proof shall be on the director of the department of revenue in all such proceedings.

4. The mileage disclosed by the odometer mileage statement for a new or used motor vehicle as described in subsections 1 and 2 of this section shall be placed by the transferor on any title or document evidencing ownership. Additional statements shall be placed on the title document as follows:

(1) If the transferor states that to the best of his knowledge the mileage disclosed is the actual mileage of the motor vehicle, an asterisk shall follow the mileage on the face of the title or document of ownership issued by the Missouri department of revenue. The asterisk shall reference to a statement on the face and bottom of the title document which shall read as follows: "Actual Mileage".

(2) Where the transferor has submitted an explanation why this mileage is incorrect, an asterisk shall follow the mileage on the face of the title or document of ownership issued by the Missouri department of revenue. The asterisk shall reference to a statement on the face and at the bottom of the title document

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which shall read as follows: "This is not the true and accurate mileage of this motor vehicle. Consult the documents on file with the Missouri department of revenue for an explanation of the inaccuracy." Further wording shall be included as follows:

(a) If the transferor states that the odometer reflects the amount of mileage in excess of the designed mechanical odometer limit, the above statement on the face of the title document shall be followed by the words: "Mileage exceeds the mechanical limits";

(b) If the transferor states that the odometer reading differs from the mileage and that the difference is greater than that caused by odometer calibration error and the odometer reading does not reflect the actual mileage and should not be relied upon, the above statement on the face of the title document shall be preceded by the words: "Warning Odometer Discrepancy".

5. The department of revenue shall notify all motor vehicle ownership transferees of the civil and criminal penalties involving odometer fraud.

6. Any person defacing or obscuring or otherwise falsifying any odometer reading on any document required by this section shall be guilty of a class **[**D**]** E felony.

7. The granting or creation of a security interest or lien shall not be considered a change of ownership for the purpose of this section, and the grantor of such lien or security interest shall not be required to make an odometer mileage statement. The release of a lien by a mortgage holder shall not be considered a change of ownership of the motor vehicle for the purposes of this

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section. The mortgage holder or lienholder shall not be required to make an odometer disclosure statement or state the current odometer setting at the time of the release of the lien where there is no change of ownership.

8. For the purposes of the mileage disclosure requirements of this section, if a certificate of ownership is held by a lienholder, if the transferor makes application for a duplicate certificate of ownership, or as otherwise provided in the federal Motor Vehicle Information and Cost Savings Act and related federal regulations, the transferor may execute a written power of attorney authorizing a transfer of ownership. The person granted such power of attorney shall restate exactly on the assignment of title the actual mileage disclosed at the time of transfer. The power of attorney shall accompany the certificate of ownership and the original power of attorney and a copy of the certificate of ownership shall be returned to the issuing state in the manner prescribed by the director of revenue, unless otherwise provided by federal law, rule or regulation. The department of revenue may prescribe a secure document for use in executing a written power of attorney. The department shall collect a fee for each form issued, not to exceed the cost of procuring the form.

407.544. Notwithstanding any provision of law to the contrary, a court may enhance the sentence for any person convicted of violating section 407.516, 407.521, 407.526, 407.536, 407.542 or 407.543 who has a prior conviction for any one of the aforegoing sections to a fine and to a time of imprisonment within the department of corrections and human

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resources for a term not to exceed that otherwise authorized by law for violation of a class **[**D**]** E felony.

407.740. 1. Any person who willfully and knowingly engages in unlawful subleasing of a motor vehicle, as defined in section 407.742, shall be guilty of a class **[**D**]** E felony. It shall be the duty of each prosecuting attorney and circuit attorney in their respective jurisdictions to commence any criminal actions under sections 407.738 to 407.745, and the attorney general shall have concurrent original jurisdiction to commence such criminal actions throughout the state where such violations have occurred.

2. Whenever it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in unlawful subleasing of a motor vehicle, he may bring an action pursuant to section 407.100 for an injunction prohibiting such person from continuing such methods, uses, acts, or practices, or engaging therein, or doing anything in furtherance thereof. In any action brought by the attorney general under this subsection, all of the provisions of sections 407.100 to 407.140 shall apply thereto.

407.1082. 1. It is unlawful pursuant to section 407.020 to violate any provision of sections 407.1070 to 407.1085 or to misrepresent or omit the required disclosures of section 407.1073 or 407.1076, and pursuant to sections 407.010 to 407.130, the violator shall be subject to all penalties, remedies and procedures provided in sections 407.010 to 407.130. The remedies available in this section are cumulative and in addition to any other remedies available by law.

2. Any person who willfully and knowingly engages in any

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act or practice declared to be unlawful by any provision of subdivisions (2) to (5) of section 407.1076 shall be guilty of a class A misdemeanor. Any person who willfully and knowingly engages in any act or practice declared to be unlawful by any provision of subdivision (1) of section 407.1076, or of subdivisions (6) to (11) of section 407.1076, shall be guilty of a class **[**D**]** E felony. Any person previously convicted of a class **[**D**]** E felony pursuant to this subsection shall, for each subsequent conviction, be guilty of a class **[**D**]** E felony punishable by the term of years set out for a class **[**D**]** E felony, but with a fine of not more than five thousand dollars or a fine equal to triple the gain, with no limit on the amount recoverable pursuant to any triple-the-gain penalty. Any person who willfully and knowingly fails to keep the records required in section 407.1079 shall be guilty of a class A misdemeanor.

3. In addition to the remedies already provided in sections 407.1070 to 407.1085, any consumer that suffers a loss or harm as a result of any unlawful telemarketing act or practice pursuant to section 407.1076 may recover actual and punitive damages, reasonable attorney's fees, court costs and any other remedies provided by law.

407.1252. 1. Any individual who purchases a travel club membership from a travel club and has a complaint resulting from that purchase transaction has the option, in addition to filing a civil suit, to file a written complaint with the office of the state attorney general, or the county prosecuting attorney. The office which receives the complaint shall deliver to the travel club that is the subject of the complaint, by registered mail

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within ten working days, all written complaints received under this section in their entirety. Should the office receiving the complaint, including the attorney general, fail to deliver the complaint as stated herein, any action subsequently filed on the complaint shall be stayed for a period of thirty business days from the date the club is first notified and provided the written complaint, thereby allowing the travel club that is the subject of the complaint an opportunity to cure the complaint as provided in subsection 2 of this section.

2. Prior to being subject to any remedies available under sections 407.1240 to 407.1252, a travel club shall have thirty business days following the date that a filed complaint is provided to the travel club to cure any grievances stated in the complaint. The parties shall not seek other forms of redress during this period. Upon satisfaction or settlement of any complaint, the parties shall execute a written mutual release which shall contain the terms of the settlement and operate to remove the matters contained in the release as a basis for further action by any entity or person under this chapter. Any payments to be made under a settlement shall be made within fifteen business days of the signing date of the settlement.

3. (1) The attorney general, prosecuting attorney, or complainant may bring an action in a court of competent jurisdiction to enjoin a violation of sections 407.1240 to 407.1252 if the conditions for a violation of sections 407.1240 to 407.1252 have been met.

(2) A person who violates any provision of sections 407.1240 to 407.1252 is guilty of a class **[**D**]** E felony and shall

be subject to a penalty of ten thousand dollars. Any fines collected under this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031.

4. Any travel club registered to operate in this state which has been adjudged to have failed to provide a refund equal to the purchase price of the unused travel benefits of a person who has validly exercised his or her rights of rescission under sections 407.1240 to 407.1252 within fifteen business days of such valid exercise or has been adjudged to have failed to honor a settlement agreement entered into under the provisions of sections 407.1240 to 407.1252 shall post a surety bond upon the earlier of a judgment entered on said violations or its next annual registration.

5. Any travel club registered to operate in this state which has been adjudged to have engaged in fraud in the procurement or sale of contracts shall be required to post a security bond upon the earlier of the judgment finding such or its next annual registration.

411.260. 1. Each person owning, operating, or desiring to own or operate a grain warehouse who is required to be licensed, shall apply for a license for each such warehouse he owns or operates. The application for a license shall be subscribed and sworn to under oath by the applicant or a duly authorized representative of the applicant. The application shall be in a form prescribed by the director. All items on the application must be completed or marked "not applicable" as appropriate.

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2. All applications shall be accompanied by a true and accurate financial statement of the applicant, prepared within six months of the date of the application, setting forth the assets, liabilities and the net worth of the applicant. All applications shall also be accompanied by a true and accurate statement of income and expenses for the applicant's most recently completed fiscal year. The financial statements required by this chapter shall be prepared in conformity with generally accepted accounting principles; except that, the director may promulgate rules allowing for the valuation of assets by competent appraisal.

3. The financial statements required by subsection 2 of this section shall be audited or reviewed by a certified public accountant. The financial statement may not be audited, reviewed or prepared by the applicant, if an individual, or, if the applicant is a corporation or partnership, by any officer, shareholder, partner, or employee of the applicant.

4. The director may require any additional information or verification with respect to the financial resources of the applicant as he deems necessary for the effective administration of this chapter. The director may promulgate rules setting forth minimum standards of acceptance for the various types of financial statements filed in accordance with the provisions of this chapter. The director may promulgate rules requiring a statement of retained earnings, a statement of changes in financial position, and notes and disclosures to the financial statements for all licensed warehousemen or all warehousemen required to be licensed. The additional information or

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verification referred to herein may include, but is not limited to, requiring that the financial statement information be reviewed or audited in accordance with standards established by the American Institute of Certified Public Accountants.

5. All warehousemen shall provide the director with a copy of all financial statements and updates to financial statements utilized to secure the bonds required by this chapter. Also, all warehousemen maintaining a uniform grain storage agreement with the Commodity Credit Corporation or a United States Warehouse Act license shall provide the director with a copy of all financial statements and updates to financial statements utilized to secure and maintain such agreement or license.

6. All financial statements submitted to the director for the purposes of this chapter shall be accompanied by a certification by the applicant or the chief executive officer of the applicant, subject to the penalty provision set forth in section 411.517 that to the best of his knowledge and belief the financial statement accurately reflects the financial condition of the applicant for the fiscal period covered in the statement.

7. Any person who knowingly prepares or assists in the preparation of an inaccurate or false financial statement which is submitted to the director for the purposes of this chapter, or who during the course of providing bookkeeping services or in reviewing or auditing a financial statement which is submitted to the director for the purposes of this chapter, becomes aware of false information in the financial statement and does not disclose in notes accompanying the financial statements that such false information exists, or does not disassociate himself from

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the financial statements prior to submission, is guilty of a class **[**C**]** D felony. Additionally, such persons are liable for any damages incurred by depositors of grain with a warehouseman who is licensed or allowed to maintain his license based upon inaccuracies or falsifications contained in the financial statement.

411.287. 1. If a license is suspended, revoked or a shortage is known to exist and the director determines that there is danger of loss to depositors, the director or his authorized agents may enter the premises of the warehouseman, monitor the activities of the warehouseman and take any actions authorized by this chapter which are necessary to protect the interests of depositors of grain. Additionally, when a shortage exists, the director or his designated representative may order, verbally or in writing, the warehouseman to cease shipping any grain until such shortage is corrected. Should the warehouseman continue to ship grain after being advised of such order to cease shipping, such action of the warehouseman shall constitute a class **[**C**]** D felony. The director and his designated representative shall notify local law enforcement officials and request the immediate arrest of the warehouseman.

2. Whenever the director or his authorized agents monitor the operation of any warehouse, the warehouseman, upon a finding by a court of competent jurisdiction that the director had reasonable grounds to believe that this action was necessary to protect the depositors, may be assessed and shall pay a fee of one hundred dollars per person for each day or part thereof that the director or his authorized agents monitored the operations.

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411.371. 1. Warehouse receipts shall be issued by any licensed public warehouseman as herein defined upon the request of any depositor, and must be issued in manner and form as provided by this chapter or prescribed by rule, and the form of all receipts shall be approved by the director. The director shall be authorized to have printed all warehouse receipts, grade certificates, and weight certificates issued by public warehousemen licensed under this chapter.

2. It shall be unlawful for any public warehouseman to issue any warehouse receipts for any grain received except upon warehouse receipts approved by the director. Any person who shall issue or cause to be issued any counterfeit warehouse receipt, or any warehouse receipt for grain, other than as authorized and prescribed by the director, shall be guilty of a class **[**C**]** D felony.

3. Whenever the license of a public warehouseman expires or is revoked or suspended, he shall return all unused warehouse receipts to the director; the director shall immediately notify the holders of all outstanding receipts of the expiration or revocation of the license.

4. It shall be unlawful for any person, other than a licensed public grain warehouseman, to issue any negotiable warehouse receipt for grain, or any warehouse receipt for grain for collateral purposes. Any person who violates this subsection is, upon conviction, guilty of a class **[**C**]** D felony.

411.517. 1. The warehouseman shall maintain in a place of safety at each licensed warehouse facility current and complete records with respect to all grain delivered to, withdrawn from

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and received, stored or processed at that warehouse. The director may allow the warehouseman to maintain said records at the warehouseman's headquarters office on a case-by-case basis taking into consideration the location from which grain payments are made. Such records shall include but not be limited to the following:

(1) A perpetual inventory showing the total quantity of each kind and class of grain received and loaded out, the quantity of each kind and class of grain remaining in the warehouse and the total storage obligations for each kind and class of grain. This record shall be kept current as of the close of each business day; except that, if no transaction takes place during a business day, a record showing the actual status as to quantity and storage obligations at the close of the next preceding business day during which recordable transactions occurred shall be deemed to be current;

(2) A register which records all grain transactions not evidenced by the warehouseman's own scale ticket, i.e., direct farm to market shipments. This register shall be updated daily showing, at a minimum, customer name, type of grain, quantity of grain, date of shipment, name of terminal or other business accepting the physical commodity, destination scale ticket number and whether the grain was delivered for storage, sale or other specified purpose;

(3) A current copy of the periodic insurance report submitted to the insurer.

2. In addition to the records required by section 411.383 and subsection 1 of this section, the warehouseman shall maintain

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such adequate financial records as will clearly reflect his current financial position and will clearly support any financial information required to be submitted to the director from time to time.

3. Each grain warehouseman may also be required to keep such records or make such reports as deemed necessary by the director to protect the depositor or seller of grain as set forth in this chapter and the regulations promulgated hereunder.

4. All books, records and accounts of warehousemen shall be kept and held available for examination for a period of not less than three years after the close of the period for which such book or record was required; except that, canceled or voided warehouse receipts and the warehouse receipt register required by section 411.383 shall be kept and held available for examination for a period of not less than six years from the date of cancellation or voiding of receipts or, in the case of the register, from the last date upon which a receipt referred to therein shall have been canceled or voided.

5. A warehouseman licensed or required to be licensed under this chapter shall keep available for examination all books, records and accounts required by this chapter and any other books, records and accounts relevant to his operating a public grain warehouse. An examination may be performed by the director or a warehouse auditor, and may take place at any time during the normal business hours of the warehouseman or, if prior notice of the examination is given to the warehouseman, at such time as is prescribed in that notice.

6. Any warehouseman licensed or required to be licensed

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under this chapter, or any officer, agent, employee, servant or associate of such warehouseman, who files with the director false records, scale tickets, financial statements, accounts, or withholds records, scale tickets, financial statements or accounts from the director, or who alters records, scale tickets, financial statements or accounts in order to conceal outstanding storage obligations or to conceal actual amounts of grain received for storage or for purchase, whether or not paid for, or to conceal warehouse obligations or for the purpose of misleading in any way department warehouse auditors or officials, is guilty of a class **[**C**]** D felony.

411.770. A warehouseman commits the crime of "stealing grain" if he sells grain owned by another person which has been delivered to him for the purpose of storage without the owner's consent, or by means of deceit or coercion, with the intent to deprive the owner of the grain either permanently or temporarily. Stealing grain by a warehouseman is a class **[**C**]** D felony.

413.229. 1. Any person found in violation of any provisions of this chapter shall be deemed guilty of a class A misdemeanor.

2. Any person found to have purposely violated any provisions of this chapter, has been previously convicted twice for the same offense under the misdemeanor provisions of this section, or uses or has in his or her possession for use a commercial device which has been altered to facilitate the commission of fraud shall be deemed guilty of a class **[**D**]** E felony.

3. The prosecutor of each county in which a violation

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occurs shall be empowered to bring an action hereunder. If a prosecutor declines to bring such action, the attorney general may bring an action instead, and in so doing shall have all of the powers and jurisdiction of such prosecutor.

429.012. 1. Every original contractor, who shall do or perform any work or labor upon, or furnish any material, fixtures, engine, boiler or machinery for any building, erection or improvements upon land, or for repairing the same, under or by virtue of any contract, or without a contract if ordered by a city, town, village or county having a charter form of government to abate the conditions that caused a structure on that property to be deemed a dangerous building under local ordinances pursuant to section 67.410, shall provide to the person with whom the contract is made or to the owner if there is no contract, prior to receiving payment in any form of any kind from such person, (a) either at the time of the execution of the contract, (b) when the materials are delivered, (c) when the work is commenced, or (d) delivered with first invoice, a written notice which shall include the following disclosure language in ten-point bold type:

NOTICE TO OWNER

FAILURE OF THIS CONTRACTOR TO PAY THOSE PERSONS SUPPLYING MATERIAL OR SERVICES TO COMPLETE THIS CONTRACT CAN RESULT IN THE FILING OF A MECHANIC'S LIEN ON THE PROPERTY WHICH IS THE SUBJECT OF THIS CONTRACT PURSUANT TO CHAPTER 429, RSMO. TO AVOID THIS RESULT YOU MAY ASK THIS CONTRACTOR FOR "LIEN WAIVERS" FROM ALL PERSONS SUPPLYING MATERIAL OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT. FAILURE TO SECURE LIEN WAIVERS MAY RESULT IN YOUR PAYING FOR LABOR AND MATERIAL TWICE.

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2. Compliance with subsection 1 of this section shall be a condition precedent to the creation, existence or validity of any mechanic's lien in favor of such original contractor.

3. Any original contractor who fails to provide the written notice set out in subsection 1 of this section, with intent to defraud, shall be guilty of a class B misdemeanor and any contractor who knowingly issues a fraudulent lien waiver or a false affidavit shall be guilty of a class **[**C**]** D felony.

4. The provisions of subsections 1 and 2 of this section shall not apply to new residences for which the buyer has been furnished mechanics' and suppliers' lien protection through a title insurance company registered in the state of Missouri.

5. Any settlement agent, including but not limited to any title insurance company, title insurance agency, title insurance agent or escrow agent who knowingly accepts, with intent to defraud, a fraudulent lien waiver or a false affidavit shall be guilty of a class **[**C**]** D felony if the acceptance of the fraudulent lien waiver or false affidavit results in a matter of financial gain to:

(1) The settlement agent or to its officer, director or employee other than a financial gain from the charges regularly made in the course of its business;

(2) A person related as closely as the fourth degree of consanguinity to the settlement agent or to an officer, director or employee of the settlement agent;

(3) A spouse of the settlement agent, officer, director or employee of the settlement agent; or

(4) A person related as closely as the fourth degree of

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consanguinity to the spouse of the settlement agent, officer, director or employee of the settlement agent.

429.013. 1. The provisions of this section shall apply only to the repair or remodeling of or addition to owner-occupied residential property of four units or less. The term "owner" means the owner of record at the time any contractor, laborer or materialman agrees or is requested to furnish any work, labor, material, fixture, engine, boiler or machinery. The term "owner-occupied" means that property which the owner currently occupies, or intends to occupy and does occupy as a residence within a reasonable time after the completion of the repair, remodeling or addition which is the basis for the lien sought, pursuant to this section. The term "residential property" means property consisting of four or less existing units to which repairs, remodeling or additions are undertaken. This section shall not apply to the building, construction or erection of any improvements constituting the initial or original residential unit or units or other improvements or appurtenances forming a part of the original development of the property. The provisions added to this subsection in 1990 are intended to clarify the scope and meaning of this section as originally enacted.

2. No person, other than an original contractor, who performs any work or labor or furnishes any material, fixtures, engine, boiler or machinery for any building or structure shall have a lien under this section on such building or structure for any work or labor performed or for any material, fixtures, engine, boiler, or machinery furnished unless an owner of the building or structure pursuant to a written contract has agreed

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to be liable for such costs in the event that the costs are not paid. Such consent shall be printed in ten point bold type and signed separately from the notice required by section 429.012 and shall contain the following words: CONSENT OF OWNER

CONSENT IS HEREBY GIVEN FOR FILING OF MECHANIC'S LIENS BY ANY PERSON WHO SUPPLIES MATERIALS OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT ON THE PROPERTY ON WHICH IT IS LOCATED IF HE IS NOT PAID.

3. In addition to complying with the provisions of section 429.012, every original contractor shall retain a copy of the notice required by that section and any consent signed by an owner and shall furnish a copy to any person performing work or labor or furnishing material, fixtures, engines, boilers or machinery upon his request for such copy of the notice or consent.

It shall be a condition precedent to the creation, existence or validity of any lien by anyone other than an original contractor that a copy of a consent in the form prescribed in subsection 2 of this section, signed by an owner, be attached to the recording of a claim of lien. The signature of one or more of the owners shall be binding upon all owners. Nothing in this section shall relieve the requirements of any original contractor under sections 429.010 and 429.012.

4. In the absence of a consent described in subsection 2 of this section, full payment of the amount due under a contract to the contractor shall be a complete defense to all liens filed by any person performing work or labor or furnishing material, fixtures, engines, boilers or machinery. Partial payment to the

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contractor shall only act as an offset to the extent of such payment.

5. Any person falsifying the signature of an owner, with intent to defraud, in the consent of owner provided in subsection 2 of this section shall be guilty of a class **[**C**]** D felony. Any original contractor who knowingly issues a fraudulent consent of owner shall be guilty of a class **[**C**]** D felony.

429.014. 1. Any original contractor, subcontractor or supplier who fails or refuses to pay any subcontractor, materialman, supplier or laborer for any services or materials provided pursuant to any contract referred to in section 429.010, 429.012 or 429.013 for which the original contractor, subcontractor or supplier has been paid, with the intent to defraud, commits the crime of lien fraud, regardless of whether the lien was perfected or filed within the time allowed by law.

2. A property owner or lessee who pays a subcontractor, materialman, supplier or laborer for the services or goods claimed pursuant to a lien, for which the original contractor, subcontractor or supplier has been paid, shall have a claim against the original contractor, subcontractor or supplier who failed or refused to pay the subcontractor, materialman, supplier or laborer.

3. Lien fraud is a class **[**C**]** D felony if the amount of the lien filed or the aggregate amount of all liens filed on the subject property as a result of the conduct described in subsection 1 of this section is in excess of five hundred dollars, otherwise lien fraud is a class A misdemeanor. If no liens are filed, lien fraud is a class A misdemeanor.

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436.485. 1. Any person, including the officers, directors, partners, agents, or employees of such person, who shall knowingly and willfully violate or assist or enable any person to violate any provision of sections 436.400 to 436.520 by incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty is guilty of a class **[**C**]** D felony. Each violation of any provision of sections 436.400 to 436.520 constitutes a separate offense and may be prosecuted individually. The attorney general shall have concurrent jurisdiction with any local prosecutor to prosecute under this section.

2. Any violation of the provisions of sections 436.400 to 436.520 shall constitute a violation of the provisions of section 407.020. In any proceeding brought by the attorney general for a violation of the provisions of sections 436.400 to 436.520, the court may order all relief and penalties authorized under chapter 407 and, in addition to imposing the penalties provided for in sections 436.400 to 436.520, order the revocation or suspension of the license or registration of a defendant seller, provider, or preneed agent.

443.810. Any person who violates any provision of sections 443.805 to 443.812 shall be deemed guilty of a class **[**C**]** D felony. In addition, in any contested case proceeding, the director or board may assess a civil penalty of up to twenty-five thousand dollars per violation for any violation of any of the provisions of sections 443.701 to 443.893.

443.819. 1. No person engaged in a business regulated by sections 443.701 to 443.893 shall operate or engage in such

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business under a name other than the real names of the persons conducting such business, a corporate name adopted pursuant to law, or a fictitious name registered with the secretary of state's office.

2. Any person who knowingly violates this section shall be deemed guilty of a class A misdemeanor. A person who is convicted of a second or subsequent violation of this section shall be deemed guilty of a class **[**C**]** D felony.

453.110. 1. No person, agency, organization or institution shall surrender custody of a minor child, or transfer the custody of such a child to another, and no person, agency, organization or institution shall take possession or charge of a minor child so transferred, without first having filed a petition before the circuit court sitting as a juvenile court of the county where the child may be, praying that such surrender or transfer may be made, and having obtained such an order from such court approving or ordering transfer of custody.

2. If any such surrender or transfer is made without first obtaining such an order, such court shall, on petition of any public official or interested person, agency, organization or institution, order an investigation and report as described in section 453.070 to be completed by the division of family services and shall make such order as to the custody of such child in the best interest of such child.

3. Any person violating the terms of this section shall be guilty of a class **[**D**]** E felony.

4. The investigation required by subsection 2 of this section shall be initiated by the division of family services

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within forty-eight hours of the filing of the court order requesting the investigation and report and shall be completed within thirty days. The court shall order the person having custody in violation of the provisions of this section to pay the costs of the investigation and report.

5. This section shall not be construed to prohibit any parent, agency, organization or institution from placing a child with another individual for care if the right to supervise the care of the child and to resume custody thereof is retained, or from placing a child with a licensed foster home within the state through a child-placing agency licensed by this state as part of a preadoption placement.

6. After the filing of a petition for the transfer of custody for the purpose of adoption, the court may enter an order of transfer of custody if the court finds all of the following:

(1) A family assessment has been made as required in section 453.070 and has been reviewed by the court;

(2) A recommendation has been made by the guardian ad litem;

(3) A petition for transfer of custody for adoption has been properly filed or an order terminating parental rights has been properly filed;

(4) The financial affidavit has been filed as required under section 453.075;

(5) The written report regarding the child who is the subject of the petition containing the information has been submitted as required by section 453.026;

(6) Compliance with the Indian Child Welfare Act, if

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applicable; and

(7) Compliance with the Interstate Compact on the Placement of Children pursuant to section 210.620.

7. A hearing on the transfer of custody for the purpose of adoption is not required if:

(1) The conditions set forth in subsection 6 of this section are met;

(2) The parties agree and the court grants leave; and

(3) Parental rights have been terminated pursuant to section 211.444 or 211.447.

455.085. 1. When a law enforcement officer has probable cause to believe a party has committed a violation of law amounting to abuse or assault, as defined in section 455.010, against a family or household member, the officer may arrest the offending party whether or not the violation occurred in the presence of the arresting officer. When the officer declines to make arrest pursuant to this subsection, the officer shall make a written report of the incident completely describing the offending party, giving the victim's name, time, address, reason why no arrest was made and any other pertinent information. Any law enforcement officer subsequently called to the same address within a twelve-hour period, who shall find probable cause to believe the same offender has again committed a violation as stated in this subsection against the same or any other family or household member, shall arrest the offending party for this subsequent offense. The primary report of nonarrest in the preceding twelve-hour period may be considered as evidence of the defendant's intent in the violation for which arrest occurred.

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The refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

2. When a law enforcement officer has probable cause to believe that a party, against whom a protective order has been entered and who has notice of such order entered, has committed an act of abuse in violation of such order, the officer shall arrest the offending party-respondent whether or not the violation occurred in the presence of the arresting officer. Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest under this subsection.

3. When an officer makes an arrest he is not required to arrest two parties involved in an assault when both parties claim to have been assaulted. The arresting officer shall attempt to identify and shall arrest the party he believes is the primary physical aggressor. The term "primary physical aggressor" is defined as the most significant, rather than the first, aggressor. The law enforcement officer shall consider any or all of the following in determining the primary physical aggressor:

(1) The intent of the law to protect victims of domestic violence from continuing abuse;

(2) The comparative extent of injuries inflicted or serious threats creating fear of physical injury;

(3) The history of domestic violence between the persons involved. No law enforcement officer investigating an incident of family violence shall threaten the arrest of all parties for the purpose of discouraging requests or law enforcement intervention by any party. Where complaints are received from two or more opposing parties, the officer shall evaluate each complaint

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separately to determine whether he should seek a warrant for an arrest.

4. In an arrest in which a law enforcement officer acted in good faith reliance on this section, the arresting and assisting law enforcement officers and their employing entities and superiors shall be immune from liability in any civil action alleging false arrest, false imprisonment or malicious prosecution.

5. When a person against whom an order of protection has been entered fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

6. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

7. A violation of the terms and conditions, with regard to abuse, stalking, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of an ex parte order of protection of which the respondent has notice, shall be a class A misdemeanor unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent

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violation shall be a class [D] E felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior pleas of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

8. A violation of the terms and conditions, with regard to abuse, stalking, child custody, communication initiated by the respondent or entrance upon the premises of the petitioner's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of a full order of protection shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class [D] E felony. Evidence of prior pleas of guilty or findings of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of such prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of the sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its

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verdict. For the purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection if the law enforcement officer responding to a call of a reported incident of abuse or violation of an order of protection presented a copy of the order of protection to the respondent.

9. Good faith attempts to effect a reconciliation of a marriage shall not be deemed tampering with a witness or victim tampering under section 575.270.

10. Nothing in this section shall be interpreted as creating a private cause of action for damages to enforce the provisions set forth herein.

455.538. 1. When a law enforcement officer has probable cause to believe that a party, against whom a protective order for a child has been entered, has committed an act of abuse in violation of that order, he shall have the authority to arrest the respondent whether or not the violation occurred in the presence of the arresting officer.

2. When a person, against whom an order of protection for a child has been entered, fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer shall arrest the respondent, and shall turn the minor children over to the care and custody of the party to whom such care and custody was awarded.

3. The same procedures, including those designed to protect constitutional rights, shall be applied to the respondent as those applied to any individual detained in police custody.

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4. (1) Violation of the terms and conditions of an ex parte or full order of protection with regard to abuse, child custody, communication initiated by the respondent, or entrance upon the premises of the victim's dwelling unit or place of employment or school, or being within a certain distance of the petitioner or a child of the petitioner, of which the respondent has notice, shall be a class A misdemeanor, unless the respondent has previously pleaded guilty to or has been found guilty in any division of the circuit court of violating an ex parte order of protection or a full order of protection within five years of the date of the subsequent violation, in which case the subsequent violation shall be a class **[**D**]** E felony. Evidence of a prior plea of guilty or finding of guilt shall be heard by the court out of the presence of the jury prior to submission of the case to the jury. If the court finds the existence of a prior plea of guilty or finding of guilt beyond a reasonable doubt, the court shall decide the extent or duration of sentence or other disposition and shall not instruct the jury as to the range of punishment or allow the jury to assess and declare the punishment as a part of its verdict.

(2) For purposes of this subsection, in addition to the notice provided by actual service of the order, a party is deemed to have notice of an order of protection for a child if the law enforcement officer responding to a call of a reported incident of abuse or violation of an order of protection for a child presents a copy of the order of protection to the respondent.

5. The fact that an act by a respondent is a violation of a valid order of protection for a child shall not preclude

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prosecution of the respondent for other crimes arising out of the incident in which the protection order is alleged to have been violated.

476.055. 1. There is hereby established in the state treasury the "Statewide Court Automation Fund". All moneys collected pursuant to section 488.027, as well as gifts, contributions, devises, bequests, and grants received relating to automation of judicial record keeping, and moneys received by the judicial system for the dissemination of information and sales of publications developed relating to automation of judicial record keeping, shall be credited to the fund. Moneys credited to this fund may only be used for the purposes set forth in this section and as appropriated by the general assembly. Any unexpended balance remaining in the statewide court automation fund at the end of each biennium shall not be subject to the provisions of section 33.080 requiring the transfer of such unexpended balance to general revenue; except that, any unexpended balance remaining in the fund on September 1, 2013, shall be transferred to general revenue.

2. The statewide court automation fund shall be administered by a court automation committee consisting of the following: the chief justice of the supreme court, a judge from the court of appeals, four circuit judges, four associate circuit judges, four employees of the circuit court, the commissioner of administration, two members of the house of representatives appointed by the 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

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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

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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;

(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. Section 488.027 shall expire on September 1, 2013. The

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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, 2015.

10. This section shall expire on September 1, 2015.

[577.006.**]** 479.172. 1. Each municipal judge shall receive adequate instruction on the laws related to intoxication-related traffic offenses as defined in section **[**577.023**]** 577.001 including jurisdictional issues related to such offenses, reporting requirements to the highway patrol central repository as set out in section 43.503 and required assessment for offenders under the substance abuse traffic offender program (SATOP). Each municipal judge shall adopt a written policy requiring that municipal court personnel timely report all dispositions of all charges for intoxication-related traffic offenses to the central repository.

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

3. Each municipal division of every circuit court in the state of Missouri shall prepare a report every six months. The report shall include, but shall not be limited to, the total number and disposition of every intoxication-related traffic offense adjudicated, dismissed or pending in its municipal court

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division. The municipal court division shall submit said report to the circuit court en banc. The report shall include the six-month period beginning January first and ending June thirtieth and the six-month period beginning July first and ending December thirty-first of each year. The report shall be submitted to the circuit court en banc no later than sixty days following the end of the reporting period. The circuit court en banc shall make recommendations or take any action it deems appropriate based on its review of said reports.

[572.120.**]** 513.660. Any gambling device or gambling record, or any money used as bets or stakes in unlawful gambling activity, possessed or used in violation of this chapter may be seized by any **[**peace**]** law enforcement officer and is forfeited to the state. Forfeiture procedures shall be conducted as provided by rule of court. Forfeited money and the proceeds from the sale of forfeited property shall be paid into the school fund of the county. Any forfeited gambling device or record not needed in connection with any proceedings under this chapter and which has no legitimate use shall be ordered publicly destroyed.

[570.123.**]** 537.123. In addition to all other penalties provided by law, any person who makes, utters, draws, or delivers any check, draft, or order for the payment of money upon any bank, savings and loan association, credit union, or other depositary, financial institution, person, firm, or corporation which is not honored because of lack of funds or credit to pay or because of not having an account with the drawee and who fails to pay the amount for which such check, draft, or order was made in cash to the holder within thirty days after notice and a written

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demand for payment, deposited as certified or registered mail in the United States mail, or by regular mail, supported by an affidavit of service by mailing, notice deemed conclusive three days following the date the affidavit is executed, and addressed to the maker and to the endorser, if any, of the check, draft, or order at each of their addresses as it appears on the check, draft, or order or to the last known address, shall, in addition to the face amount owing upon such check, draft, or order, be liable to the holder for three times the face amount owed or one hundred dollars, whichever is greater, plus reasonable attorney fees incurred in bringing an action pursuant to this section. Only the original holder, whether the holder is a person, bank, savings and loan association, credit union, or other depository, financial institution, firm or corporation, may bring an action pursuant to this section. No original holder shall bring an action pursuant to this section if the original holder has been paid the face amount of the check and costs recovered by the prosecuting attorney or circuit attorney pursuant to subsection 6 of section 570.120. If the issuer of the check has paid the face amount of the check and costs pursuant to subsection 6 of section 570.120, such payment shall be an affirmative defense to any action brought pursuant to this section. The original holder shall elect to bring an action pursuant to this section or section 570.120, but may not bring an action pursuant to both sections. In no event shall the damages allowed pursuant to this section exceed five hundred dollars, exclusive of reasonable attorney fees. In situations involving payroll checks, the damages allowed pursuant to this section shall only be assessed

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against the employer who issued the payroll check and not against the employee to whom the payroll check was issued. The provisions of sections 408.140 and 408.233 to the contrary notwithstanding, a lender may bring an action pursuant to this section. The provisions of this section will not apply in cases where there exists a bona fide dispute over the quality of goods sold or services rendered.

[570.087.**]** 537.127. 1. As used in this section, the following terms mean:

(1) "Actual damages", the full retail value of any merchandise which is taken or which has its price altered in a manner described in subsection 2 of this section, plus any proven incidental costs to the owner of the merchandise not to exceed one hundred dollars;

(2) "Mercantile establishment", any place where merchandise is displayed, held or offered for sale either at retail or at wholesale;

(3) "Merchandise", all things movable and capable of manual delivery and offered for sale either at retail or wholesale;

(4) "Unemancipated minor", an individual under the age of eighteen years whose parents or guardian have not surrendered the right to the care, custody and earnings of such individual, and are under a duty to support or maintain such individual.

2. An adult or a minor who takes possession of any merchandise from any mercantile establishment without the consent of the owner, without paying the purchase price and with the intention of converting such merchandise to his own use, or the use of another, or who purchases merchandise after altering the

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price indicia of such merchandise, shall be civilly liable to the owner for actual damages plus a penalty payable to the owner of not less than one hundred dollars nor more than two hundred fifty dollars and all court costs and reasonable attorney fees.

3. The parents or guardian having physical custody of an unemancipated minor, who takes possession of any merchandise from any mercantile establishment without the consent of the owner, without paying the purchase price and with the intention of converting such merchandise to his own use, or the use of another, or who purchases merchandise after altering the price indicia of such merchandise, shall be civilly liable to the owner for actual damages, provided that a parent or guardian shall not be liable if they have not had physical custody for a period in excess of one year.

4. Notwithstanding the provisions of subsections 2 and 3 of this section, any person who, without the consent of the owner, takes possession of a shopping cart from any mercantile establishment with the intent to convert such shopping cart to his own use or the use of another shall be civilly liable to the owner for actual damages plus a penalty payable to the owner of one hundred dollars and all court costs and reasonable attorney fees.

5. A conviction under section 570.030 **[**or 570.040**]** shall not be a condition precedent to maintaining a civil action pursuant to the provisions of this section.

6. No owner or agent or employee of the owner may attempt to gain an advantage in a civil action by threatening to initiate a criminal prosecution pertaining to the same incident.

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542.402. 1. Except as otherwise specifically provided in sections 542.400 to 542.422, a person is guilty of a class **[**D**]** E felony and upon conviction shall be punished as provided by law, if such person:

(1) Knowingly intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire communication;

(2) Knowingly uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when such device transmits communications by radio or interferes with the transmission of such communication; provided, however, that nothing in sections 542.400 to 542.422 shall be construed to prohibit the use by law enforcement officers of body microphones and transmitters in undercover investigations for the acquisition of evidence and the protection of law enforcement officers and others working under their direction in such investigations;

(3) Knowingly discloses, or endeavors to disclose, to any other person the contents of any wire communication, when he knows or has reason to know that the information was obtained through the interception of a wire communication in violation of this subsection; or

(4) Knowingly uses, or endeavors to use, the contents of any wire communication, when he knows or has reason to know that the information was obtained through the interception of a wire communication in violation of this subsection.

2. It is not unlawful under the provisions of sections 542.400 to 542.422:

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(1) For an operator of a switchboard, or an officer, employee, or agent of any communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication, however, communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks;

(2) For a person acting under law to intercept a wire or oral communication, where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception;

(3) For a person not acting under law to intercept a wire communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act.

[566.013**]** 542.425. In the course of a criminal investigation under **[**this**]** chapter 566 or 573, when the venue of the alleged criminal conduct cannot be readily determined without further investigation, the attorney general may request the prosecuting attorney of Cole County to request a circuit or associate circuit judge of Cole County to issue a subpoena to any witness who may have information for the purpose of oral examination under oath or to require access to data or the

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production of books, papers, records, or other material of evidentiary nature at the office of the attorney general. If, upon review of the evidence produced pursuant to the subpoenas, it appears that a violation of **[**this**]** chapter 566 or 573 may have been committed, the attorney general shall provide the evidence produced pursuant to subpoena to an appropriate county prosecuting attorney or circuit attorney having venue over the criminal offense.

[577.039.**]** 544.216. An arrest without a warrant by a law enforcement officer, including a uniformed member of the state highway patrol, for a violation of section 577.010 or 577.012 is lawful whenever the arresting officer has reasonable grounds to believe that the person to be arrested has violated the section, whether or not the violation occurred in the presence of the arresting officer.

[577.680.**]** 544.472. 1. If verification of the nationality or lawful immigration status of any person who is charged and confined to jail for any period of time cannot be made from documents in the possession of the prisoner or after a reasonable effort on the part of the arresting agency to determine the nationality or immigration status of the person so confined, verification shall be made by the arresting agency within forty-eight hours through a query to the Law Enforcement Support Center (LESC) of the United States Department of Homeland Security or other office or agency designated for that purpose by the United States Department of Homeland Security. If it is determined that the prisoner is in the United States unlawfully, the arresting agency shall notify the United States Department of

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Homeland Security. Until August 28, 2009, this section shall only apply to officers employed by the department of public safety to include: the highway patrol, water patrol, capitol police, fire marshal's office, and division of alcohol and tobacco control.

2. Nothing in this section shall be construed to deny any person bond or prevent a person from being released from confinement if such person is otherwise eligible for release.

544.665. 1. In addition to the forfeiture of any security which was given or pledged for a person's release, any person who, having been released upon a recognizance or bond pursuant to any other provisions of law while pending preliminary hearing, trial, sentencing, appeal, probation or parole revocation, or any other stage of a criminal matter against him or her, knowingly fails to appear before any court or judicial officer as required shall be guilty of the crime of failure to appear.

2. Failure to appear is:

(1) A class **[**D**]** E felony if the criminal matter for which the person was released included a felony;

(2) A class A misdemeanor if the criminal matter for which the person was released includes a misdemeanor or misdemeanors but no felony or felonies;

(3) An infraction if the criminal matter for which the person was released includes only an infraction or infractions;

(4) An infraction if the criminal matter for which the person was released includes only the violation of a municipal ordinance, provided that the sentence imposed shall not exceed the maximum fine which could be imposed for the municipal

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ordinance for which the accused was arrested.

3. Nothing in sections 544.040 to 544.665 shall prevent the exercise by any court of its power to punish for contempt.

[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,**]** under 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

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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.

556.011. [This code] Chapters 556 to 580 shall be known and may be cited as "The Criminal Code".

556.021. 1. [An offense defined by this code or by any other statute of this state constitutes an infraction if it is so designated or if no other sentence than a fine, or fine and forfeiture or other civil penalty is authorized upon conviction.

2.] An infraction does not constitute [a crime] a criminal offense and conviction of an infraction shall not give rise to any disability or legal disadvantage based on conviction of a [crime] criminal offense.

[3.] 2. Except as otherwise provided by law, the procedure for infractions shall be the same as for a misdemeanor.

[4.] 3. If a [defendant] person fails to appear in court either solely for an infraction or for an infraction which is committed in the same course of conduct as a criminal offense for which the [defendant] person is charged, or if a [defendant] person fails to respond to notice of an infraction from the central violations bureau established in section 476.385, the

court may issue a default judgment for court costs and fines for the infraction which shall be enforced in the same manner as other default judgments, including enforcement under sections 488.5028 and 488.5030, unless the court determines that good cause or excusable neglect exists for the **[**defendant's**]** person's failure to appear for the infraction. The notice of entry of default judgment and the amount of fines and costs imposed shall be sent to the **[**defendant**]** person by first class mail. The default judgment may be set aside for good cause if the **[**defendant**]** person files a motion to set aside the judgment within six months of the date the notice of entry of default judgment is mailed.

[5.**]** 6. Notwithstanding subsection **[**4**]** 3 of this section or any provisions of law to the contrary, a court may issue a warrant for failure to appear for any violation which is classified as an infraction.

[6.**]** 7. Judgment against the defendant for an infraction shall be in the amount of the fine authorized by law and the court costs for the offense.

[7. Subsections 3 to 6 of this section shall become effective January 1, 2012.**]**

556.026. No conduct constitutes an offense or infraction unless made so by this code or by other applicable statute.

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

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the

following periods of limitation:

(1) For any felony, three years, except as provided in subdivision (4) of this subsection;

(2) For any misdemeanor, one year;

(3) For any infraction, six months;

(4) For any violation of section 569.040, when classified as a class B felony, or any violation of section 569.050 or 569.055, five years.

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

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

(2) Any offense based upon misconduct in office by a public officer or employee at any time when the **[**defendant**]** person is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years; and

(3) Any offense based upon an intentional and willful fraudulent claim of child support arrearage to a public servant

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in the performance of his or her duties within one year after discovery of the offense, but in no case shall this provision extend the period of limitation by more than three years.

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

5. A prosecution is commenced for a misdemeanor or infraction when the information is filed and for a felony when the complaint or indictment is filed.

6. The period of limitation does not run:

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

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

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

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

556.037. Notwithstanding the provisions of section 556.036, prosecutions for unlawful sexual offenses involving a person eighteen years of age or under must be commenced within thirty years after the victim reaches the age of eighteen **[**unless**]**, and the following prosecutions **[**are for forcible rape, attempted forcible rape, forcible sodomy, kidnapping, or attempted forcible

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sodomy in which case such prosecutions may be commenced at any time**]** may be commenced at any time:

(1) Kidnapping;

(2) An offense committed on after August 28, 2012, of rape in the first degree, attempted rape in the first degree, sodomy in the first degree, attempted sodomy in the first degree, attempted forcible sodomy; or

(3) An offense committed prior to August 28, 2012, of forcible rape, attempted forcible rape, forcible sodomy, or attempted forcible sodomy.

[565.255.**]** 556.038. Notwithstanding the provisions of section 556.036, either misdemeanor or felony prosecutions under sections **[**565.250**]** 565.252 to 565.257 shall be commenced within the following periods of limitation:

(1) Three years from the date the viewing, photographing or filming occurred; or

(2) If the person who was viewed, photographed or filmed did not realize at the time that he was being viewed, photographed or filmed, within three years of the time the person who was viewed or in the photograph or film first learns that he was viewed, photographed or filmed.

556.041. When the same conduct of a person may establish the commission of more than one offense he or she may be prosecuted for each such offense. **[**He**]** Such person may not, however, be convicted of more than one offense if:

(1) One offense is included in the other, as defined in section 556.046; or

(2) Inconsistent findings of fact are required to establish

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the commission of the offenses; or

(3) The offenses differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct; or

(4) The offense is defined as a continuing course of conduct and the person's course of conduct was uninterrupted, unless the law provides that specific periods of such conduct constitute separate offenses.

556.046. 1. A **[**defendant**]** person may be convicted of an offense included in an offense charged in the indictment or information. An offense is so included when:

(1) It is established by proof of the same or less than all the facts required to establish the commission of the offense charged; or

(2) It is specifically denominated by statute as a lesser degree of the offense charged; or

(3) It consists of an attempt to commit the offense charged or to commit an offense otherwise included therein.

2. The court shall not be obligated to charge the jury with respect to an included offense unless there is a basis for a verdict acquitting the **[**defendant**]** person of the offense charged and convicting him of the included offense. An offense is charged for purposes of this section if:

(1) It is in an indictment or information; or

(2) It is an offense submitted to the jury because there is a basis for a verdict acquitting the **[**defendant**]** person of the offense charged and convicting the **[**defendant**]** person of the included offense.

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3. The court shall be obligated to instruct the jury with respect to a particular included offense only if there is a basis in the evidence for acquitting the **[**defendant**]** person of the immediately higher included offense and there is a basis in the evidence for convicting the **[**defendant**]** person of that particular included offense.

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

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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", includes computers, terminals, data storage devices, and all other computer hardware associated with a computer system or network;

(7) "Computer hardware", includes 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

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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", a complex consisting of 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", includes written, recorded, printed or electronically stored material which

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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**]** he or she 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

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(b) It is given by a person who by reason of youth, mental disease or defect, or intoxication, 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 schedule I through V as defined in this chapter;

[(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;

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

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

[(8)**]** (19) "Dangerous felony" **[**means**]**, the felonies of arson in the first degree, assault in the first degree, **[**attempted forcible rape if physical injury results, attempted forcible sodomy if physical injury results, forcible rape, forcible sodomy,**]** assault in the second degree if the victim of such assault is a special victim as defined in subdivision (14) of section 565.002, attempted rape in the first degree if injury results, attempted sodomy in the first degree if injury results,

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rape in the first degree, sodomy in the first degree, kidnapping, murder in the second degree, [assault of a law enforcement officer in the first degree,] domestic assault in the first degree, [elder abuse in the first degree,] robbery in the first degree, statutory rape in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, child molestation in the first degree, and, abuse of a child pursuant to subdivision (2) of subsection [3] 2 of 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] driving while intoxicated if the person is found to be a habitual offender as the term "habitual offender is defined under subdivision (10) of subsection 5 of section 577.001, and offenses committed before August 28, 2012, of attempted forcible rape if physical injury results, attempted forcible sodomy if physical injury results, forcible rape, forcible sodomy, assault of a law enforcement officer in the first degree, and first degree elder abuse;

[(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

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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, 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) "Disabled person", any person suffering from a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease, where such impairment is verified by medical findings;

[(11)**]** (25) "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;

(26) "Elderly person", a person seventy years of age or older;

[(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

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the nature of [such person's] his or her conduct, or unable to communicate unwillingness to an act. A person is not incapacitated with respect to an act committed upon such person if he or she became unconscious, unable to appraise the nature of [such person's] his or her conduct or unable to communicate unwillingness to an act, after consenting to the 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 constitutes an infraction if it is so designated or if no other sentence than a fine, or fine and forfeiture or other civil penalty is authorized upon conviction;

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

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

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

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

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

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

(a) Conduct or to attendant circumstances, means a person is aware of the nature of his or conduct or that those

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circumstances exist; or

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

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

[(18)**]** (33) "Misdemeanor" **[**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 imprisonment for a term of which the maximum is one year or less;

[(19)**]** (34) "Offense" **[**means**]**, any felony**[**,**]** or misdemeanor **[**or infraction**]**;

(35) "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;

[(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

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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;

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

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

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

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

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

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

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

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

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

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

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

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

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his 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.

[565.100.**]** 556.101. 1. It is an element of the offenses described in sections 565.110 **[**through 565.130 of this chapter**]** to 565.130 that the confinement, movement or restraint be committed without the consent of the victim.

2. Lack of consent results from:

(1) Forcible compulsion; or

(2) Incapacity to consent.

3. A person is deemed incapable of consent if he is

(1) Less than fourteen years **[**old**]** of age; or

(2) Incapacitated.

557.016. 1. Felonies are classified for the purpose of sentencing into the following **[**four**]** five categories:

(1) Class A felonies;

(2) Class B felonies;

(3) Class C felonies; **[**and**]**

(4) Class D felonies; and

(5) Class E felonies.

2. Misdemeanors are classified for the purpose of sentencing into the following **[**three**]** four categories:

(1) Class A misdemeanors;

(2) Class B misdemeanors; **[**and**]**

(3) Class C misdemeanors; and

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(4) Class D misdemeanors.

3. Infractions are not further classified.

557.021. 1. Any offense defined outside this code which is declared to be a misdemeanor without specification of the penalty therefor is a class A misdemeanor.

2. Any offense defined outside this code which is declared to be a felony without specification of the penalty therefor is a class **[**D**]** E felony.

3. For the purpose of applying the extended term provisions of section 558.016 and the minimum prison term provisions of section 558.019 and for determining the penalty for attempts and conspiracies, offenses defined outside of this code shall be classified as follows:

(1) If the offense is a felony:

(a) It is a class A felony if the authorized penalty includes death, life imprisonment or imprisonment for a term of twenty years or more;

(b) It is a class B felony if the maximum term of imprisonment authorized exceeds ten years but is less than twenty years;

(c) It is a class C felony if the maximum term of imprisonment authorized is ten years;

(d) It is a class D felony if the maximum term of imprisonment is less than ten years;

(e) It is a class E felony if the maximum term of imprisonment is four years;

(2) If the offense is a misdemeanor:

(a) It is a class A misdemeanor if the authorized

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imprisonment exceeds six months in jail;

(b) It is a class B misdemeanor if the authorized imprisonment exceeds thirty days but is not more than six months;

(c) It is a class C misdemeanor if the authorized imprisonment is thirty days or less;

(d) It is a class D misdemeanor if it includes a mental state as an element of the offense and there is no authorized imprisonment;

(e) It is an infraction if there is no authorized imprisonment.

557.026. 1. When a probation officer is available to any court, such probation officer shall, unless waived by the defendant, **[**make**]** conduct a presentence investigation in all felony cases and make a sentencing assessment report to the court before any authorized disposition **[**under**]** is made pursuant to section 557.011. In all class A misdemeanor cases a probation officer shall, if directed by the court, **[**make**]** conduct a presentence investigation and make a sentencing assessment report to the court before any authorized disposition **[**under**]** is made pursuant to section 557.011. The report shall not be submitted to the court or its contents disclosed to anyone until the defendant has **[**pleaded guilty or**]** been found guilty.

2. The **[**presentence investigation**]** sentencing assessment report shall be prepared, presented and utilized as provided by rule of court, except that no court shall prevent the defendant or the attorney for the defendant from having access to the complete **[**presentence investigation**]** sentencing assessment report and recommendations before any authorized disposition **[**under**]** is

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made pursuant to section 557.011.

3. The defendant shall not be obligated to make any statement to a probation officer in connection with any [presentence investigation hereunder] sentencing assessment report.

4. When the jury enters a finding of [guilty] guilt and assesses punishment, the probation officer shall, as part of the presentence investigation, inquire of the victim of the offense for which such punishment was assessed of the facts of the offense and any personal injury or financial loss incurred by the victim. If the victim is dead or otherwise unable to make a statement, the probation officer shall attempt to obtain such information from a member of the immediate family of the victim.

557.031. 1. In felony cases where the circumstances surrounding the commission of the [crime] offense or other circumstances brought to the attention of the court indicate a strong likelihood that the defendant is suffering from a mental disease or disorder, and the court desires more detailed information about the defendant's mental condition before making an authorized disposition under section 557.011, it may order the commitment of the defendant for mental examination.

2. The court may commit the defendant to a facility of the department of mental health or to a hospital and order the defendant examined by such person or persons as the court or that department or hospital may designate. The cost of guarding and transporting any confined defendant to and from any such facility or other place of examination shall be borne by the county. Any commitment shall be for a period not exceeding thirty days unless

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extended by the order of the court.

3. Within forty days after the order the person or persons making such examination or examinations shall transmit to the court a report thereof including answers to any specific questions submitted by the court. The clerk of the court shall immediately supply copies of the report to the prosecuting attorney and to the defendant or his attorney.

4. Any period of commitment to a facility of the department of mental health or to a hospital for the purpose of this section shall be credited against any term of imprisonment imposed upon the defendants.

557.035. 1. For all violations of subdivision (1) of subsection 1 of section 569.100 or **[**subdivision (1), (2), (3), (4), (6), (7) or (8) of**]** subsection 1 of section **[**571.030**]** 571.031, subdivision (2) of subsection 1 of section 571.033, subsection 1 of section 571.034, section 571.036, or subdivision (2) of subsection 1 of section 571.038, which the state believes to be knowingly motivated because of race, color, religion, national origin, sex, sexual orientation or disability of the victim or victims, the state may charge the **[**crime or crimes**]** offense or offenses under this section, and the violation is a class **[**C**]** D felony.

2. For all violations of section **[**565.070**]** 565.054; subdivisions (1), (3) and (4) of subsection 1 of section 565.090; subdivision (1) of subsection 1 of section 569.090; subdivision (1) of subsection 1 of section 569.120; section 569.140; or section 574.050; which the state believes to be knowingly motivated because of race, color, religion, national origin, sex,

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sexual orientation or disability of the victim or victims, the state may charge the **[**crime or crimes**]** offense or offenses under this section, and the violation is a class **[**D**]** E felony.

3. The court shall assess punishment in all of the cases in which the state pleads and proves any of the motivating factors listed in this section.

[4. For the purposes of this section, the following terms mean:

(1) "Disability", a physical or mental impairment which substantially limits one or more of a person's major life activities, being regarded as having such an impairment, or a record of having such an impairment; and

(2) "Sexual orientation", male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, or having a self-image or identity not traditionally associated with one's gender.**]**

557.036. 1. Upon a finding of guilt **[**upon verdict or plea**]**, the court shall decide the extent or duration of sentence or other disposition to be imposed under all the circumstances, having regard to the nature and circumstances of the offense and the history and character of the defendant and render judgment accordingly.

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

3. If the jury at the first stage of a trial finds the

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defendant guilty of the submitted offense, the second stage of the trial shall proceed. The issue at the second stage of the trial shall be the punishment to be assessed and declared. Evidence supporting or mitigating punishment may be presented. Such evidence may include, within the discretion of the court, evidence concerning the impact of the **[**crime**]** offense upon the victim, the victim's family and others, the nature and circumstances of the offense, and the history and character of the defendant. Rebuttal and surrebuttal evidence may be presented. The state shall be the first to proceed. The court shall instruct the jury as to the range of punishment authorized by statute for each submitted offense. The attorneys may argue the issue of punishment to the jury, and the state shall have the right to open and close the argument. The jury shall assess and declare the punishment as authorized by statute.

4. A second stage of the trial shall not proceed and the court, and not the jury, shall assess punishment if:

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

(2) The state pleads and proves the defendant is a prior offender, persistent offender, dangerous offender, or persistent misdemeanor offender as defined in section 558.016, or a persistent sexual offender or predatory sexual offender as defined in section **[**558.018, or a predatory sexual offender as defined in section 558.018**]** 566.125. If the jury cannot agree on the punishment to be assessed, the court shall proceed as provided in subsection 1 of this section. If, after due

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deliberation by the jury, the court finds the jury cannot agree on punishment, then the court may instruct the jury that if it cannot agree on punishment that the court will assess punishment.

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

6. If the defendant is found to be a prior offender, persistent offender, dangerous offender or persistent misdemeanor offender as defined in section 558.016:

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

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

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

557.051. 1. A person who has been found guilty of an offense under chapter 566, or any sex offense involving a child under chapters 568 and 573, and who is granted a suspended imposition or execution of sentence or placed under the

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supervision of the board of probation and parole shall be required to participate in and successfully complete a program of treatment, education and rehabilitation designed for perpetrators of sexual offenses. Persons required to attend a program pursuant to this section shall be required to follow all directives of the treatment program provider, and may be charged a reasonable fee to cover the costs of such program.

2. A person who provides assessment services or who makes a report, finding, or recommendation for any offender to attend any counseling or program of treatment, education or rehabilitation as a condition or requirement of probation following a finding of guilt for an offense under chapter 566, or any sex offense involving a child under chapters 568 and 573, shall not be related within the third degree of consanguinity or affinity to any person who has a financial interest, whether direct or indirect, in the counseling or program of treatment, education or rehabilitation or any financial interest, whether direct or indirect, in any private entity which provides the counseling or program of treatment, education or rehabilitation. A person who violates this subsection shall thereafter:

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

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

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

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

[560.011.**]** 558.002. 1. Except as otherwise provided for an offense outside this code, a person who has been convicted of **[**a class C or D felony**]** an offense may be sentenced

[(1)**]** to pay a fine which does not exceed **[**five thousand dollars; or

(2)**]**:

(1) For a class C, D, or E felony, ten thousand dollars;

(2) For a class A misdemeanor, two thousand dollars;

(3) For a class B misdemeanor, one thousand dollars;

(4) For a class C misdemeanor, seven hundred fifty dollars;

(5) For a class D misdemeanor, five hundred dollars;

(6) For an infraction, four hundred dollars; or

(7) If the **[**offender**]** person has gained money or property through the commission of the **[**crime**]** offense, to pay an amount, fixed by the court, not exceeding double the amount of the

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[offender's] person's gain from the commission of the [crime. An individual offender may be fined not more than twenty thousand dollars under this provision] offense.

2. A sentence to pay a fine, when imposed on a corporation for an offense defined in this code or for any offense defined outside this code for which no specific corporate fine is specified, shall be a sentence to pay an amount, fixed by the court, which does not exceed:

(1) For a felony, twenty thousand dollars;

(2) For a misdemeanor, ten thousand dollars;

(3) For an infraction, one thousand dollars; or

(4) If the corporation has gained money or property through the commission of the offense, to pay an amount, fixed by the court, not exceeding double the amount of the corporation's gain from the commission of the offense.

3. As used in this section the term "gain" means the amount of money or the value of property derived from the commission of the [crime] offense. The amount of money or value of property returned to the victim of the [crime] offense or seized by or surrendered to lawful authority prior to the time sentence is imposed shall be deducted from the fine. When the court imposes a fine based on gain the court shall make a finding as to the amount of the offender's gain from the crime. If the record does not contain sufficient evidence to support such a finding, the court may conduct a hearing upon the issue.

[3. The provisions of this section shall not apply to corporations.]

[560.026.] 558.004. 1. In determining the amount and the

method of payment of a fine, the court shall, insofar as practicable, proportion the fine to the burden that payment will impose in view of the financial resources of an individual. The court shall not sentence an offender to pay a fine in any amount which will prevent him or her from making restitution or reparation to the victim of the offense.

2. When any other disposition is authorized by statute, the court shall not sentence an individual to pay a fine only unless, having regard to the nature and circumstances of the offense and the history and character of the offender, it is of the opinion that the fine alone will suffice for the protection of the public.

3. The court shall not sentence an individual to pay a fine in addition to any other sentence authorized by section 557.011 unless

(1) He or she has derived a pecuniary gain from the offense; or

(2) The court is of the opinion that a fine is uniquely adapted to deterrence of the type of offense involved or to the correction of the defendant.

4. When an offender is sentenced to pay a fine, the court may provide for the payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, the fine shall be payable forthwith.

5. When an offender is sentenced to pay a fine, the court shall not impose at the same time an alternative sentence to be served in the event that the fine is not paid. The response of the court to nonpayment shall be determined only after the fine

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has not been paid, as provided in section [560.031] 558.006.

[560.031.] 558.006. 1. When an offender sentenced to pay a fine defaults in the payment of the fine or in any installment, the court upon motion of the prosecuting attorney or upon its own motion may require him or her to show cause why he or she should not be imprisoned for nonpayment. The court may issue a warrant of arrest or a summons for his or her appearance.

2. Following an order to show cause under subsection 1 of this section, unless the offender shows that his or her default was not attributable to an intentional refusal to obey the sentence of the court, or not attributable to a failure on his or her part to make a good faith effort to obtain the necessary funds for payment, the court may order the defendant imprisoned for a term not to exceed one hundred eighty days if the fine was imposed for conviction of a felony or thirty days if the fine was imposed for conviction of a misdemeanor or infraction. The court may provide in its order that payment or satisfaction of the fine at any time will entitle the offender to his or her release from such imprisonment or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of the fine.

3. If it appears that the default in the payment of a fine is excusable under the standards set forth in subsection 2 of this section, the court may enter an order allowing the offender additional time for payment, reducing the amount of the fine or of each installment, or revoking the fine or the unpaid portion in whole or in part.

4. When a fine is imposed on a corporation it is the duty

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of the person or persons authorized to make disbursement of the assets of the corporation and their superiors to pay the fine from the assets of the corporation. The failure of such persons to do so shall render them subject to imprisonment under subsections 1 and 2 of this section.

5. Upon default in the payment of a fine or any installment thereof, the fine may be collected by any means authorized for the enforcement of money judgments.

[560.036.**]** 558.008. A defendant who has been sentenced to pay a fine may at any time petition the sentencing court for a revocation of a fine or any unpaid portion thereof. If it appears to the satisfaction of the court that the circumstances which warranted the imposition of the fine no longer exist or that it would otherwise be unjust to require payment of the fine, the court may revoke the fine or the unpaid portion in whole or in part or may modify the method of payment.

558.011. 1. The authorized terms of imprisonment, including both prison and conditional release terms, are:

(1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;

(2) For a class B felony, a term of years not less than five years and not to exceed fifteen years;

(3) For a class C felony, a term of years not less than three years and not to exceed **[**seven**]** ten years;

(4) For a class D felony, a term of years not to exceed **[**four**]** seven years;

(5) For a class E felony, a term of years not to exceed four years;

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(6) For a class A misdemeanor, a term not to exceed one year;

[(6)] (7) For a class B misdemeanor, a term not to exceed six months;

[(7)] (8) For a class C misdemeanor, a term not to exceed fifteen days.

2. In cases of class [C and] D and E felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class [C or] D or E felony, it shall commit the person to the custody of the department of corrections [for a term of years not less than two years and not exceeding the maximum authorized terms provided in subdivisions (3) and (4) of subsection 1 of this section].

3. (1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the person to the custody of the department of corrections for the term imposed under section 557.036, or until released under procedures established elsewhere by law.

(2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the person to the county jail or other authorized penal institution for the term of his or her sentence or until released under procedure established elsewhere by law.

4. (1) Except as otherwise provided, a sentence of imprisonment for a term of years for felonies other than

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dangerous felonies as defined in section 556.061, and other than sentences of imprisonment which involve the individual's fourth or subsequent remand to the department of corrections shall consist of a prison term and a conditional release term. The conditional release term of any term imposed under section 557.036 shall be:

(a) One-third for terms of nine years or less;

(b) Three years for terms between nine and fifteen years;

(c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the board of probation and parole pursuant to subsection 5 of this section.

(2) "Conditional release" means the conditional discharge of an offender by the board of probation and parole, subject to conditions of release that the board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the state board of probation and parole. The conditions of release shall include avoidance by the offender of any other **[**crime**]** offense, federal or state, and other conditions that the board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.

5. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the board of probation and parole. The director of any division of the department of corrections except the board of probation and parole may file with the board of probation and parole a petition to extend the conditional release date when an offender fails to follow the rules and regulations of the

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division or commits an act in violation of such rules. Within ten working days of receipt of the petition to extend the conditional release date, the board of probation and parole shall convene a hearing on the petition. The offender shall be present and may call witnesses in his or her behalf and cross-examine witnesses appearing against the offender. The hearing shall be conducted as provided in section 217.670. If the violation occurs in close proximity to the conditional release date, the conditional release may be held for a maximum of fifteen working days to permit necessary time for the division director to file a petition for an extension with the board and for the board to conduct a hearing, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date. If at the end of a fifteen-working-day period a board decision has not been reached, the offender shall be released conditionally. The decision of the board shall be final.

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

(1) The defendant is a persistent offender or a dangerous offender, and the person is sentenced pursuant to subsection 7 of this section;

(2) The statute under which the person was found guilty

contains a sentencing enhancement provision that is based on a prior finding of guilt or a finding of prior criminal conduct and the person is sentenced according to the statute; or

(3) A more specific sentencing enhancement provision applies that is based on a prior finding of guilt or a finding of prior criminal conduct.

2. A "prior offender" is one who has **[**pleaded guilty to or has**]** been found guilty of one felony.

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

4. A "dangerous offender" is one who:

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

(2) Has **[**pleaded guilty to or has**]** been found guilty of a class A or B felony or a dangerous felony.

5. A "persistent misdemeanor offender" is one who **[**has pleaded guilty to or**]** has been found guilty of two or more **[**class A or B misdemeanors**]** offenses, committed at different times**[**, which**]** that are **[**defined as offenses under chapters 195, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, and 576**]** classified as A or B misdemeanors under the laws of this state.

6. The **[**pleas or**]** findings of **[**guilty**]** guilt shall be prior to the date of commission of the present offense.

7. **[**The total authorized maximum terms of imprisonment for

a persistent offender or a dangerous offender are:

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

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

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

(4) For a class D felony, any sentence authorized for a class C felony**]** The court shall sentence a person, who has been found to be a persistent offender or a dangerous offender, and is found guilty of a class B, C, D, or E felony to the authorized term of imprisonment for the offense that is one class higher than the offense for which the person is found guilty.

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, 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, a one

hundred twenty-day program as described under section 559.115, or a post-conviction drug treatment program established under section 217.785. 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

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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:

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

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

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

6. (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the

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supreme court, one from a metropolitan area and one from a rural area. All members shall be appointed to a four-year term. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

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

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

(a) The nature and severity of each offense;

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

(c) The data gathered by the commission showing the duration and nature of sentences imposed for each **[**crime**]** offense; and

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

(4) 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.

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

(6) 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.

(7) 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.

(8) 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

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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.

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

558.026. 1. Multiple sentences of imprisonment shall run concurrently unless the court specifies that they shall run consecutively; except **[**that,**]** in the case of multiple sentences of imprisonment imposed for **[**the felony of rape, forcible rape, sodomy, forcible sodomy,**]** any offense committed during or at the same time as, or multiple offenses of, the following felonies:

(1) Rape in the first degree;

(2) Statutory rape in the first degree;

(3) Sodomy in the first degree**[**,**]**;

(4) Statutory sodomy in the first degree; or

(5) An attempt to commit any of the **[**aforesaid and for other offenses committed during or at the same time as that rape, forcible rape, sodomy, forcible sodomy or an attempt to commit

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any of the aforesaid, the sentences of imprisonment imposed for the other offenses may run concurrently, but**]** felonies listed in this subsection.

In such case, the sentence of imprisonment imposed for **[**the felony of rape, forcible rape, sodomy, forcible sodomy**]** any offense of rape in the first degree, statutory rape in the first degree, sodomy in the first degree, statutory sodomy in the first degree, or an attempt to commit any of the aforesaid shall run consecutively to the other sentences. The sentences imposed for any other offense may run concurrently.

2. If a person who is on probation, parole or conditional release is sentenced to a term of imprisonment for an offense committed after the granting of probation or parole or after the start of his or her conditional release term, the court shall direct the manner in which the sentence or sentences imposed by the court shall run with respect to any resulting probation, parole or conditional release revocation term or terms. If the subsequent sentence to imprisonment is in another jurisdiction, the court shall specify how any resulting probation, parole or conditional release revocation term or terms shall run with respect to the foreign sentence of imprisonment.

3. A court may cause any sentence it imposes to run concurrently with a sentence an individual is serving or is to serve in another state or in a federal correctional center. If the Missouri sentence is served in another state or in a federal correctional center, subsection 4 of section 558.011 and section 217.690 shall apply as if the individual were serving his or her

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sentence within the department of corrections of the state of Missouri, except that a personal hearing before the board of probation and parole shall not be required for parole consideration.

558.031. 1. A sentence of imprisonment shall commence when a person convicted of **[**a crime**]** an offense in this state is received into the custody of the department of corrections or other place of confinement where the offender is sentenced. Such person shall receive credit toward the service of a sentence of imprisonment for all time in prison, jail or custody after the offense occurred and before the commencement of the sentence, when the time in custody was related to that offense, except:

(1) Such credit shall only be applied once when sentences are consecutive;

(2) Such credit shall only be applied if the person convicted was in custody in the state of Missouri, unless such custody was compelled exclusively by the state of Missouri's action; and

(3) As provided in section 559.100.

2. The officer required by law to deliver a person convicted of **[**a crime**]** an offense in this state to the department of corrections shall endorse upon the papers required by section 217.305 both the dates the offender was in custody and the period of time to be credited toward the service of the sentence of imprisonment, except as endorsed by such officer.

3. If a person convicted of **[**a crime**]** an offense escapes from custody, such escape shall interrupt the sentence. The interruption shall continue until such person is returned to the

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correctional center where the sentence was being served, or in the case of a person committed to the custody of the department of corrections, to any correctional center operated by the department of corrections. An escape shall also interrupt the jail time credit to be applied to a sentence which had not commenced when the escape occurred.

4. If a sentence of imprisonment is vacated and a new sentence imposed upon the offender for that offense, all time served under the vacated sentence shall be credited against the new sentence, unless the time has already been credited to another sentence as provided in subsection 1 of this section.

5. If a person released from imprisonment on parole or serving a conditional release term violates any of the conditions of his or her parole or release, he or she may be treated as a parole violator. If the board of probation and parole revokes the parole or conditional release, the paroled person shall serve the remainder of the prison term and conditional release term, as an additional prison term, and the conditionally released person shall serve the remainder of the conditional release term as a prison term, unless released on parole.

558.041. 1. Any offender committed to the department of corrections, except those persons committed pursuant to subsection **[**6**]** 7 of section 558.016, or subsection 3 of section **[**558.018**]** 566.125, may receive additional credit in terms of days spent in confinement upon recommendation for such credit by the offender's institutional superintendent when the offender meets the requirements for such credit as provided in subsections 3 and 4 of this section. Good time credit may be rescinded by the

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director or his or her designee pursuant to the divisional policy issued pursuant to subsection 3 of this section.

2. Any credit extended to an offender shall only apply to the sentence which the offender is currently serving.

3. The director of the department of corrections shall issue a policy for awarding credit. The policy may reward an inmate who has served his or her sentence in an orderly and peaceable manner and has taken advantage of the rehabilitation programs available to him or her. Any violation of institutional rules or the laws of this state may result in the loss of all or a portion of any credit earned by the inmate pursuant to this section.

4. The department shall cause the policy to be published in the code of state regulations.

5. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

558.046. The sentencing court may, upon petition, reduce any term of sentence or probation pronounced by the court or a term of conditional release or parole pronounced by the state board of probation and parole if the court determines that:

(1) The convicted person was:

(a) Convicted of **[**a crime**]** an offense that did not involve violence or the threat of violence; and

(b) Convicted of **[**a crime**]** an offense that involved alcohol or illegal drugs; and

(2) Since the commission of such **[**crime**]** offense, the convicted person has successfully completed a detoxification and

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rehabilitation program; and

(3) The convicted person is not:

(a) A prior offender, a persistent offender, a dangerous offender or a persistent misdemeanor offender as defined by section 558.016; or

(b) A persistent sexual offender as defined in section **[**558.018**]** 566.125; or

(c) A prior offender, a persistent offender or a class X offender as defined in section 558.019.

559.012. The court may place a person on probation for a specific period upon conviction of any offense or upon suspending imposition of sentence if, having regard to the nature and circumstances of the offense and to the history and character of the defendant, the court is of the opinion that

(1) Institutional confinement of the defendant is not necessary for the protection of the public; and

(2) The defendant is in need of guidance, training or other assistance which, in his or her case, can be effectively administered through probation supervision.

559.021. 1. The conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will not again violate the law. When a defendant is placed on probation he or she shall be given a certificate explicitly stating the conditions on which he or she is being released.

2. In addition to such other authority as exists to order conditions of probation, the court may order such conditions as the court believes will serve to compensate the victim, any

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dependent of the victim, any statutorily created fund for costs incurred as a result of the offender's actions, or society. Such conditions may include restorative justice methods pursuant to section 217.777, or any other method that the court finds just or appropriate including, but not limited to:

(1) Restitution to the victim or any dependent of the victim, or statutorily created fund for costs incurred as a result of the offender's actions in an amount to be determined by the judge;

(2) The performance of a designated amount of free work for a public or charitable purpose, or purposes, as determined by the judge;

(3) Offender treatment programs;

(4) Work release programs in local facilities; and

(5) Community-based residential and nonresidential programs.

3. The defendant may refuse probation conditioned on the performance of free work. If he or she does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any county, city, person, organization, or agency, or employee of a county, city, organization or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the defendant or any person deriving a cause of action from him or her if such cause of action arises from such supervision of performance, except for an intentional tort or gross negligence. The services performed by the defendant shall not be deemed employment within the meaning of the provisions of

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chapter 288. A defendant performing services pursuant to this section shall not be deemed an employee within the meaning of the provisions of chapter 287.

4. In addition to such other authority as exists to order conditions of probation, in the case of a **[**plea of guilty or a**]** finding of guilt, 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.

5. 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 to make payment.

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

7. The court may modify or enlarge the conditions of

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probation at any time prior to the expiration or termination of the probation term.

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, or, if such continuation, modification,

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enlargement or extension is not appropriate, may revoke probation and order that any sentence previously imposed be executed. If imposition of sentence was suspended, the court may revoke probation and impose any sentence available under section 557.011. The court may mitigate any sentence of imprisonment by reducing the prison or jail term by all or part of the time the defendant was on probation. The court may, upon revocation of probation, place an offender on a second term of probation. Such probation shall be for a term of probation as provided by section 559.016, notwithstanding any amount of time served by the offender on the first term of probation.

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

5. 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

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the court rules on the prosecutor's or circuit attorney's motion, or until the court otherwise orders the probation reinstated.

6. 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.

559.100. 1. The circuit courts of this state shall have power, herein provided, to place on probation or to parole persons convicted of any offense over which they have jurisdiction, except as otherwise provided in **[**sections 195.275 to 195.296**]** section 579.170, section **[**558.018**]** 566.125, section 559.115, section 565.020, sections 566.030, 566.060, 566.067, 566.151, and **[**566.213**]** 566.210, section 571.015, and subsection 3 of section 589.425.

2. The circuit court shall have the power to revoke the probation or parole previously granted and commit the person to the department of corrections. The circuit court shall determine any conditions of probation or parole for the defendant that it deems necessary to ensure the successful completion of the probation or parole term, including the extension of any term of supervision for any person while on probation or parole. The circuit court may require that the defendant pay restitution for his **[**crime**]** or her offense. The probation or parole may be

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revoked for failure to pay restitution or for failure to conform his or her behavior to the conditions imposed by the circuit court. The circuit court may, in its discretion, credit any period of probation or parole as time served on a sentence.

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

(1) A victim's reasonable expenses to participate in the prosecution of the **[**crime**]** offense;

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

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

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

3. Any person eligible to be released on parole for a violation of subdivision (2) of subsection 1 of section 569.080 or **[**paragraph (a) of subdivision (3) of subsection 3 of**]** for stealing a motor vehicle, watercraft, or aircraft under section 570.030 may be required, as a condition of parole, to make restitution pursuant to this section. The board of probation and

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parole shall not release any person from any term of parole for such offense until the person has completed such restitution, or until the maximum term of parole for such offense has been served.

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 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,**]** 566.210, 566.211, 568.020, **[**568.080, or 568.090**]** 573.200 or 573.205, based on an act committed on or after August 28, 2006, 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.

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

3. When probation for the duration of the offender's natural life has been ordered, a mandatory condition of such probation is that the offender be electronically monitored. Electronic monitoring shall be based on a global positioning

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system or other technology that identifies and records the offender's location at all times.

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

559.107. 1. The department of corrections shall notify the highway patrol of any offender who is required as a mandatory condition of lifetime supervision to be electronically monitored, under section 217.735 and section 559.106, and shall notify the highway patrol when the supervision of the offender has been terminated in appropriate cases as determined by a risk assessment when the offender is sixty-five years **[**of age**]** old or older.

2. The highway patrol shall enter the electronic monitoring of the offender into the Missouri law enforcement system (MULES) and sexual offender registry where it is available to members of the criminal justice system, and other entities as provided by law, upon inquiry.

559.110. When the defendant is granted probation or parole by the court, the court before or at the time of granting the probation or parole, may in its discretion require the defendant, with one or more sureties, to enter into bond to the state of Missouri in a sum to be fixed by the court, conditioned that he or she will appear in court as directed during the continuance of the probation or parole, and not depart without leave of court. The bond shall be approved by the court or by the clerk at the direction of the court and forfeiture may be taken and prosecuted

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to final judgment on the bond in the manner as provided by law in cases of bonds taken for appearance of persons awaiting trial upon information or indictment.

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

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

3. The court may recommend placement of an offender in a department of corrections one hundred twenty-day program. Upon the recommendation of the court, the department of corrections shall determine the offender's eligibility for the program, the nature, intensity, and duration of any offender's participation in a program and the availability of space for an offender in any program. When the court recommends and receives placement of an offender in a department of corrections one hundred twenty-day program, the offender shall be released on probation if the

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department of corrections determines that the offender has successfully completed the program except as follows. Upon successful completion of a treatment program, the board of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. The court shall release the offender unless such release constitutes an abuse of discretion. If the court determined that there is an abuse of discretion, the court may order the execution of the offender's sentence only after conducting a hearing on the matter within ninety to one hundred twenty days of the offender's sentence. If the court does not respond when an offender successfully completes the program, the offender shall be released on probation. Upon successful completion of a shock incarceration program, the board of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. The court shall follow the recommendation of the department unless the court determines that probation is not appropriate. If the court determines that probation is not appropriate, the court may order the execution of the offender's sentence only after conducting a hearing on the matter within ninety to one hundred twenty days of the offender's sentence. If the department determines that an offender is not successful in a program, then after one hundred days of incarceration the circuit court shall receive from the department of corrections a report on the offender's participation in the program and department recommendations for terms and conditions of an offender's probation. The court shall then release the offender on

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probation or order the offender to remain in the department to serve the sentence imposed.

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

5. Except when the offender has been found to be a predatory sexual offender pursuant to section **[**558.018**]** 566.125, the court shall request that the offender be placed in the sexual offender assessment unit of the department of corrections if the defendant **[**has pleaded guilty to or**]** has been found guilty of sexual abuse when classified as a class B felony.

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

7. An offender's first incarceration for one hundred twenty

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days for participation in a department of corrections program prior to release on probation shall not be considered a previous prison commitment for the purpose of determining a minimum prison term under the provisions of section 558.019.

8. Notwithstanding any other provision of law, probation may not be granted pursuant to this section to offenders who have been convicted of murder in the second degree pursuant to section 565.021; **[**forcible**]** rape in the first degree pursuant to section 566.030; **[**forcible**]** sodomy in the first degree pursuant to section 566.060; statutory rape in the first degree pursuant to section 566.032; statutory sodomy in the first degree pursuant to section 566.062; child molestation in the first degree pursuant to section 566.067 when classified as a class A felony; abuse of a child pursuant to section 568.060 when classified as a class A felony; an offender who has been found to be a predatory sexual offender pursuant to section **[**558.018**]** 566.125; forcible rape or sodomy as such offenses were codified under sections 566.030 and 566.060 prior to August 28, 2012, or any offense in which there exists a statutory prohibition against either probation or parole.

559.120. The circuit court may place a defendant on probation and require his or her participation in a program established pursuant to section 217.777 if, having regard to the nature and circumstances of the offense and to the history and character of the defendant, the court is of the opinion that:

(1) Traditional institutional confinement of the defendant is not necessary for the protection of the public, given adequate supervision; and

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(2) The defendant is in need of guidance, training or other assistance which, in his or her case, can be effectively administered through participation in a community-based treatment program.

559.125. 1. The clerk of the court shall keep in a permanent file all applications for probation or parole by the court, and shall keep in such manner as may be prescribed by the court complete and full records of all presentence investigations requested, probations or paroles granted, revoked or terminated and all discharges from probations or paroles. All court orders relating to any presentence investigation requested and probation or parole granted under the provisions of this chapter and sections 558.011 and 558.026 shall be kept in a like manner, and, if the defendant subject to any such order is subject to an investigation or is under the supervision of the state board of probation and parole, a copy of the order shall be sent to the board. In any county where a parole board ceases to exist, the clerk of the court shall preserve the records of that board.

2. Information and data obtained by a probation or parole officer shall be privileged information and shall not be receivable in any court. Such information shall not be disclosed directly or indirectly to anyone other than the members of a parole board and the judge entitled to receive reports, except the court or the board may in its discretion permit the inspection of the report, or parts of such report, by the defendant, or offender or his or her attorney, or other person having a proper interest therein.

3. The provisions of subsection 2 of this section

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notwithstanding, the presentence investigation report shall be made available to the state and all information and data obtained in connection with preparation of the presentence investigation report may be made available to the state at the discretion of the court upon a showing that the receipt of the information and data is in the best interest of the state.

559.600. In cases where the board of probation and parole is not required under section 217.750 to provide probation supervision and rehabilitation services for misdemeanor offenders, the circuit and associate circuit judges in a circuit may contract with one or more private entities or other court-approved entity to provide such services. The court-approved entity, including private or other entities, shall act as a misdemeanor probation office in that circuit and shall, pursuant to the terms of the contract, supervise persons placed on probation by the judges for class A, B, **[**and**]** C<u>, and D</u> misdemeanor offenses, specifically including persons placed on probation for violations of section 577.023. Nothing in sections 559.600 to 559.615 shall be construed to prohibit the board of probation and parole, or the court, from supervising misdemeanor offenders in a circuit where the judges have entered into a contract with a probation entity.

559.604. Neither the state of Missouri nor any county of the state shall be required to pay any part of the cost of probation and rehabilitation services provided to misdemeanor offenders under sections 559.600 to 559.615. The person placed on probation shall contribute not less than thirty dollars or more than fifty dollars per month to the private entity providing

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him or her with supervision and rehabilitation services. The amount of the contribution shall be determined by the sentencing court. The court may exempt a person from all or part of the foregoing contribution if it finds any of the following factors to exist:

(1) The offender has diligently attempted, but has been unable, to obtain employment which provides him or her sufficient income to make such payments;

(2) The offender is a student in a school, college, university or course of vocational or technical training designed to fit the student for gainful employment. Certification of such student status shall be supplied to the court by the educational institution in which the offender is enrolled;

(3) The offender has an employment handicap, as determined by a physical, psychological or psychiatric examination acceptable to or ordered by the court;

(4) The offender's age prevents him or her from obtaining employment;

(5) The offender is responsible for the support of dependents, and the payment of such contribution constitutes an undue hardship on the offender;

(6) There are other extenuating circumstances as determined by the court to exempt or partially reduce such payments; or

(7) The offender has been transferred outside the state under an interstate compact adopted pursuant to law.

559.633. 1. Upon **[**a plea of guilty or**]** a finding of **[**guilty for a commission of**]** guilt for a felony offense pursuant to chapter **[**195**]** 579, except for those offenses in which there

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exists a statutory prohibition against either probation or parole, when placing the person on probation, the court shall order the person to begin a required educational assessment and community treatment program within the first sixty days of probation as a condition of probation. Persons who are placed on probation after a period of incarceration pursuant to section 559.115 may not be required to participate in a required educational assessment and community treatment program.

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

561.016. 1. No person shall suffer any legal disqualification or disability because of a finding of guilt or conviction of **[**a crime**]** an offense or the sentence on his conviction, unless the disqualification or disability involves the deprivation of a right or privilege which is:

(1) Necessarily incident to execution of the sentence of the court; or

(2) Provided by the constitution or the code; or

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(3) Provided by a statute other than the code, when the conviction is of [a crime] an offense defined by such statute; or

(4) Provided by the judgment, order or regulation of a court, agency or official exercising a jurisdiction conferred by law, or by the statute defining such jurisdiction, when the commission of the [crime] offense or the conviction or the sentence is reasonably related to the competency of the individual to exercise the right or privilege of which he or she is deprived.

2. Proof of a conviction as relevant evidence upon the trial or determination of any issue, or for the purpose of impeaching the convicted person as a witness, is not a disqualification or disability within the meaning of this chapter.

561.021. 1. A person holding any public office, elective or appointive, under the government of this state or any agency or political subdivision thereof, who is convicted of [a crime] an offense shall, upon sentencing, forfeit such office if:

(1) He or she is convicted under the laws of this state of a felony or under the laws of another jurisdiction of [a crime] an offense which, if committed within this state, would be a felony, or he or she pleads guilty or nolo contendere of such [a crime] an offense; or

(2) He or she is convicted of or pleads guilty or nolo contendere to [a crime] an offense involving misconduct in office, or dishonesty; or

(3) The constitution or a statute other than the code so provides.

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2. Except as provided in subsection 3 of this section, a person who pleads guilty or nolo contendere or is convicted under the laws of this state of a felony or under the laws of another jurisdiction of **[**a crime**]** an offense which, if committed within this state, would be a felony, shall be ineligible to hold any public office, elective or appointive, under the government of this state or any agency or political subdivision thereof, until the completion of his or her sentence or period of probation.

3. A person who pleads guilty or nolo contendere or is convicted under the laws of this state or under the laws of another jurisdiction of a felony connected with the exercise of the right of suffrage shall be forever disqualified from holding any public office, elective or appointive, under the government of this state or any agency or political subdivision thereof.

561.026. Notwithstanding any other provision of law, a person who is convicted:

(1) Of any **[**crime**]** offense shall be disqualified from registering and voting in any election under the laws of this state while confined under a sentence of imprisonment;

(2) Of a felony or misdemeanor connected with the exercise of the right of suffrage shall be forever disqualified from registering and voting;

(3) Of any felony shall be forever disqualified from serving as a juror.

562.011. 1. A person is not guilty of an offense unless his or her liability is based on conduct which includes a voluntary act.

2. A "voluntary act" is

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(1) A bodily movement performed while conscious as a result of effort or determination; or

(2) An omission to perform an act of which the actor is physically capable.

3. Possession is a voluntary act if the possessor 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.

4. 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.

[564.011.**]** 562.012. 1. **[**A person is guilty of attempt to commit an offense when, with the purpose of committing the offense, he does**]** Guilt for an offense may be based upon an attempt to commit an offense if, with the purpose of committing the offense, a person performs any act which is a substantial step towards the commission of the offense. A "substantial step" is conduct which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense.

2. It is no defense to a prosecution **[**under this section**]** that the offense attempted was, under the actual attendant circumstances, factually or legally impossible of commission, if such offense could have been committed had the attendant circumstances been as the actor believed them to be.

3. Unless otherwise **[**provided, an attempt to commit an offense is a:

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(1) Class B felony if the offense attempted is a class A felony.

(2) Class C felony if the offense attempted is a class B felony.

(3) Class D felony if the offense attempted is a class C felony.

(4) Class A misdemeanor if the offense attempted is a class D felony.

(5) Class C misdemeanor if the offense attempted is a misdemeanor of any degree**]** set forth in the statute creating the offense, when guilt for a felony or misdemeanor is based upon an attempt to commit that offense, the felony or misdemeanor shall be classified one step lower than the class provided for the felony or misdemeanor in the statute creating the offense.

[564.016.**]** 562.014. 1. **[**A person is guilty of conspiracy with another person or persons to commit an offense if**]** Guilt for an offense may be based upon a conspiracy to commit an offense when a person, with the purpose of promoting or facilitating **[**its commission he**]** the commission of an offense, agrees with **[**such**]** **[**other**]** another person or persons that they or one or more of them will engage in conduct which constitutes such offense.

2. **[**If a person guilty of conspiracy knows that a person with whom he conspires to commit an offense has conspired with another person or persons to commit the same offense, he is guilty of conspiring with such other person or persons to commit such offense, whether or not he knows their identity**]** It is no defense to a prosecution for conspiring to commit an offense that a person who knows that a person with whom he or she conspires to

commit an offense has conspired with another person or persons to commit the same offense, does not know the identity of such other person or persons.

3. If a person conspires to commit a number of offenses, he **[**is**]** or she can be found guilty of only one **[**conspiracy**]** offense so long as such multiple offenses are the object of the same agreement.

4. No person may be convicted of **[**conspiracy to commit**]** an offense based upon a conspiracy to commit an offense unless an overt act in pursuance of such conspiracy is alleged and proved to have been done by him or her or by a person with whom he or she conspired.

5. (1) No **[**one**]** person shall be convicted of **[**conspiracy**]** an offense based upon a conspiracy to commit an offense if, after conspiring to commit the offense, he or she prevented the accomplishment of the objectives of the conspiracy under circumstances manifesting a renunciation of his or her criminal purpose.

(2) The defendant shall have the burden of injecting the issue of renunciation of criminal purpose under subdivision (1) of this subsection.

6. For the purpose of time limitations on prosecutions:

(1) **[**Conspiracy**]** A conspiracy to commit an offense is a continuing course of conduct which terminates when the offense or offenses which are its object are committed or the agreement that they be committed is abandoned by the defendant and by those with whom he or she conspired.

(2) If an individual abandons the agreement, the conspiracy

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is terminated as to him or her only if he or she advises those with whom he or she has conspired of his or her abandonment or he or she informs the law enforcement authorities of the existence of the conspiracy and of his or her participation in it.

7. A person **[**may**]** shall not be charged, convicted or sentenced on the basis of the same course of conduct of both the actual commission of an offense and a conspiracy to commit that offense.

8. Unless otherwise **[**provided, a conspiracy to commit an offense is a:

(1) Class B felony if the object of the conspiracy is a class A felony.

(2) Class C felony if the object of the conspiracy is a class B felony.

(3) Class D felony if the object of the conspiracy is a class C felony.

(4) Class A misdemeanor if the object of the conspiracy is a class D felony.

(5) Class C misdemeanor if the object of the conspiracy is a misdemeanor of any degree or an infraction**]** set forth in the statute creating the offense, when guilt for a felony or misdemeanor is based upon a conspiracy to commit that offense, the felony or misdemeanor shall be classified one step lower than the class provided for the felony or misdemeanor in the statute creating the offense.

562.016. 1. Except as provided in section 562.026, a person is not guilty of an offense unless he or she acts with a culpable mental state, that is, unless he or she acts purposely

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or knowingly or recklessly or with criminal negligence, as the statute defining the offense may require with respect to the conduct, the result thereof or the attendant circumstances which constitute the material elements of the crime.

2. A person "acts purposely", or with purpose, with respect to his or her conduct or to a result thereof when it is his or her conscious object to engage in that conduct or to cause that result.

3. A person "acts knowingly", or with knowledge,

(1) With respect to his or her conduct or to attendant circumstances when he or she is aware of the nature of his or her conduct or that those circumstances exist; or

(2) With respect to a result of his or her conduct when he or she is aware that his or her conduct is practically certain to cause that result.

4. A person "acts recklessly" or is reckless when he or she consciously disregards 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.

5. A person "acts with criminal negligence" or is criminally negligent when he or she fails 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.

562.031. 1. A person is not relieved of criminal liability for conduct because he or she engages in such conduct under a

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mistaken belief of fact or law unless such mistake negatives the existence of the mental state required by the offense.

2. A person is not relieved of criminal liability for conduct because he or she believes his or her conduct does not constitute an offense unless his or her belief is reasonable and:

(1) The offense is defined by an administrative regulation or order which is not known to him or her and has not been published or otherwise made reasonably available to him or her, and he or she could not have acquired such knowledge by the exercise of due diligence pursuant to facts known to him or her; or

(2) He or she acts in reasonable reliance upon an official statement of the law, afterward determined to be invalid or erroneous, contained in

(a) A statute;

(b) An opinion or order of an appellate court;

(c) An official interpretation of the statute, regulation or order defining the offense made by a public official or agency legally authorized to interpret such statute, regulation or order.

3. The burden of injecting the issue of reasonable belief that conduct does not constitute an offense under subdivisions (1) and (2) of subsection 2 of this section is on the defendant.

562.036. A person with the required culpable mental state is guilty of an offense if it is committed by his or her own conduct or by the conduct of another person for which he or she is criminally responsible, or both.

562.041. 1. A person is criminally responsible for the

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conduct of another when:

(1) The statute defining the offense makes him or her so responsible; or

(2) Either before or during the commission of an offense with the purpose of promoting the commission of an offense, he or she aids or agrees to aid or attempts to aid such other person in planning, committing or attempting to commit the offense.

2. However, a person is not so responsible if:

(1) He or she is the victim of the offense committed or attempted;

(2) The offense is so defined that his or her conduct was necessarily incident to the commission or attempt to commit the offense. If his or her conduct constitutes a related but separate offense, he or she is criminally responsible for that offense but not for the conduct or offense committed or attempted by the other person;

(3) Before the commission of the offense **[**he**]** such person abandons his or her purpose and gives timely warning to law enforcement authorities or otherwise makes proper effort to prevent the commission of the offense.

3. The defense provided by subdivision (3) of subsection 2 of this section is an affirmative defense.

562.051. Except as otherwise provided, when two or more persons are criminally responsible for an offense which is divided into degrees, each person is guilty of such degree as is compatible with his or her own culpable mental state and with his or her own accountability for an aggravating or mitigating fact or circumstance.

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562.056. 1. A corporation is guilty of an offense if:

(1) The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on corporations by law; or

(2) The conduct constituting the offense is engaged in by an agent of the corporation while acting within the scope of his or her employment and in behalf of the corporation, and the offense is a misdemeanor or an infraction, or the offense is one defined by a statute that clearly indicates a legislative intent to impose such criminal liability on a corporation; or

(3) The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded or knowingly tolerated by the board of directors or by a high managerial agent acting within the scope of his or her employment and in behalf of the corporation.

2. An unincorporated association is guilty of an offense if:

(1) The conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance imposed on the association by law; or

(2) The conduct constituting the offense is engaged in by an agent of the association while acting within the scope of his or her employment and in behalf of the association and the offense is one defined by a statute that clearly indicates a legislative intent to impose such criminal liability on the association.

3. As used in this section:

(1) "Agent" means any director, officer or employee of a

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corporation or unincorporated association or any other person who is authorized to act in behalf of the corporation or unincorporated association;

(2) "High managerial agent" means an officer of a corporation or any other agent in a position of comparable authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees.

562.061. A person is criminally liable for conduct constituting an offense which he or she performs or causes to be performed in the name of or in behalf of a corporation or unincorporated association to the same extent as if such conduct were performed in his or her own name or behalf.

562.066. 1. The commission of acts which would otherwise constitute an offense is not criminal if the actor engaged in the prescribed conduct because he or she was entrapped by a law enforcement officer or a person acting in cooperation with such an officer.

2. An "entrapment" is perpetuated if a law enforcement officer or a person acting in cooperation with such an officer, for the purpose of obtaining evidence of the commission of an offense, solicits, encourages or otherwise induces another person to engage in conduct when he or she was not ready and willing to engage in such conduct.

3. The relief afforded by subsection 1 of this section is not available as to any crime which involves causing physical injury to or placing in danger of physical injury a person other than the person perpetrating the entrapment.

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4. The defendant shall have the burden of injecting the issue of entrapment.

562.071. 1. It is an affirmative defense that the defendant engaged in the conduct charged to constitute an offense because he or she was coerced to do so, by the use of, or threatened imminent use of, unlawful physical force upon him or her or a third person, which force or threatened force a person of reasonable firmness in his situation would have been unable to resist.

2. The defense of "duress" as defined in subsection 1 is not available:

(1) As to the crime of murder;

(2) As to any offense when the defendant recklessly places himself or herself in a situation in which it is probable that he or she will be subjected to the force or threatened force described in subsection 1 of this section.

562.076. 1. A person who is in an intoxicated or drugged condition, whether from alcohol, drugs or other substance, is criminally responsible for conduct unless such condition is involuntarily produced and deprived him or her of the capacity to know or appreciate the nature, quality or wrongfulness of his or her conduct.

2. The defendant shall have the burden of injecting the issue of intoxicated or drugged condition.

3. Evidence that a person was in a voluntarily intoxicated or drugged condition may be admissible when otherwise relevant on issues of conduct but in no event shall it be admissible for the purpose of negating a mental state which is an element of the

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offense. In a trial by jury, the jury shall be so instructed when evidence that a person was in a voluntarily intoxicated or drugged condition has been received into evidence.

562.086. 1. A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he was incapable of knowing and appreciating the nature, quality or wrongfulness of his or her conduct.

2. The procedures for the defense of lack of responsibility because of mental disease or defect are governed by the provisions of chapter 552.

563.021. 1. Unless inconsistent with the provisions of this chapter defining the justifiable use of physical force, or with some other provision of law, conduct which would otherwise constitute an offense is justifiable and not criminal when such conduct is required or authorized by a statutory provision or by a judicial decree. Among the kinds of such provisions and decrees are:

(1) Laws defining duties and functions of public servants;

(2) Laws defining duties of private persons to assist public servants in the performance of their functions;

(3) Laws governing the execution of legal process;

(4) Laws governing the military services and the conduct of war;

(5) Judgments and orders of courts.

2. The defense of justification afforded by subsection 1 of this section applies:

(1) When a person reasonably believes his or her conduct to be required or authorized by the judgment or directions of a

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competent court or tribunal or in the legal execution of legal process, notwithstanding lack of jurisdiction of the court or defect in the legal process;

(2) When a person reasonably believes his or her conduct to be required or authorized to assist a public servant in the performance of his or her duties, notwithstanding that the public servant exceeded his or her legal authority.

3. The defendant shall have the burden of injecting the issue of justification under this section.

563.026. 1. Unless inconsistent with other provisions of this chapter defining justifiable use of physical force, or with some other provision of law, conduct which would otherwise constitute any **[**crime**]** offense other than a class A felony or murder is justifiable and not criminal when it is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no fault of the actor, and which is of such gravity that, according to ordinary standards of intelligence and morality, the desirability of avoiding the injury outweighs the desirability of avoiding the injury sought to be prevented by the statute defining the **[**crime**]** offense charged.

2. The necessity and justifiability of conduct under subsection 1 of this section may not rest upon considerations pertaining only to the morality and advisability of the statute, either in its general application or with respect to its application to a particular class of cases arising thereunder. Whenever evidence relating to the defense of justification under this section is offered, the court shall rule as a matter of law

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whether the claimed facts and circumstances would, if established, constitute a justification.

3. The defense of justification under this section is an affirmative defense.

563.033. 1. Evidence that **[**the actor**]** a person was suffering from the battered spouse syndrome shall be admissible upon the issue of whether **[**the actor**]** he or she lawfully acted in self-defense or defense of another.

2. If the defendant proposes to offer evidence of the battered spouse syndrome, he or she shall file written notice thereof with the court in advance of trial. Thereafter, the court, upon motion of the state, shall appoint one or more private psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to mentally retarded or mentally ill individuals, who are neither employees nor contractors of the department of mental health for the purposes of performing the examination in question, to examine the accused, or shall direct the director of the department of mental health, or his or her designee, to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, or physicians with a minimum of one year training or experience in providing treatment or services to mentally retarded or mentally ill individuals designated by the director, or his or her designee, for the purpose of examining the defendant. No private psychiatrist, psychologist, or physician shall be appointed by the court unless he or she has consented to act. The examinations ordered shall be made at such

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time and place and under such conditions as the court deems proper; except that if the order directs the director of the department of mental health to have the accused examined, the director, or his or her designee, shall determine the reasonable time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses.

3. No statement made by the accused in the course of any such examination and no information received by any physician or other person in the course thereof, whether such examination was made with or without the consent of the accused or upon his or her motion or upon that of others, shall be admitted in evidence against the accused on the issue of whether he or she committed the act charged against him or her in any criminal proceeding then or thereafter pending in any court, state or federal.

563.046. 1. A law enforcement officer need not retreat or desist from efforts to effect the arrest, or from efforts to prevent the escape from custody, of a person he or she reasonably believes to have committed an offense because of resistance or threatened resistance of the arrestee. In addition to the use of physical force authorized under other sections of this chapter, **[**he**]** a law enforcement officer is, subject to the provisions of subsections 2 and 3, justified in the use of such physical force as he or she reasonably believes is immediately necessary to effect the arrest or to prevent the escape from custody.

2. The use of any physical force in making an arrest is not justified under this section unless the arrest is lawful or the law enforcement officer reasonably believes the arrest is lawful.

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3. A law enforcement officer in effecting an arrest or in preventing an escape from custody is justified in using deadly force only

(1) When **[**such is**]** deadly force is authorized under other sections of this chapter; or

(2) When he or she reasonably believes that such use of deadly force is immediately necessary to effect the arrest and also reasonably believes that the person to be arrested:

(a) Has committed or attempted to commit a felony; or

(b) Is attempting to escape by use of a deadly weapon; or

(c) May otherwise endanger life or inflict serious physical injury unless arrested without delay.

4. The defendant shall have the burden of injecting the issue of justification under this section.

563.051. 1. A private person who has been directed by a person he or she reasonably believes to be a law enforcement officer to assist such officer to effect an arrest or to prevent escape from custody may, subject to the limitations of subsection 3 of this section, use physical force when and to the extent that he or she reasonably believes such to be necessary to carry out such officer's direction unless he or she knows or believes that the arrest or prospective arrest is not or was not authorized.

2. A private person acting on his or her own account may, subject to the limitations of subsection 3 of this section, use physical force to **[**effect**]** arrest or prevent the escape **[**only when and to the extent such is immediately necessary to effect the arrest, or to prevent escape from custody,**]** of a person whom **[**he**]** such private person reasonably believes **[**to have**]** has

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committed [a crime] an offense, and who in fact has committed such [crime] offense, when the private person's actions are immediately necessary to arrest the offender or prevent his or her escape from custody.

3. A private person in effecting an arrest or in preventing escape from custody is justified in using deadly force only:

(1) When [such is] deadly force is authorized under other sections of this chapter; or

(2) When he or she reasonably believes [such to be] deadly force is authorized under the circumstances and he or she is directed or authorized by a law enforcement officer to use deadly force; or

(3) When he or she reasonably believes such use of deadly force is immediately necessary to [effect the] arrest [of] a person who at that time and in his or her presence

(a) Committed or attempted to commit a class A felony or murder; or

(b) Is attempting to escape by use of a deadly weapon.

4. The defendant shall have the burden of injecting the issue of justification under this section.

563.056. 1. A guard or other law enforcement officer may, subject to the provisions of subsection 2 of this section, use physical force when he reasonably believes such to be immediately necessary to prevent escape from confinement or in transit thereto or therefrom.

2. A guard or other law enforcement officer may use deadly force under circumstances described in subsection 1 of this section only:

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(1) When such use of deadly force is authorized under other sections of this chapter; or

(2) When he or she reasonably believes there is a substantial risk that the escapee will endanger human life or cause serious physical injury unless the escape is prevented.

3. The defendant shall have the burden of injecting the issue of justification under this section.

563.061. 1. The use of physical force by an actor upon another person is justifiable when the actor is a parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person or when the actor is a teacher or other person entrusted with the care and supervision of a minor for a special purpose; and

(1) The actor reasonably believes that the force used is necessary to promote the welfare of a minor or incompetent person, or, if the actor's responsibility for the minor is for special purposes, to further that special purpose or to maintain reasonable discipline in a school, class or other group; and

(2) The force used is not designed to cause or believed to create a substantial risk of causing death, serious physical injury, disfigurement, extreme pain or extreme emotional distress.

2. A warden or other authorized official of a jail, prison or correctional institution may, in order to maintain order and discipline, use whatever physical force, including deadly force, that is authorized by law.

3. The use of physical force by an actor upon another person is justifiable when the actor is a person responsible for

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the operation of or the maintenance of order in a vehicle or other carrier of passengers and the actor reasonably believes that such force is necessary to prevent interference with its operation or to maintain order in the vehicle or other carrier, except that deadly force may be used only when the actor reasonably believes it necessary to prevent death or serious physical injury.

4. The use of physical force by an actor upon another person is justified when the actor is a physician or a person assisting at his or her direction; and

(1) The force is used for the purpose of administering a medically acceptable form of treatment which the actor reasonably believes to be adapted to promoting the physical or mental health of the patient; and

(2) The treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of the parent, guardian, or other person legally competent to consent on his or her behalf, or the treatment is administered in an emergency when the actor reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

5. The use of physical force by an actor upon another person is justifiable when the actor acts under the reasonable belief that

(1) Such other person is about to commit suicide or to inflict serious physical injury upon himself or herself; and

(2) The force used is necessary to thwart such result.

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6. The defendant shall have the burden of injecting the issue of justification under this section.

563.070. 1. Conduct which would otherwise constitute **[**a crime**]** an offense under chapter 565 is excusable and not criminal when it is the result of accident in any lawful act by lawful means without knowingly causing or attempting to cause physical injury and without acting with criminal negligence.

2. The defendant shall have the burden of injecting the issue of excuse authorized under this section.

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

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

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

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

(4) "Course of conduct", a pattern of conduct composed of two or more acts, which may include communication by any means, over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of course of conduct. Such constitutionally protected activity includes picketing or other organized protests;

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

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

thereof;

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

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

(6) "Domestic victim", a household or family member or any person who is or has been in a continuing social relationship of a romantic or social nature with the defendant, including spouses, former spouses, persons related by blood or marriage, persons who are presently residing together or have resided together in the past and persons who have a child in common regardless of whether they have been married or have resided together at any time;

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

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

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

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

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

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

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

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

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

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

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

(d) Elderly person;

(e) Disabled person;

(f) Any jailer or corrections officer of the state or one of its political subdivisions; or

(g) A highway worker in a construction or work zone as the terms "highway worker", "construction zone", or "work zone" are defined under section 304.580;

[(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

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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.

565.004. 1. Each homicide offense which is lawfully joined in the same indictment or information together with any homicide offense or offense other than a homicide shall be charged together with such offense in separate counts. A count charging any offense of homicide may only be charged and tried together with one or more counts of any other homicide or offense other than a homicide as provided in subsection 2 of section 545.140. Except as provided in subsections 2, 3, and 4 of this section, no murder in the first degree offense may be tried together with any offense other than murder in the first degree. In the event of a joinder of homicide offenses, all offenses charged which are supported by the evidence in the case, together with all proper lesser offenses under section **[**565.025**]** 565.029, shall, when requested by one of the parties or the court, be submitted to the jury or, in a jury-waived trial, considered by the judge.

2. A count charging any offense of homicide of a particular individual may be joined in an indictment or information and tried with one or more counts charging alternatively any other homicide or offense other than a homicide committed against that individual. The state shall not be required to make an election

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as to the alternative count on which it will proceed. This subsection in no way limits the right to try in the conjunctive, where they are properly joined under subsection 1 of this section, either separate offenses other than murder in the first degree or separate offenses of murder in the first degree committed against different individuals.

3. When a defendant has been charged and proven before trial to be a prior offender pursuant to chapter 558 so that the judge shall assess punishment and not a jury for an offense other than murder in the first degree, that offense may be tried and submitted to the trier together with any murder in the first degree charge with which it is lawfully joined. In such case the judge will assess punishment on any offense joined with a murder in the first degree charge according to law and, when the trier is a jury, it shall be instructed upon punishment on the charge of murder in the first degree in accordance with section 565.030.

4. When the state waives the death penalty for a murder first degree offense, that offense may be tried and submitted to the trier together with any other charge with which it is lawfully joined.

[565.080.**]** 565.010. 1. When conduct is charged to constitute an offense because it causes or threatens physical injury, consent to that conduct or to the infliction of the injury is a defense only if:

(1) The physical injury consented to or threatened by the conduct is not serious physical injury; or

(2) The conduct and the harm are reasonably foreseeable hazards of

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(a) The victim's occupation or profession; or

(b) Joint participation in a lawful athletic contest or competitive sport; or

(3) The consent establishes a justification for the conduct under chapter 563 of this code.

2. The defendant shall have the burden of injecting the issue of consent.

565.020. 1. A person commits the **[**crime**]** offense of murder in the first degree if he or she knowingly causes the death of another person after deliberation upon the matter.

2. The offense of murder in the first degree is a class A felony, and the punishment shall be either death or imprisonment for life without eligibility for probation or parole, or release except by act of the governor; except that, if a person has not reached his **[**sixteenth**]** or her eighteenth birthday at the time of the commission of the **[**crime**]** offense, the punishment shall be imprisonment for life without eligibility for probation or parole, or release except by act of the governor.

565.021. 1. A person commits the **[**crime**]** offense of murder in the second degree if he or she:

(1) Knowingly causes the death of another person or, with the purpose of causing serious physical injury to another person, causes the death of another person; or

(2) Commits or attempts to commit any felony, and, in the perpetration or the attempted perpetration of such felony or in the flight from the perpetration or attempted perpetration of such felony, another person is killed as a result of the perpetration or attempted perpetration of such felony or

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immediate flight from the perpetration of such felony or attempted perpetration of such felony.

2. The offense of murder in the second degree is a class A felony, and the punishment for second degree murder shall be in addition to the punishment for commission of a related felony or attempted felony, other than murder or manslaughter.

3. Notwithstanding section 556.046 and section **[**565.025**]** 565.029, in any charge of murder in the second degree, the jury shall be instructed on, or, in a jury-waived trial, the judge shall consider, any and all of the subdivisions in subsection 1 of this section which are supported by the evidence and requested by one of the parties or the court.

565.023. 1. A person commits the **[**crime**]** offense of voluntary manslaughter if he or she:

(1) Causes the death of another person under circumstances that would constitute murder in the second degree under subdivision (1) of subsection 1 of section 565.021, except that he or she caused the death under the influence of sudden passion arising from adequate cause; or

(2) Knowingly assists another in the commission of self-murder.

2. The defendant shall have the burden of injecting the issue of influence of sudden passion arising from adequate cause under subdivision (1) of subsection 1 of this section.

3. The offense of voluntary manslaughter is a class B felony.

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

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(1)] recklessly causes the death of another person[; or

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

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

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

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

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

(4) Operates a motor vehicle in violation of subsection 2 of section 304.022, and when so operating, acts with criminal negligence to cause the death of any person authorized to operate an emergency vehicle, as defined in section 304.022, while such person is in the performance of official duties;

(5) Operates a vessel in violation of subsections 1 and 2 of section 306.132, and when so operating acts with criminal negligence to cause the death of any person authorized to operate an emergency watercraft, as defined in section 306.132, while such person is in the performance of official duties].

2. The offense of involuntary manslaughter in the first degree [under subdivision (1) or (2) of subsection 1 of this

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section**]** is a class C felony. **[**Involuntary manslaughter in the first degree under subdivision (3) of subsection 1 of this section is a class B felony. A second or subsequent violation of subdivision (3) of subsection 1 of this section is a class A felony. For any violation of subdivision (3) of subsection 1 of this section, the minimum prison term which the defendant must serve shall be eighty-five percent of his or her sentence. Any violation of subdivisions (4) and (5) of subsection 1 of this section is a class B felony.

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

4. Involuntary manslaughter in the second degree is a class D felony.**]**

565.027. 1. A person commits the offense of involuntary manslaughter in the second degree if he or she acts with criminal negligence to cause the death of any person.

2. The offense of involuntary manslaughter in the second degree is a class E felony.

[565.025.**]** 565.029. 1. With the exceptions provided in subsection 3 of this section and subsection 3 of section 565.021, section 556.046 shall be used for the purpose of consideration of lesser offenses by the trier in all homicide cases.

2. The following lists shall comprise, in the order listed, the lesser degree offenses:

(1) The lesser degree offenses of murder in the first degree are:

(a) Murder in the second degree under subdivisions (1) and

(2) of subsection 1 of section 565.021;

(b) Voluntary manslaughter under subdivision (1) of subsection 1 of section 565.023; **[**and**]**

(c) Involuntary manslaughter **[**under subdivision (1) of subsection 1 of section 565.024**]** in the first degree; and

(d) Involuntary manslaughter in the second degree;

(2) The lesser degree offenses of murder in the second degree are:

(a) Voluntary manslaughter under subdivision (1) of subsection 1 of section 565.023; **[**and**]**

(b) Involuntary manslaughter **[**under subdivision (1) of subsection 1 of section 565.024**]** in the first degree; and

(c) Involuntary manslaughter in the second degree.

3. No instruction on a lesser included offense shall be submitted unless requested by one of the parties or the court.

565.030. 1. **[**Where murder in the first degree is charged but not submitted or where the state waives the death penalty, the submission to the trier and all subsequent proceedings in the case shall proceed as in all other criminal cases with a single stage trial in which guilt and punishment are submitted together.

2.**]** Where murder in the first degree is submitted to the trier without a waiver of the death penalty, the trial shall proceed in two stages before the same trier. At the first stage the trier shall decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of punishment shall not be submitted to the trier at the first stage. If an offense is charged other than murder in the first degree in a count together with a count of murder in the first degree, the

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trial judge shall assess punishment on any such offense according to law, after the defendant is found guilty of such offense and after he finds the defendant to be a prior offender pursuant to chapter 558.

[3.**]** 2. If murder in the first degree is submitted and the death penalty was not waived but the trier finds the defendant guilty of a lesser homicide, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared. No further evidence shall be received. If the trier is a jury it shall be instructed on the law. The attorneys may then argue as in other criminal cases the issue of punishment, after which the trier shall assess and declare the punishment as in all other criminal cases.

[4.**]** 3. If the trier at the first stage of a trial where the death penalty was not waived finds the defendant guilty of murder in the first degree, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared. Evidence in aggravation and mitigation of punishment, including but not limited to evidence supporting any of the aggravating or mitigating circumstances listed in subsection 2 or 3 of section 565.032, may be presented subject to the rules of evidence at criminal trials. Such evidence may include, within the discretion of the court, evidence concerning the murder victim and the impact of the **[**crime**]** offense upon the family of the victim and others. Rebuttal and surrebuttal evidence may be presented. The state shall be the first to proceed. If the trier is a jury it shall be instructed on the law. The attorneys may then argue the issue of punishment to the

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jury, and the state shall have the right to open and close the argument. The trier shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor:

(1) If the trier finds by a preponderance of the evidence that the defendant is mentally retarded; or

(2) If the trier does not find beyond a reasonable doubt at least one of the statutory aggravating circumstances set out in subsection 2 of section 565.032; or

(3) If the trier concludes that there is evidence in mitigation of punishment, including but not limited to evidence supporting the statutory mitigating circumstances listed in subsection 3 of section 565.032, which is sufficient to outweigh the evidence in aggravation of punishment found by the trier; or

(4) If the trier decides under all of the circumstances not to assess and declare the punishment at death. If the trier is a jury it shall be so instructed. If the trier assesses and declares the punishment at death it shall, in its findings or verdict, set out in writing the aggravating circumstance or circumstances listed in subsection 2 of section 565.032 which it found beyond a reasonable doubt. If the trier is a jury it shall be instructed before the case is submitted that if it is unable to decide or agree upon the punishment the court shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor or death. The court shall follow the same procedure as set out in this section whenever it is required to determine punishment for murder in the first degree.

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[5.**]** 4. Upon written agreement of the parties and with leave of the court, the issue of the defendant's mental retardation may be taken up by the court and decided prior to trial without prejudicing the defendant's right to have the issue submitted to the trier of fact as provided in subsection 4 of this section.

[6.**]** 5. As used in this section, the terms "mental retardation" or "mentally retarded" refer to a condition involving substantial limitations in general functioning characterized by significantly subaverage intellectual functioning with continual extensive related deficits and limitations in two or more adaptive behaviors such as communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work, which conditions are manifested and documented before eighteen years of age.

[7.**]** 6. The provisions of this section shall only govern offenses committed on or after August 28, 2001.

565.032. 1. In all cases of murder in the first degree for which the death penalty is authorized, the judge in a jury-waived trial shall consider, or **[**he**]** shall include in his or her instructions to the jury for it to consider:

(1) Whether a statutory aggravating circumstance or circumstances enumerated in subsection 2 of this section is established by the evidence beyond a reasonable doubt; and

(2) If a statutory aggravating circumstance or circumstances is proven beyond a reasonable doubt, whether the evidence as a whole justifies a sentence of death or a sentence

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of life imprisonment without eligibility for probation, parole, or release except by act of the governor. In determining the issues enumerated in subdivisions (1) and (2) of this subsection, the trier shall consider all evidence which it finds to be in aggravation or mitigation of punishment, including evidence received during the first stage of the trial and evidence supporting any of the statutory aggravating or mitigating circumstances set out in subsections 2 and 3 of this section. If the trier is a jury, it shall not be instructed upon any specific evidence which may be in aggravation or mitigation of punishment, but shall be instructed that each juror shall consider any evidence which he or she considers to be aggravating or mitigating.

2. Statutory aggravating circumstances for a murder in the first degree offense shall be limited to the following:

(1) The offense was committed by a person with a prior record of conviction for murder in the first degree, or the offense was committed by a person who has one or more serious assaultive criminal convictions;

(2) The murder in the first degree offense was committed while the offender was engaged in the commission or attempted commission of another unlawful homicide;

(3) The offender by his or her act of murder in the first degree knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person;

(4) The offender committed the offense of murder in the first degree for himself or herself or another, for the purpose

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of receiving money or any other thing of monetary value from the victim of the murder or another;

(5) The murder in the first degree was committed against a judicial officer, former judicial officer, prosecuting attorney or former prosecuting attorney, circuit attorney or former circuit attorney, assistant prosecuting attorney or former assistant prosecuting attorney, assistant circuit attorney or former assistant circuit attorney, peace officer or former peace officer, elected official or former elected official during or because of the exercise of his official duty;

(6) The offender caused or directed another to commit murder in the first degree or committed murder in the first degree as an agent or employee of another person;

(7) The murder in the first degree was outrageously or wantonly vile, horrible or inhuman in that it involved torture, or depravity of mind;

(8) The murder in the first degree was committed against any peace officer, or fireman while engaged in the performance of his or her official duty;

(9) The murder in the first degree was committed by a person in, or who has escaped from, the lawful custody of a peace officer or place of lawful confinement;

(10) The murder in the first degree was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or custody in a place of lawful confinement, of himself or herself or another;

(11) The murder in the first degree was committed while the defendant was engaged in the perpetration or was aiding or

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encouraging another person to perpetrate or attempt to perpetrate a felony of any degree of rape, sodomy, burglary, robbery, kidnapping, or any felony offense in chapter **[**195**]** 579;

(12) The murdered individual was a witness or potential witness in any past or pending investigation or past or pending prosecution, and was killed as a result of his or her status as a witness or potential witness;

(13) The murdered individual was an employee of an institution or facility of the department of corrections of this state or local correction agency and was killed in the course of performing his or her official duties, or the murdered individual was an inmate of such institution or facility;

(14) The murdered individual was killed as a result of the hijacking of an airplane, train, ship, bus or other public conveyance;

(15) The murder was committed for the purpose of concealing or attempting to conceal any felony offense defined in chapter **[**195**]** 579;

(16) The murder was committed for the purpose of causing or attempting to cause a person to refrain from initiating or aiding in the prosecution of a felony offense defined in chapter **[**195**]** 579;

(17) The murder was committed during the commission of **[**a crime**]** an offense which is part of a pattern of criminal street gang activity as defined in section 578.421.

3. Statutory mitigating circumstances shall include the following:

(1) The defendant has no significant history of prior

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criminal activity;

(2) The murder in the first degree was committed while the defendant was under the influence of extreme mental or emotional disturbance;

(3) The victim was a participant in the defendant's conduct or consented to the act;

(4) The defendant was an accomplice in the murder in the first degree committed by another person and his or her participation was relatively minor;

(5) The defendant acted under extreme duress or under the substantial domination of another person;

(6) The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired;

(7) The age of the defendant at the time of the **[**crime**]** offense.

565.035. 1. Whenever the death penalty is imposed in any case, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the supreme court of Missouri. The circuit clerk of the court trying the case, within ten days after receiving the transcript, shall transmit the entire record and transcript to the supreme court together with a notice prepared by the circuit clerk and a report prepared by the trial judge. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report by the judge shall be in the form of a standard questionnaire

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prepared and supplied by the supreme court of Missouri.

2. The supreme court of Missouri shall consider the punishment as well as any errors enumerated by way of appeal.

3. With regard to the sentence, the supreme court shall determine:

(1) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor; and

(2) Whether the evidence supports the jury's or judge's finding of a statutory aggravating circumstance as enumerated in subsection 2 of section 565.032 and any other circumstance found;

(3) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the **[**crime**]** offense, the strength of the evidence and the defendant.

4. Both the defendant and the state shall have the right to submit briefs within the time provided by the supreme court, and to present oral argument to the supreme court.

5. The supreme court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the supreme court, with regard to review of death sentences, shall be authorized to:

(1) Affirm the sentence of death; or

(2) Set the sentence aside and resentence the defendant to life imprisonment without eligibility for probation, parole, or release except by act of the governor; or

(3) Set the sentence aside and remand the case for retrial

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of the punishment hearing. A new jury shall be selected or a jury may be waived by agreement of both parties and then the punishment trial shall proceed in accordance with this chapter, with the exception that the evidence of the guilty verdict shall be admissible in the new trial together with the official transcript of any testimony and evidence properly admitted in each stage of the original trial where relevant to determine punishment.

6. There shall be an assistant to the supreme court, who shall be an attorney appointed by the supreme court and who shall serve at the pleasure of the court. The court shall accumulate the records of all cases in which the sentence of death or life imprisonment without probation or parole was imposed after May 26, 1977, or such earlier date as the court may deem appropriate. The assistant shall provide the court with whatever extracted information the court desires with respect thereto, including but not limited to a synopsis or brief of the facts in the record concerning the **[**crime**]** offense and the defendant. The court shall be authorized to employ an appropriate staff, within the limits of appropriations made for that purpose, and such methods to compile such data as are deemed by the supreme court to be appropriate and relevant to the statutory questions concerning the validity of the sentence. The office of the assistant to the supreme court shall be attached to the office of the clerk of the supreme court for administrative purposes.

7. In addition to the mandatory sentence review, there shall be a right of direct appeal of the conviction to the supreme court of Missouri. This right of appeal may be waived by

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the defendant. If an appeal is taken, the appeal and the sentence review shall be consolidated for consideration. The court shall render its decision on legal errors enumerated, the factual substantiation of the verdict, and the validity of the sentence.

565.040. 1. In the event that the death penalty provided in this chapter is held to be unconstitutional, any person convicted of murder in the first degree shall be sentenced by the court to life imprisonment without eligibility for probation, parole, or release except by act of the governor, with the exception that when a specific aggravating circumstance found in a case is held to be unconstitutional or invalid for another reason, the supreme court of Missouri is further authorized to remand the case for resentencing or retrial of the punishment pursuant to subsection 5 of section **[**565.036**]** 565.035.

2. In the event that any death sentence imposed pursuant to this chapter is held to be unconstitutional, the trial court which previously sentenced the defendant to death shall cause the defendant to be brought before the court and shall sentence the defendant to life imprisonment without eligibility for probation, parole, or release except by act of the governor, with the exception that when a specific aggravating circumstance found in a case is held to be inapplicable, unconstitutional or invalid for another reason, the supreme court of Missouri is further authorized to remand the case for retrial of the punishment pursuant to subsection 5 of section 565.035.

565.050. 1. A person commits the **[**crime**]** offense of assault in the first degree if he or she attempts to kill or

knowingly causes or attempts to cause serious physical injury to another person.

2. The offense of assault in the first degree is a class B felony unless in the course thereof the [actor] person inflicts serious physical injury on the victim, or if the victim of such assault is a special victim, as the term "special victim" is defined under section 565.002, in which case it is a class A felony.

[565.060.] 565.052. 1. A person commits the [crime] offense of assault in the second degree if he or she:

(1) Attempts to kill or knowingly causes or attempts to cause serious physical injury to another person under the influence of sudden passion arising out of adequate cause; or

(2) Attempts to cause or knowingly causes physical injury to another person by means of a deadly weapon or dangerous instrument; or

(3) Recklessly causes serious physical injury to another person; or

(4) [While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle in this state and, when so operating, acts with criminal negligence to cause physical injury to any other person than himself; or

(5)] Recklessly causes physical injury to another person by means of discharge of a firearm[; or

(6) Operates a motor vehicle in violation of subsection 2 of section 304.022, and when so operating, acts with criminal negligence to cause physical injury to any person authorized to

operate an emergency vehicle, as defined in section 304.022, while such person is in the performance of official duties**]**.

2. The defendant shall have the burden of injecting the issue of influence of sudden passion arising from adequate cause under subdivision (1) of subsection 1 of this section.

3. The offense of assault in the second degree is a class **[**C**]** D felony, unless the victim of such assault is a special victim, as the term "special victim" is defined under section 565.002, in which case it is a class B felony.

[565.070.**]** 565.054. 1. A person commits the **[**crime**]** offense of assault in the third degree if**[**:

(1) The person attempts to cause or recklessly causes physical injury to another person; or

(2) With criminal negligence the person causes physical injury to another person by means of a deadly weapon; or

(3) The person purposely places another person in apprehension of immediate physical injury; or

(4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or

(5) The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or

(6) The person knowingly causes physical contact with an incapacitated person, as defined in section 475.010, which a reasonable person, who is not incapacitated, would consider offensive or provocative.

2. Except as provided in subsections 3 and 4 of this

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section, assault in the third degree is a class A misdemeanor.

3. A person who violates the provisions of subdivision (3) or (5) of subsection 1 of this section is guilty of a class C misdemeanor.

4. A person who has pled guilty to or been found guilty of the crime of assault in the third degree more than two times against any family or household member as defined in section 455.010 is guilty of a class D felony for the third or any subsequent commission of the crime of assault in the third degree when a class A misdemeanor. The offenses described in this subsection may be against the same family or household member or against different family or household members**]** he or she knowingly causes physical injury to another person.

2. The offense of assault in the third degree is a class E felony, unless the victim of such assault is a special victim, as the term "special victim" is defined under section 565.002, in which case it is a class D felony.

565.056. 1. A person commits the offense of assault in the fourth degree if:

(1) The person attempts to cause or recklessly causes physical injury, physical pain, or illness to another person; or

(2) With criminal negligence the person causes physical injury to another person by means of a firearm; or

(3) The person purposely places another person in apprehension of immediate physical injury; or

(4) The person recklessly engages in conduct which creates a substantial risk of death or serious physical injury to another person; or

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(5) The person knowingly causes physical contact with a disabled person, which a reasonable person, who is not disabled, would consider offensive or provocative; or

(6) The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative.

2. Except as provided in subsection 3 of this section, assault in the fourth degree is a class A misdemeanor.

3. Violation of the provisions of subdivision (3) or (6) of subsection 1 of this section is a class C misdemeanor unless the victim is a special victim, as the term "special victim" is defined under section 565.002, in which case a violation of such provisions is a class A misdemeanor.

565.072. 1. A person commits the **[**crime**]** offense of domestic assault in the first degree if he or she attempts to kill or knowingly causes or attempts to cause serious physical injury to a **[**family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section 455.010**]** domestic victim, as the term "domestic victim" is defined under section 565.002.

2. The offense of domestic assault in the first degree is a class B felony unless in the course thereof the **[**actor**]** person inflicts serious physical injury on the victim **[**or has previously pleaded guilty to or been found guilty of committing this crime**]**, in which case it is a class A felony.

565.073. 1. A person commits the **[**crime**]** offense of domestic assault in the second degree if the act involves a

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[family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, 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.

565.074. 1. [A person commits the crime of domestic assault in the third degree if the act involves a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section 455.010 and:

(1) The person attempts to cause or recklessly causes physical injury to such family or household member; or

(2) With criminal negligence the person causes physical injury to such family or household member by means of a deadly weapon or dangerous instrument; or

(3) The person purposely places such family or household member in apprehension of immediate physical injury by any means; or

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(4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to such family or household member; or

(5) The person knowingly causes physical contact with such family or household member knowing the other person will regard the contact as offensive; or

(6) The person knowingly attempts to cause or causes the isolation of such family or household member by unreasonably and substantially restricting or limiting such family or household member's access to other persons, telecommunication devices or transportation for the purpose of isolation.

2. Except as provided in subsection 3 of this section, domestic assault in the third degree is a class A misdemeanor.

3. A person who has pleaded guilty to or been found guilty of the crime of domestic assault in the third degree more than two times against any family or household member as defined in section 455.010, or of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, would be a violation of this section, is guilty of a class D felony for the third or any subsequent commission of the crime of domestic assault. The offenses described in this subsection may be against the same family or household member or against different family or household members**]** A person commits the offense of domestic assault in the third degree if he or she attempts to cause physical injury or knowingly causes physical pain or illness to a domestic victim, as the term "domestic victim" is defined under section 565.002.

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2. The offense of domestic assault in the third degree is a class E felony.

565.076. 1. A person commits the offense of domestic assault in the fourth degree if the act involves a domestic victim, as the term "domestic victim" is defined under section 565.002, and:

(1) The person attempts to cause or recklessly causes physical injury, physical pain, or illness to such domestic victim; or

(2) With criminal negligence the person causes physical injury to such domestic victim by means of a deadly weapon or dangerous instrument; or

(3) The person purposely places such domestic victim in apprehension of immediate physical injury by any means; or

(4) The person recklessly engages in conduct which creates a substantial risk of death or serious physical injury to such domestic victim; or

(5) The person knowingly causes physical contact with such domestic victim knowing he or she will regard the contact as offensive; or

(6) The person knowingly attempts to cause or causes the isolation of such domestic victim by unreasonably and substantially restricting or limiting his or her access to other persons, telecommunication devices or transportation for the purpose of isolation.

2. The offense of domestic assault in the fourth degree is a class A misdemeanor, unless the person has previously been found guilty of the offenses of assault of a domestic victim two

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or more times, in which case it is a class E felony. The offenses described in this subsection may be against the same domestic victim or against different domestic victims.

[565.063.**]** 565.079. 1. As used in this section, the following terms mean:

(1) **"[**Domestic**]** Assault offense"**[**:

(a) The commission of the crime of domestic assault in the first degree or domestic assault in the second degree; or

(b) The commission of the crime of assault in the first degree or assault in the second degree if the victim of the assault was a family or household member;

(c) The commission of a crime in another state, or any federal, tribal, or military offense which, if committed in this state, would be a violation of any offense listed in paragraph (a) or (b) of this subdivision;

(2) "Family" or "household member", spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past and adults who have a child in common regardless of whether they have been married or have resided together at any time;

(3)**]**, the offenses of murder in the first degree, murder in the second degree, voluntary manslaughter, involuntary manslaughter in the first degree, assault in the first degree, assault in the second degree, assault in the third degree, assault in the fourth degree, domestic assault in the first degree, domestic assault in the second degree, domestic assault in the third degree, domestic assault in the fourth degree, or an attempt to commit any of these offenses, or the commission of an

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offense in another jurisdiction that if committed in this state would constitute commission of any of the listed offenses;

(2) "Persistent [domestic violence] assault offender", a person who has [pleaded guilty to or has] been found guilty of two or more [domestic] assault offenses, where such two or more offenses occurred within ten years of the occurrence of the [domestic] assault offense for which the person is charged; and

(4) "Prior [domestic violence] assault offender", a person who has [pleaded guilty to or has] been found guilty of one [domestic] assault offense, where such prior offense occurred within five years of the occurrence of the [domestic] assault offense for which the person is charged.

2. No court shall suspend the imposition of sentence as to a prior or persistent [domestic violence] assault offender pursuant to this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding, nor shall such person be eligible for parole or probation until such person has served a minimum of six months' imprisonment.

3. The court shall find the defendant to be a prior [domestic violence] assault offender or persistent [domestic violence] assault offender, if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior [domestic violence] assault offender or persistent [domestic violence] assault offender; and

(2) Evidence is introduced that establishes sufficient

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facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior **[**domestic violence**]** assault offender or persistent **[**domestic violence**]** assault offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior **[**domestic violence**]** assault offender or persistent **[**domestic violence**]** assault offender.

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

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

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

7. The defendant may waive proof of the facts alleged.

8. Nothing in this section shall prevent the use of presentence investigations or commitments.

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

10. The **[**pleas or**]** findings of **[**guilty**]** guilt shall be prior to the date of commission of the present offense.

11. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of **[**guilty**]** guilt, to assess and declare the punishment as part of its verdict in cases of prior **[**domestic violence**]** assault offenders

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or persistent [domestic violence] assault offenders.

12. Evidence of prior convictions shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon.

13. [Evidence of similar criminal convictions of domestic violence pursuant to this chapter, chapter 566, or chapter 568 within five years of the offense at issue, shall be admissible for the purposes of showing a past history of domestic violence.

14. Any person who has pleaded guilty to or been found guilty of a violation of section 565.072 shall be sentenced to the authorized term of imprisonment for a class A felony if the court finds the offender is a prior domestic violence offender. The offender shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole if the court finds the offender is a persistent domestic violence offender or the prior domestic violence offender inflicts serious physical injury on the victim.

15. Any person who has pleaded guilty to or been found guilty of a violation of section 565.073 shall be sentenced:

(1) To the authorized term of imprisonment for a class B felony if the court finds the offender is a prior domestic violence offender; or

(2) To the authorized term of imprisonment for a class A felony if the court finds the offender is a persistent domestic

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violence offender] The court shall sentence a person, who has been found to be a prior assault offender, and is found guilty of a class B, C, or D felony under this chapter to the authorized term of imprisonment for the class one class step higher than the offense for which the person was found guilty.

14. The court shall sentence a person, who has been found to be a persistent assault offender, and is found guilty of a class C or D felony under this chapter to the authorized term of imprisonment for the class two steps higher than the offense for which the person was found guilty. A person found to be a persistent assault offender who is found guilty of a class B felony shall be sentenced to the authorized term of imprisonment for a class A felony.

565.090. 1. A person commits the crime of harassment in the first degree if he or she[:

(1) Knowingly communicates a threat to commit any felony to another person and in so doing frightens, intimidates, or causes emotional distress to such other person; or

(2) When communicating with another person, knowingly uses coarse language offensive to one of average sensibility and thereby puts such person in reasonable apprehension of offensive physical contact or harm; or

(3) Knowingly frightens, intimidates, or causes emotional distress to another person by anonymously making a telephone call or any electronic communication; or

(4) Knowingly communicates with another person who is, or who purports to be, seventeen years of age or younger and in so doing and without good cause recklessly frightens, intimidates,

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or causes emotional distress to such other person; or

(5) Knowingly makes repeated unwanted communication to another person; or

(6) Without good cause engages in any other act with the purpose to frighten, intimidate, or cause emotional distress to another person, cause such person to be frightened, intimidated, or emotionally distressed, and such person's response to the act is one of a person of average sensibilities considering the age of such person**]**, without good cause, engages in any act with the purpose to cause emotional distress to another person, and such act does cause such person to suffer emotional distress.

2. The offense of harassment **[**is a class A misdemeanor unless:

(1) Committed by a person twenty-one years of age or older against a person seventeen years of age or younger; or

(2) The person has previously pleaded guilty to or been found guilty of a violation of this section, or of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, would be chargeable or indictable as a violation of any offense listed in this subsection. In such cases, harassment shall be a class D felony**]** in the first degree is a class E felony.

3. This section shall not apply to activities of federal, state, county, or municipal law enforcement officers conducting investigations of violation of federal, state, county, or municipal law.

565.091. 1. A person commits the offense of harassment in

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the second degree if he or she without good cause, engages in any act with the purpose to cause emotional distress to another person.

2. The offense of harassment in the second degree is a class A misdemeanor.

565.110. 1. A person commits the **[**crime**]** offense of kidnapping in the first degree if he or she unlawfully removes another person without his or her consent from the place where he or she is found or unlawfully confines another person without his or her consent for a substantial period, for the purpose of:

(1) Holding that person for ransom or reward, or for any other act to be performed or not performed for the return or release of that person; or

(2) Using the person as a shield or as a hostage; or

(3) Interfering with the performance of any governmental or political function; or

(4) Facilitating the commission of any felony or flight thereafter; or

(5) Inflicting physical injury on or terrorizing the victim or another.

2. The offense of kidnapping in the first degree is a class A felony unless committed under subdivision (4) or (5) of subsection 1 in which cases it is a class B felony.

565.115. 1. A person commits the **[**crime**]** offense of child kidnapping if **[**such person**]** he or she is not a relative of the child within the third degree and **[**such person:

(1) Unlawfully removes a child under the age of fourteen without the consent of such child's parent or guardian from the

place where such child is found; or

(2) Unlawfully confines a child under the age of fourteen without the consent of such child's parent or guardian**]**, knowing he or she has no right to do so, removes a child under the age of fourteen without consent of the child's parents or guardian, or confines such child for a substantial period of time without such consent.

2. In determining whether the child was removed or confined unlawfully, it is an affirmative defense that the person reasonably believed that the person's actions were necessary to preserve the child from danger to his or her welfare.

3. The offense of child kidnapping is a class **[**A**]** B felony, unless such child is under two years of age, in which case it is a class A felony.

565.120. 1. A person commits the **[**crime of felonious restraint**]** offense of kidnapping in the second degree if he or she knowingly restrains another unlawfully and without consent so as to interfere substantially with his or her liberty and exposes him or her to a substantial risk of serious physical injury.

2. **[**Felonious restraint is a class C felony**]** The offense of kidnapping in the second degree is a class D felony.

565.130. 1. A person commits the **[**crime of false imprisonment**]** offense of kidnapping in the third degree if he or she knowingly restrains another unlawfully and without consent so as to interfere substantially with his or her liberty.

2. **[**False imprisonment**]** The offense of kidnapping in the third degree is a class A misdemeanor unless the person unlawfully restrained is removed from this state, in which case

it is a class [D] E felony.

565.140. 1. A person does not commit [false imprisonment] the offense of kidnapping in the third degree under section 565.130 if the person restrained is a child [under the age of] less than seventeen years of age and:

(1) A parent, guardian or other person responsible for the general supervision of the child's welfare has consented to the restraint; or

(2) The [actor] person is a relative of the child; and

(a) The [actor's] person's sole purpose is to assume control of the child; and

(b) The child is not taken out of the state of Missouri.

2. For the purpose of this section, "relative" means a parent or stepparent, ancestor, sibling, uncle or aunt, including an adoptive relative of the same degree through marriage or adoption.

3. The defendant shall have the burden of injecting the issue of a defense under this section.

565.150. 1. A person commits the [crime] offense of interference with custody if, knowing that he or she has no legal right to do so, he or she takes or entices from legal custody any person entrusted by order of a court to the custody of another person or institution.

2. The offense of interference with custody is a class A misdemeanor unless the person taken or enticed away from legal custody is removed from this state, detained in another state or concealed, in which case it is a class [D] E felony.

3. Upon a finding of guilt for an offense under this

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section, the court may, in addition to or in lieu of any sentence or fine imposed, assess as restitution against the defendant and in favor of the legal custodian or parent, any reasonable expenses incurred by the legal custodian or parent in searching for or returning the child.

565.153. 1. In the absence of a court order determining rights of custody or visitation to a child, a person having a right of custody of the child commits the **[**crime**]** offense of parental kidnapping if he or she removes, takes, detains, conceals, or entices away that child within or without the state, without good cause, and with the intent to deprive the custody right of another person or a public agency also having a custody right to that child.

2. Parental kidnapping is a class **[**D**]** E felony, unless committed by detaining or concealing the whereabouts of the child for:

(1) Not less than sixty days but not longer than one hundred nineteen days, in which case, the **[**crime**]** offense is a class **[**C**]** D felony;

(2) Not less than one hundred twenty days, in which case, the **[**crime**]** offense is a class **[**B**]** C felony.

3. A subsequently obtained court order for custody or visitation shall not affect the application of this section.

4. Upon a finding of guilt for an offense under this section, the court may, in addition to or in lieu of any sentence or fine imposed, assess as restitution against the defendant and in favor of the legal custodian or parent, any reasonable expenses incurred by the legal custodian or parent in searching

for or returning the child.

565.156. 1. A person commits the **[**crime**]** offense of child abduction if he or she:

(1) Intentionally takes, detains, entices, conceals or removes a child from a parent after being served with process in an action affecting marriage or paternity but prior to the issuance of a temporary or final order determining custody; or

(2) At the expiration of visitation rights outside the state, intentionally fails or refuses to return or impedes the return of the child to the legal custodian in Missouri; or

(3) Conceals, detains, or removes the child for payment or promise of payment at the instruction of a person who has no legal right to custody; or

(4) Retains in this state for thirty days a child removed from another state without the consent of the legal custodian or in violation of a valid court order of custody; or

(5) Having legal custody of the child pursuant to a valid court order, removes, takes, detains, conceals or entices away that child within or without the state, without good cause, and with the intent to deprive the custody or visitation rights of another person, without obtaining written consent as is provided under section 452.377.

2. The offense of child abduction is a class **[**D**]** E felony.

3. Upon a finding of guilt for an offense under this section, the court may, in addition to or in lieu of any sentence or fine imposed, assess as restitution against the defendant and in favor of the legal custodian or parent, any reasonable expenses incurred by the legal custodian or parent in searching

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for or returning the child.

565.160. It shall be an absolute defense to the [crimes] offenses of interference with custody, parental kidnapping, and child abduction that:

(1) The person had custody of the child pursuant to a valid court order granting legal custody or visitation rights which existed at the time of the alleged violation, except that this defense is not available to persons charged with child abduction under subdivision (5) of subsection 1 of section 565.156;

(2) [The person had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond his or her control, and the person notified or made a reasonable attempt to notify the other parent or legal custodian of the child of such circumstances within twenty-four hours after the visitation period had expired and returned the child as soon as possible] After expiration of a period of custody or visitation granted by court order, the person failed to return the child as a result of circumstances beyond such person's control, and the person notified or made a reasonable attempt to notify the other parent or legal custodian of the child of such circumstance within twenty-four hours after the expiration of the period of custody or visitation and returned the child as soon as possible; or

(3) The person was fleeing an incident or pattern of domestic violence.

565.163. Persons accused of committing the [crime] offense of interference with custody, parental kidnapping or child

abduction [shall] may be prosecuted by the prosecuting attorney or circuit attorney:

(1) In the county in which the child was taken or enticed away from legal custody; or

(2) In any county in which the child who was taken or enticed away from legal custody was taken or held by the defendant; or

(3) The county in which lawful custody of the child taken or enticed away was granted; or

(4) The county in which the defendant is found.

565.184. 1. A person commits the [crime of elder abuse in the third degree] offense of abuse of an elderly or disabled person if he or she:

(1) [Knowingly causes or attempts to cause physical contact with any person sixty years of age or older or an eligible adult as defined in section 660.250, knowing the other person will regard the contact as harmful or provocative; or

(2)] Purposely engages in conduct involving more than one incident that causes [grave] emotional distress to [a person sixty years of age or older or an eligible adult, as defined in section 660.250] an elderly or disabled person. The course of conduct shall be such as would cause a reasonable [person age sixty years of age or older or an eligible adult, as defined in section 660.250,] elderly or disabled person to suffer substantial emotional distress; or

[(3) Purposely or knowingly places a person sixty years of age or older or an eligible adult, as defined in section 660.250, in apprehension of immediate physical injury; or

(4)] (2) Intentionally fails to provide care, goods or services to [a person sixty years of age or older or an eligible adult, as defined in section 660.250] an elderly or disabled person. The result of the conduct shall be such as would cause a reasonable [person age sixty or older or an eligible adult, as defined in section 660.250,] elderly or disabled person to suffer physical or emotional distress; or

[(5)] (3) Knowingly acts or knowingly fails to act in a manner which results in a [grave] substantial risk to the life, body or health of [a person sixty years of age or older or an eligible adult, as defined in section 660.250] an elderly or disabled person.

2. [Elder abuse in the third degree] The offense of abuse of an elderly or disabled person is a class A misdemeanor.

565.188. 1. [When any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist;

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social worker; or other person with responsibility for the care of a person sixty years of age or older has reasonable cause to suspect that such a person has been subjected to abuse or neglect or observes such a person being subjected to conditions or circumstances which would reasonably result in abuse or neglect, he or she shall immediately report or cause a report to be made to the department in accordance with the provisions of sections 660.250 to 660.295. Any other person who becomes aware of circumstances which may reasonably be expected to be the result of or result in abuse or neglect may report to the department.

2. Any person who knowingly fails to make a report as required in subsection 1 of this section is guilty of a class A misdemeanor.

3. Any person who purposely files a false report of elder abuse or neglect is guilty of a class A misdemeanor.

4. Every person who has been previously convicted of or pled guilty to making a false report to the department and who is subsequently convicted of making a false report under subsection 3 of this section is guilty of a class D felony.

5. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions**]** A person commits the offense of failure to report elder abuse or neglect if he or she is required to make a report as required under subdivision (2) of subsection 1 of section 197.1002, and knowingly fails to make a report.

2. The offense of failure to report elder abuse or neglect

is a class A misdemeanor.

565.189. 1. A person commits the offense of filing a false elder abuse or neglect report if he or she knowingly files a false report of elder abuse or neglect.

2. The offense of filing a false elder abuse or neglect report is a class A misdemeanor, unless the person has previously been found guilty of making a false report to the department and is subsequently found guilty of making a false report under this section, in which case it is a class E felony.

3. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

565.218. 1. [When any physician, physician assistant, dentist, chiropractor, optometrist, podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social worker, licensed professional counselor, certified substance abuse counselor, psychologist, physical therapist, pharmacist, other health practitioner, minister, Christian Science practitioner, facility administrator, nurse's aide or orderly in a residential facility, day program or specialized service operated, funded or licensed by the department or in a mental health facility or mental health program in which people may be admitted on a voluntary basis or are civilly detained pursuant to chapter 632; or employee of the departments of social services, mental health, or health and senior services; or home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services

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owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; mental health professional; peace officer; probation or parole officer; or other nonfamilial person with responsibility for the care of a vulnerable person, as defined by section 630.005, has reasonable cause to suspect that such a person has been subjected to abuse or neglect or observes such a person being subjected to conditions or circumstances that would reasonably result in abuse or neglect, he or she shall immediately report or cause a report to be made to the department in accordance with section 630.163. Any other person who becomes aware of circumstances which may reasonably be expected to be the result of or result in abuse or neglect may report to the department. Notwithstanding any other provision of this section, a duly ordained minister, clergy, religious worker, or Christian Science practitioner while functioning in his or her ministerial capacity shall not be required to report concerning a privileged communication made to him or her in his or her professional capacity**]** A person commits the offense of failure to report vulnerable person abuse or neglect if he or she is required to make a report under section 630.162 and knowingly fails to make a report.

2. **[**Any person who knowingly fails to make a report as required in subsection 1 of this section is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars**]** The offense of knowingly failing to make a report as required in this section is a class A misdemeanor and the offender shall be subject to a fine up to one thousand dollars, unless the offender has previously been found guilty of failing

to make a report as required in this section, in which case the offense is a class E felony and the offender shall be subject to a fine up to five thousand dollars. Penalties collected for violations of this section shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not be considered charitable for tax purposes.

[3. Every person who has been previously convicted of or pled guilty to failing to make a report as required in subsection 1 of this section and who is subsequently convicted of failing to make a report under subsection 2 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violation of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not be considered charitable for tax purposes.

4. Any person who knowingly files a false report of vulnerable person abuse or neglect is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not be considered charitable for tax purposes.

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5. Every person who has been previously convicted of or pled guilty to making a false report to the department and who is subsequently convicted of making a false report under subsection 4 of this section is guilty of a class D felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

6. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

7. Any residential facility, day program or specialized service operated, funded or licensed by the department that prevents or discourages a patient, resident or client, employee or other person from reporting that a patient, resident or client of a facility, program or service has been abused or neglected shall be subject to loss of their license issued pursuant to sections 630.705 to 630.760, and civil fines of up to five thousand dollars for each attempt to prevent or discourage reporting.**]**

565.222. 1. A person commits the offense of filing a false vulnerable abuse report if he or she knowingly files a false report of vulnerable person abuse or neglect.

2. The offense of filing a false report of vulnerable person abuse or neglect is a class A misdemeanor and the offender

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shall be subject to a fine up to one thousand dollars, unless the offender has previously been found guilty of making a false report to the department, in which case the offense is a class E felony and the offender shall be subject to a fine up to five thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not be considered charitable for tax purposes.

3. Evidence of prior findings of guilt under this section shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

565.225. 1. **[**As used in this section, the following terms shall mean:

(1) "Course of conduct", a pattern of conduct composed of two or more acts, which may include communication by any means, over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of course of conduct. Such constitutionally protected activity includes picketing or other organized protests;

(2) "Credible threat", a threat communicated with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety, or the safety of his or her family, or household members or domestic animals or livestock as defined in section 276.606 kept at such person's residence or

on such person's property. The threat must be against the life of, or a threat to cause physical injury to, or the kidnapping of, the person, the person's family, or the person's household members or domestic animals or livestock as defined in section 276.606 kept at such person's residence or on such person's property;

(3) "Harasses", to engage in a course of conduct directed at a specific person that serves no legitimate purpose, that would cause a reasonable person under the circumstances to be frightened, intimidated, or emotionally distressed.

2.**]** A person commits the **[**crime**]** offense of stalking in the first degree if he or she purposely, through his or her course of conduct, **[**harasses**]** disturbs or follows with the intent of **[**harassing**]** disturbing another person**[**.

3. A person commits the crime of aggravated stalking if he or she purposely, through his or her course of conduct, harasses or follows with the intent of harassing another person,**]** and:

(1) Makes a **[**credible**]** threat communicated with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety, or the safety of his or her family, or household member or domestic animals or livestock, as defined in section 276.606, kept at such person's residence or on such person's property. The threat shall be against the life of, or a threat to cause physical injury to, or the kidnapping of the person, the person's family, or the person's household members or domestic animals or livestock, as defined in section 276.606, kept at such person's residence or on such person's property; or

(2) At least one of the acts constituting the course of

conduct is in violation of an order of protection and the person has received actual notice of such order; or

(3) At least one of the actions constituting the course of conduct is in violation of a condition of probation, parole, pretrial release, or release on bond pending appeal; or

(4) At any time during the course of conduct, the other person is seventeen years [of age] old or younger and the person [harassing] disturbing the other person is twenty-one years [of age] old or older; or

(5) He or she has previously pleaded guilty to or been found guilty of domestic assault, violation of an order of protection, or any other crime where the other person was the victim.

[4. The crime of stalking shall be a class A misdemeanor unless the person has previously pleaded guilty to or been found guilty of a violation of this section, or of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, would be chargeable or indictable as a violation of any offense listed in this section, in which case stalking shall be a class D felony.

5. The crime of aggravated stalking shall be a class D felony unless the person has previously pleaded guilty to or been found guilty of a violation of this section, or of any offense committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which, if committed in this state, would be chargeable or indictable as a violation of any offense listed in this section,

aggravated stalking shall be a class C felony.

6.] 2. Any law enforcement officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this section.

[7.] 3. This section shall not apply to activities of federal, state, county, or municipal law enforcement officers conducting investigations of violation of federal, state, county, or municipal law.

4. The offense of stalking in the first degree is a class E felony, unless the defendant has previously been found guilty of a violation of this section or section 565.227, or any offense committed in another jurisdiction which, if committed in this state, would be chargeable or indictable as a violation of any offense listed in this section or section 565.227, in which case stalking in the first degree is a class D felony.

565.227. 1. A person commits the offense of stalking in the second degree if he or she purposely, through his or her course of conduct, disturbs, or follows with the intent of disturbing another person.

2. This section shall not apply to activities of federal, state, county, or municipal law enforcement officers conducting investigations of violation of federal, state, county, or municipal law.

3. Any law enforcement officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this section.

4. The offense of stalking in the second degree is a class A misdemeanor, unless the defendant has previously been found

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guilty of a violation of this section or section 565.225, or of any offense committed in another jurisdiction which, if committed in this state, would be chargeable or indictable as a violation of any offense listed in this section or section 565.225, in which case stalking in the second degree is a class E felony.

[578.450. No person shall**]** 565.240. 1. A person commits the offense of unlawful posting of certain information over the internet if he or she knowingly **[**post**]** posts the name, home address, Social Security number, or telephone number of any person on the Internet intending to cause great bodily harm or death, or threatening to cause great bodily harm or death to such person. **[**Any person who violates this section is guilty of a class C misdemeanor.**]**

2. The offense of unlawful posting of certain information over the internet is a class C misdemeanor.

565.252. 1. A person commits the **[**crime**]** offense of invasion of privacy in the first degree if **[**such person**]** he or she knowingly:

(1) **[**Knowingly**]** Photographs **[**or**]**, films, videotapes, produces, or otherwise creates an image of another person, without the person's **[**knowledge and**]** consent, while the person **[**being photographed or filmed**]** is in a state of full or partial nudity and is in a place where one would have a reasonable expectation of privacy**[**, and the**]**; or

(2) Photographs, films, videotapes, produces, or otherwise creates an image of another person under or through the clothing worn by that other person for the purpose of viewing the body of or the undergarments worn by that other person without that

person's consent.

2. Invasion of privacy is a class A misdemeanor unless:

(1) A person [subsequently] who creates an image in violation of this section distributes the [photograph or film] image to another or transmits the image [contained in the photograph or film] in a manner that allows access to that image via [a] computer; or

(2) [Knowingly] A person disseminates or permits the dissemination by any means, to another person, of a videotape, photograph, or film obtained in violation of [subdivision (1) of this subsection or in violation of section 565.253.

2. Invasion of privacy in the first degree is a class D felony] this section; or

(3) More than one person is viewed, photographed, filmed or videotaped during the same course of conduct; or

(4) The offense was committed by a person who has previously been found guilty of invasion of privacy;

in which case invasion of privacy is a class E felony.

3. Prior findings of guilt shall be pled and proven in the same manner required by the provisions of section 558.021.

4. As used in this section, "same course of conduct" means more than one person has been viewed, photographed, filmed, or videotaped under the same or similar circumstances pursuant to one scheme or course of conduct, whether at the same or different times.

565.300. 1. This section shall be known and may be cited as the "Infant's Protection Act".

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2. As used in this section, and only in this section, the following terms shall mean:

(1) "Born", complete separation of an intact child from the mother regardless of whether the umbilical cord is cut or the placenta detached;

(2) "Living infant", a human child, born or partially born, who is alive, as determined in accordance with the usual and customary standards of medical practice and is not dead as determined pursuant to section 194.005, relating to the determination of the occurrence of death, and has not attained the age of thirty days post birth;

(3) "Partially born", partial separation of a child from the mother with the child's head intact with the torso. If vaginally delivered, a child is partially separated from the mother when the head in a cephalic presentation, or any part of the torso above the navel in a breech presentation, is outside the mother's external cervical os. If delivered abdominally, a child is partially separated from the mother when the child's head in a cephalic presentation, or any part of the torso above the navel in a breech presentation, is outside the mother's external abdominal wall.

3. A person **[**is guilty of the crime**]** commits the offense of infanticide if **[**such person**]** he or she causes the death of a living infant with the purpose to cause said death by an overt act performed when the infant is partially born or born.

4. The **[**crime**]** offense of infanticide **[**shall be**]** is a class A felony.

5. A physician using procedures consistent with the usual

and customary standards of medical practice to save the life of the mother during pregnancy or birth or to save the life of any unborn or partially born child of the same pregnancy shall not be criminally responsible under this section. In no event shall the mother be criminally responsible pursuant to this section for the acts of the physician if the physician is not held criminally responsible pursuant to this section.

6. This section shall not apply to any person who performs or attempts to perform a legal abortion if the act that causes the death is performed prior to the child being partially born, even though the death of the child occurs as a result of the abortion after the child is partially born.

7. Only that person who performs the overt act required under subsection 3 of this section shall be culpable under this section, unless a person, with the purpose of committing infanticide, does any act which is a substantial step towards the commission of the offense which results in the death of the living infant. A "substantial step" is conduct which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense.

8. Nothing in this section shall be interpreted to exclude the defenses otherwise available to any person under the law including defenses provided pursuant to chapters 562 and 563.

566.010. As used in this chapter and chapter 568, the following terms mean:

(1) "Aggravated sexual offense", any sexual offense, in the course of which, the actor:

(a) Inflicts serious physical injury on the victim; or

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(b) Displays a deadly weapon or dangerous instrument in a threatening manner; or

(c) Subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person; or

(d) Had previously been found guilty of an offense under this chapter or under section 573.200, child used in sexual performance; section 573.205, promoting sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography; or section 573.040, furnishing pornographic materials to minors; or has previously been found guilty of an offense in another jurisdiction which would constitute an offense under this chapter or said sections; or

(e) Commits the offense as part of an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity;

(2) "Commercial sex act", any sex act on account of which anything of value is given to or received by any person;

(3) "Deviate sexual intercourse", any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the **[**male or female sex organ**]** penis or vagina or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;

(4) "Forced labor", a condition of servitude induced by

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means of:

(a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that, if the person does not enter into or continue the servitude, such person or another person will suffer substantial bodily harm or physical restraint; or

(b) The abuse or threatened abuse of the legal process;

[(2)**]** (5) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;

[(3)**]** (6) "Sexual contact", any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;

[(4)**]** (7) "Sexual intercourse", any penetration, however slight, of the **[**female sex organ by the male sex organ, whether or not an emission results**]** vagina by the penis.

566.020. 1. Whenever in this chapter the criminality of conduct depends upon a victim's being incapacitated, no **[**crime**]** offense is committed if the actor reasonably believed that the victim was not incapacitated and reasonably believed that the victim consented to the act. The defendant shall have the burden of injecting the issue of belief as to capacity and consent.

2. Whenever in this chapter the criminality of conduct depends upon a child being **[**thirteen years of age or younger**]** less than fourteen years of age, it is no defense that the defendant believed the child to be older.

3. Whenever in this chapter the criminality of conduct

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depends upon a child being [under seventeen years of age] less than seventeen years of age, it is an affirmative defense that the defendant reasonably believed that the child was seventeen years of age or older.

4. Consent is not [an affirmative] a defense to any offense under this chapter [566] if the alleged victim is less than [twelve] fourteen years of age.

566.023. It shall be an affirmative defense to prosecutions pursuant to [sections] section 566.032, statutory rape in the first degree; section 566.034, statutory rape in the second degree; section 566.062, statutory sodomy in the first degree; section 566.064, statutory sodomy in the second degree; section 566.067, child molestation in the first degree; section 566.068, [and 566.090] child molestation in the second degree; section 566.069, child molestation in the third degree; section 566.071, child molestation in the fourth degree; section 566.083, sexual misconduct involving a child; section 566.086, sexual contact with a student; and section 573.040, furnishing pornographic materials to minors; that the defendant was married to the victim at the time of the offense.

566.030. 1. A person commits the [crime] offense of [forcible] rape in the first degree if [such person] he or she has sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. [Forcible] The offense of rape in the first degree or an

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attempt to commit [forcible] rape in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) [In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person] The offense is an aggravated sexual offense, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than fifteen years;

(2) The person is a persistent or predatory sexual offender as defined in section 566.125 and subjected to an extended term of imprisonment under said section;

(3) The victim is a child less than twelve years [of age] old, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the [defendant] offender has served not less than thirty years of such sentence or unless the [defendant] offender has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such [forcible] rape in the first degree is described under subdivision [(3)] (4) of this subsection; or

[(3)] (4) The victim is a child less than twelve years [of age] old and such [forcible] rape in the first degree or attempt to commit rape in the first degree was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

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3. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has [pleaded guilty to or has] been found guilty of [forcible] rape in the first degree or attempt to commit rape in the first degree when the victim is [under the age of] less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

4. No person found guilty of [or pleading guilty to forcible] rape in the first degree or an attempt to commit [forcible] rape in the first degree shall be granted a suspended imposition of sentence or suspended execution of sentence.

[566.040.] 566.031. 1. A person commits the [crime] offense of [sexual assault] rape in the second degree if he or she has sexual intercourse with another person knowing that he or she does so without that person's consent.

2. [Sexual assault] The offense of rape in the second degree is a class [C] D felony.

566.032. 1. A person commits the [crime] offense of statutory rape in the first degree if he or she has sexual intercourse with another person who is less than fourteen years [old] of age.

2. The offense of statutory rape in the first degree or an attempt to commit statutory rape in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless [in the course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner, subjects the victim to sexual

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intercourse or deviate sexual intercourse with more than one person**]**:

(1) The offense is an aggravated sexual offense, or the victim is less than twelve years **[**of age**]** old in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years;

(2) The person is a persistent or predatory sexual offender as defined in section 566.125 and subjected to an extended term of imprisonment under said section.

566.034. 1. A person commits the **[**crime**]** offense of statutory rape in the second degree if being twenty-one years **[**of age**]** old or older, he or she has sexual intercourse with another person who is less than seventeen years **[**of age**]** old.

2. The offense of statutory rape in the second degree is a class **[**C**]** D felony.

566.060. 1. A person commits the **[**crime**]** offense of **[**forcible**]** sodomy in the first degree if **[**such person**]** he or she has deviate sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. **[**Forcible**]** The offense of sodomy in the first degree or an attempt to commit **[**forcible**]** sodomy in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) **[**In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous

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instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person**]** The offense is an aggravated sexual offense, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years; or

(2) The person is a persistent or predatory sexual offender as defined in section 566.125 and subjected to an extended term of imprisonment under said section; or

(3) The victim is a child less than twelve years **[**of age**]** old, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the **[**defendant**]** offender has served not less than thirty years of such sentence or unless the **[**defendant**]** offender has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such **[**forcible**]** sodomy in the first degree is described under subdivision **[**(3)**]** (4) of this subsection; or

[(3)**]** (4) The victim is a child less than twelve years **[**of age**]** old and such **[**forcible**]** sodomy in the first degree or attempt to commit sodomy in the first degree was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has **[**pleaded guilty to or has**]** been found guilty of **[**forcible**]** sodomy in the first degree or an attempt to commit sodomy in the first degree when the victim is

[under the age of] less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

4. No person found guilty of [or pleading guilty to forcible] sodomy in the first degree or an attempt to commit forcible sodomy shall be granted a suspended imposition of sentence or suspended execution of sentence.

[566.070.] 566.061. 1. A person commits the [crime of deviate sexual assault] offense of sodomy in the second degree if he or she has deviate sexual intercourse with another person knowing that he or she does so without that person's consent.

2. [Deviate sexual assault] The offense of sodomy in the second degree is a class [C] D felony.

566.062. 1. A person commits the [crime] offense of statutory sodomy in the first degree if he or she has deviate sexual intercourse with another person who is less than fourteen years [old] of age.

2. The offense of statutory sodomy in the first degree or an attempt to commit statutory sodomy in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless [in the course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner, subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person,]:

(1) The offense is an aggravated sexual offense or the victim is less than twelve years of age, in which case the

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authorized term of imprisonment is life imprisonment or a term of years not less than ten years; or

(2) The person is a persistent or predatory sexual offender as defined in section 566.125 and subjected to an extended term of imprisonment under said section.

566.064. 1. A person commits the [crime] offense of statutory sodomy in the second degree if being twenty-one years [of age] old or older, he or she has deviate sexual intercourse with another person who is less than seventeen years [of age] old.

2. The offense of statutory sodomy in the second degree is a class [C] D felony.

566.067. 1. A person commits the [crime] offense of child molestation in the first degree if he or she subjects another person who is less than [fourteen] twelve years of age to sexual contact and the offense is an aggravated sexual offense.

2. The offense of child molestation in the first degree is a class [B] A felony [unless:

(1) The actor has previously been convicted of an offense under this chapter or in the course thereof the actor inflicts serious physical injury, displays a deadly weapon or deadly instrument in a threatening manner, or the offense is committed as part of a ritual or ceremony, in which case the crime is a class A felony; or

(2) The victim is a child less than twelve years of age and:

(a) The actor has previously been convicted of an offense under this chapter; or

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(b) In the course thereof the actor inflicts serious physical injury, displays a deadly weapon or deadly instrument in a threatening manner, or if the offense is committed as part of a ritual or ceremony, in which case, the crime is a class A felony and such person shall serve his or her term of imprisonment without eligibility for probation or parole**]**.

566.068. 1. A person commits the **[**crime**]** offense of child molestation in the second degree if he or she:

(1) Subjects **[**another person**]** a child who is less than **[**seventeen**]** twelve years of age to sexual contact; or

(2) Being twenty-one years of age or older, subjects a child who is less than seventeen years of age to sexual contact and the offense is an aggravated sexual offense.

2. The offense of child molestation in the second degree is a class **[**A misdemeanor unless the actor has previously been convicted of an offense under this chapter or in the course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner, or the offense is committed as part of a ritual or ceremony, in which case the crime is a class D**]** B felony.

566.069. 1. A person commits the offense of child molestation in the third degree if he or she subjects a child who is less than fourteen years of age to sexual contact.

2. The offense of child molestation in the third degree is a class C felony, unless committed by the use of forcible compulsion, in which case it is a class B felony.

566.071. 1. A person commits the offense of child molestation in the fourth degree if, being twenty-one years of

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age or older, such person subjects another person who is less than seventeen years of age to sexual contact.

2. The offense of child molestation in the fourth degree is a class D felony.

566.083. 1. A person commits the [crime] offense of sexual misconduct involving a child if [the] such person:

(1) Knowingly exposes his or her genitals to a child less than [fifteen] fourteen years of age under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm to the child;

(2) Knowingly exposes his or her genitals to a child less than [fifteen] fourteen years of age for the purpose of arousing or gratifying the sexual desire of any person, including the child; or

(3) Knowingly coerces or induces a child less than [fifteen] fourteen years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person, including the child.

2. The provisions of this section shall apply regardless of whether the person violates the section in person or via the Internet or other electronic means.

3. It is not [an affirmative] a defense to prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

4. The offense of sexual misconduct involving a child [or attempted sexual misconduct involving a child] is a class [D] E felony unless the [actor] person has previously [pleaded guilty to or] been found guilty of an offense pursuant to this chapter

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or the [actor] person has previously [pleaded] been found guilty [to or has been convicted] of an offense [against the laws of another state or] in another jurisdiction which would constitute an offense under this chapter, in which case it is a class [C] D felony.

566.086. 1. A person commits the [crime] offense of sexual contact with a student if he or she has sexual contact with a student of the [public] school and is:

(1) A teacher, as that term is defined in subdivisions (4), (5), and (7) of section 168.104;

(2) A student teacher; or

(3) An employee of the school; or

(4) A volunteer of the school or of an organization working with the school on a project or program who is not a student at the public school; or

(5) An elected or appointed official of the [public] school district; or

(6) A person employed by an entity that contracts with the [public] school or school district to provide services.

2. For the purposes of this section, "school" shall mean any public or private school in this state serving kindergarten through grade twelve or any school bus used by the school district.

3. The offense of sexual contact with a student is a class [D] E felony.

4. It is not a defense to prosecution for a violation of this section that the student consented to the sexual contact.

566.090. 1. A person commits the [crime] offense of sexual

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[misconduct] abuse in the [first] second degree if [such person] he or she purposely subjects another person to sexual contact without that person's consent.

2. The offense of sexual [misconduct] abuse in the [first] second degree is a class A misdemeanor, unless [the actor has previously been convicted of an offense under this chapter or unless in the course thereof the actor displays a deadly weapon in a threatening manner or the offense is committed as a part of a ritual or ceremony] it is an aggravated sexual offense, in which case it is a class [D] E felony.

566.093. 1. A person commits the [crime] offense of sexual misconduct in the [second] first degree if such person:

(1) Exposes his or her genitals under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm;

(2) Has sexual contact in the presence of a third person or persons under circumstances in which he or she knows that such conduct is likely to cause affront or alarm; or

(3) Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person.

2. The offense of sexual misconduct in the [second] first degree is a class B misdemeanor unless the [actor] person has previously been [convicted] found guilty of an offense under this chapter, or has previously been found guilty of an offense in another jurisdiction which would constitute an offense under this chapter, in which case it is a class A misdemeanor.

566.095. 1. A person commits the [crime] offense of sexual misconduct in the [third] second degree if he or she solicits or

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requests another person to engage in sexual conduct under circumstances in which he or she knows that [his requests] such request or solicitation is likely to cause affront or alarm.

2. The offense of sexual misconduct in the [third] second degree is a class C misdemeanor.

566.100. 1. A person commits the [crime] offense of sexual abuse in the first degree if he or she subjects another person to sexual contact by the use of forcible compulsion.

2. The offense of sexual abuse in the first degree is a class C felony unless [in the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual contact with more than one person or] the victim is less than fourteen years of age, or it is an aggravated sexual offense, in which case [the crime] it is a class B felony.

566.111. 1. A person commits the [crime] offense of [unlawful] sex with an animal if [that person] he or she engages in sexual conduct with an animal [or engages in sexual conduct with an animal for commercial or recreational purposes].

2. [Unlawful] The offense of sex with an animal is a class A misdemeanor unless the [defendant] person has previously been [convicted] found guilty of an offense under this section or has previously been found guilty of an offense in another jurisdiction which would constitute an offense under this section, in which case the [crime] offense is a class [D] E felony.

3. In addition to any penalty imposed or as a condition of probation the court may:

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(1) Prohibit the [defendant] offender from harboring animals or residing in any household where animals are present during the period of probation [or if probation is not granted for a period of time not to exceed two years after the defendant's sentence is completed]; or

(2) Order all animals in the [defendant's] offender's possession subject to a civil forfeiture action under chapter 513; or

(3) Order psychological evaluation and counseling of the [defendant] offender at the [defendant's] offender's expense.

4. Nothing in this section shall be construed to prohibit generally accepted animal husbandry, farming and ranching practices or generally accepted veterinary medical practices.

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

(1) "Animal", every creature, either alive or dead, other than a human being;

(2) "Sexual conduct with an animal", any touching of an animal with the genitals or any touching of the genitals or anus of an animal for the purpose of arousing or gratifying the person's sexual desire.

566.115. 1. A person commits the offense of sexual conduct with a nursing facility resident in the first degree if he or she, being an owner or employee of a skilled nursing facility, as defined in section 198.006, or an Alzheimer's special care unit or program, as defined in section 198.505, has sexual intercourse or deviate sexual intercourse with a resident.

2. The offense of sexual conduct with a nursing facility resident in the first degree is a class A misdemeanor. Any

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second or subsequent violation of this section is a class E felony.

3. The provisions of this section shall not apply to an owner or employee of a skilled nursing facility or Alzheimer's special care unit or program who engages in sexual conduct with a resident to whom the owner or employee is married.

4. Consent of the victim is not a defense to a prosecution under this section.

[565.200.**]** 566.116. 1. **[**Any owner or employee of a skilled nursing facility, as defined in section 198.006, or an Alzheimer's special unit or program, as defined in section 198.505, who:

(1)**]** A person commits the offense of sexual conduct with a nursing facility resident in the second degree if he or she, being an owner or employee of a skilled nursing facility as defined in section 198.006, or an Alzheimer's special care unit program as defined in section 198.505 if he or she has sexual contact, as defined in section 566.010, with a resident **[**is guilty of a class B misdemeanor. Any person who commits a second or subsequent violation of this subdivision is guilty of a class A misdemeanor; or

(2) Has sexual intercourse or deviate sexual intercourse, as defined in section 566.010, with a resident is guilty of a class A misdemeanor. Any person who commits a second or subsequent violation of this subdivision is guilty of a class D felony**]**.

2. The offense of sexual conduct with a nursing facility resident in the second degree is a class B misdemeanor. Any

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second or subsequent violation of this section is a class A misdemeanor.

3. The provisions of this section shall not apply to an owner or employee of a skilled nursing facility or Alzheimer's special unit or program who engages in sexual conduct, as defined in section 566.010, with a resident to whom the owner or employee is married.

[3.**]** 4. Consent of the victim is not a defense to a prosecution pursuant to this section.

[558.018.**]** 566.125. 1. The court shall sentence a person **[**who has pleaded guilty to or**]** to an extended term of imprisonment if it finds the defendant is a persistent sexual offender and has been found guilty of **[**the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes designated in this subsection to an extended term of imprisonment if it finds the defendant is a persistent sexual offender**]** attempting to commit or committing the following offenses:

(1) Statutory rape in the first degree or statutory sodomy in the first degree;

(2) Rape in the first degree or sodomy in the first degree attempted or committed on or after August 28, 2012;

(3) Forcible rape committed or attempted any time during the period of August 13, 1980 to August 27, 2012;

(4) Forcible sodomy committed or attempted any time during the period of January 1, 1995 to August 27, 2012;

(5) Rape committed or attempted before August 13, 1980;

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(6) Sodomy committed or attempted before January 1, 1995.

2. A "persistent sexual offender" is one who has previously [pleaded guilty to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes designated in this subsection] been found guilty of attempting to commit or committing any of the offenses listed in subsection 1 of this section, or one who has been previously been found guilty of an offense in any other jurisdiction which would constitute any of the offenses listed in subsection 1 of this section.

3. The term of imprisonment for one found to be a persistent sexual offender shall be imprisonment for life without eligibility for probation or parole. Subsection 4 of section 558.019 shall not apply to any person imprisoned under this subsection, and "imprisonment for life" shall mean imprisonment for the duration of the person's natural life.

4. The court shall sentence a person [who has pleaded guilty to or has] to an extended term of imprisonment as provided for in this section if it finds the defendant is a predatory sexual offender and has been found guilty of [the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes or] committing or attempting to commit any of the offenses listed in subsection 1 of this section or committing child molestation in the first or second degree when [classified as a class B felony or sexual abuse when] the offense of child molestation is classified as a class A or B

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felony [to an extended term of imprisonment as provided for in this section if it finds the defendant is a predatory sexual offender] or sexual abuse when the offense is classified as a class B felony.

5. For purposes of this section, a "predatory sexual offender" is a person who:

(1) Has previously [pleaded guilty to or has] been found guilty of [the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes or] committing or attempting to commit any of the offenses listed in subsection 1 of this section, or committing child molestation in the first or second degree when the offense of child molestation is classified as a class A or B felony or sexual abuse when classified as a class B felony; or

(2) Has previously committed an act which would constitute an offense listed in subsection 4 of this section, whether or not the act resulted in a conviction; or

(3) Has committed an act or acts against more than one victim which would constitute an offense or offenses listed in subsection 4 of this section, whether or not the defendant was charged with an additional offense or offenses as a result of such act or acts.

6. A person found to be a predatory sexual offender shall be imprisoned for life with eligibility for parole, however subsection 4 of section 558.019 shall not apply to persons found to be predatory sexual offenders for the purposes of determining the minimum prison term or the length of sentence as defined or

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used in such subsection. Notwithstanding any other provision of law, in no event shall a person found to be a predatory sexual offender receive a final discharge from parole.

7. Notwithstanding any other provision of law, the court shall set the minimum time required to be served before a predatory sexual offender is eligible for parole, conditional release or other early release by the department of corrections. The minimum time to be served by a person found to be a predatory sexual offender who:

(1) Has previously **[**pleaded guilty to or has**]** been found guilty of **[**the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree or an attempt to commit any of the preceding crimes**]** committing or attempting to commit any of the offenses listed in subsection 1 of this section and is found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section shall be any number of years but not less than thirty years;

(2) Has previously **[**pleaded guilty to or has**]** been found guilty of child molestation in the first or second degree when the offense of child molestation is classified as a class A or B felony or sexual abuse when classified as a class B felony and **[**pleads guilty to or**]** is found guilty of attempting to commit or committing **[**forcible rape, statutory rape in the first degree, forcible sodomy or statutory sodomy in the first degree**]** any of

the offenses listed in subsection 1 of this section shall be any number of years but not less than fifteen years;

(3) Has previously **[**pleaded guilty to or has**]** been found guilty of **[**the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found guilty of**]** committing or attempting to commit any of the offenses listed in subsection 1 of this section, or committing child molestation in the first or second degree when classified as a class A or B felony or sexual abuse when classified as a class B felony shall be any number of years but not less than fifteen years;

(4) Has previously **[**pleaded guilty to or has**]** been found guilty of child molestation in the first or second degree when the offense is classified as a class A or B felony or sexual abuse when classified as a class B felony, and **[**pleads guilty to or**]** is found guilty of child molestation in the first or second degree when classified as a class A or B felony or sexual abuse when classified as a class B felony shall be any number of years but not less than fifteen years;

(5) Is found to be a predatory sexual offender pursuant to subdivision (2) or (3) of subsection 5 of this section shall be any number of years within the range to which the person could have been sentenced pursuant to the applicable law if the person was not found to be a predatory sexual offender.

8. Notwithstanding any provision of law to the contrary, the department of corrections, or any division thereof, may not furlough an individual found to be and sentenced as a persistent

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sexual offender or a predatory sexual offender.

566.145. 1. A person commits the [crime] offense of sexual [contact] conduct with a prisoner or offender if he or she:

(1) [Such person] Is an employee of, or assigned to work in, any jail, prison or correctional facility and [such person has] engages in sexual [intercourse or deviate sexual intercourse] conduct with a prisoner or an offender who is confined in a jail, prison, or correctional facility; or

(2) [Such person] Is a probation and parole officer and [has sexual intercourse or deviate sexual intercourse] engages in sexual conduct with an offender who is under the direct supervision of the officer.

2. For the purposes of this section the following terms shall mean:

(1) "Offender", includes any person in the custody of a prison or correctional facility and any person who is under the supervision of the state board of probation and parole;

(2) "Prisoner", includes any person who is in the custody of a jail, whether pretrial or after disposition of a charge.

3. The offense of sexual [contact] conduct with a prisoner or offender is a class [D] E felony.

4. Consent of a prisoner or offender is not [an affirmative] a defense.

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

(1) Violating any of the provisions of this chapter or the provisions of [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 573.200, use of a child in a sexual performance; section [568.090] 573.205, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography, or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other [state or foreign country, or under federal, tribal, or military] jurisdiction which, if committed in this state, would be a violation listed in this section; shall not reside within one thousand feet of any public school as defined in section 160.011, any private school giving instruction in a grade or grades not higher than the twelfth grade, or any child care facility that is licensed under chapter 210, or any child care facility as defined in section 210.201 that is exempt from state licensure but subject to state regulation under section 210.252 and holds itself out to be a child care facility, where the school or facility is in existence at the time the individual begins to reside at the location.

2. If such person has already established a residence and a public school, a private school, or child care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, private school, or child care facility, notify the county sheriff where such public school, private school, or child care facility is located that he or she

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is now residing within one thousand feet of such public school, private school, or child care facility and shall provide verifiable proof to the sheriff that he or she resided there prior to the opening of such public school, private school, or child care facility.

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

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

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

(1) Violating any of the provisions of this chapter or the provisions of **[**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 573.200, use of a child in a sexual performance; section **[**568.090**]** 573.205, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography in the first degree; section 573.035, promoting child pornography in the second degree; section 573.037, possession of child pornography, or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other **[**state or foreign country, or

under federal, tribal, or military] jurisdiction which, if committed in this state, would be a violation listed in this section; shall not knowingly be physically present in or loiter within five hundred feet of or to approach, contact, or communicate with any child under eighteen years of age in any child care facility building, on the real property comprising any child care facility when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building or on the grounds.

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

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

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

(1) Violating any of the provisions of this chapter or the provisions [of 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] 573.200, use of a child in a sexual performance; section [568.090] 573.205, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography; or section 573.040, furnishing pornographic material to minors; or

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(2) Any offense in any other [state or foreign country, or under tribal, federal, or military] jurisdiction which, if committed in this state, would be a violation listed in this section; shall not be present in or loiter within five hundred feet of any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building and has met the conditions set forth in subsection 2 of this section.

2. No parent, legal guardian, or custodian who has [pleaded guilty or nolo contendere to, or been convicted of, or] been found guilty of violating any of the offenses listed in subsection 1 of this section shall be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds or in the conveyance unless the parent, legal guardian, or custodian has permission to be present from the superintendent or school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Permission may be granted by the superintendent, school board, or in the case of a private school

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from the principal for more than one event at a time, such as a series of events, however, the parent, legal guardian, or custodian must obtain permission for any other event he or she wishes to attend for which he or she has not yet had permission granted.

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

566.150. 1. Any person who has **[**pleaded guilty to, or been convicted of, or**]** been found guilty of:

(1) Violating any of the provisions of this chapter or the provisions of **[**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**]** 573.200, use of a child in a sexual performance; section **[**568.090**]** 573.205, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography; or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other **[**state or foreign country, or under federal, tribal, or military**]** jurisdiction which, if committed in this state, would be a violation listed in this section; shall not knowingly be present in or loiter within five hundred feet of any real property comprising any public park with playground equipment or a public swimming pool.

2. The first violation of the provisions of this section **[**shall be**]** is a class **[**D**]** E felony.

3. A second or subsequent violation of this section **[**shall

be] is a class [C] D felony.

566.151. 1. A person [at least] twenty-one years [of age] old or older commits the [crime] offense of enticement of a child if [that person] he or she persuades, solicits, coaxes, entices, or lures whether by words, actions or through communication via the Internet or any electronic communication, any person who is less than [fifteen] fourteen years of age for the purpose of engaging in sexual conduct.

2. It is not [an affirmative] a defense to a prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

3. Enticement of a child or an attempt to commit enticement of a child is a felony for which the authorized term of imprisonment shall be not less than five years and not more than thirty years. No person convicted under this section shall be eligible for parole, probation, conditional release, or suspended imposition or execution of sentence for a period of five calendar years.

566.153. 1. A person commits the [crime] offense of age misrepresentation with intent to solicit a minor when he or she knowingly misrepresents his or her age with the intent to use the Internet or any electronic communication to engage in criminal sexual conduct involving a minor.

2. The offense of age misrepresentation with intent to solicit a minor is a class [D] E felony.

566.155. 1. Any person who has [pleaded guilty to, or been convicted of, or] been found guilty of:

(1) Violating any of the provisions of this chapter or the

provisions [of 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] 573.200, use of a child in a sexual performance; section [568.090] 573.205, promoting a sexual performance by a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child pornography; or section 573.040, furnishing pornographic material to minors; or

(2) Any offense in any other [state or foreign country, or under federal, tribal, or military] jurisdiction which, if committed in this state, would be a violation listed in this section; shall not serve as an athletic coach, manager, or athletic trainer for any sports team in which a child less than seventeen years [of age] old is a member.

2. The first violation of the provisions of this section [shall be] is a class [D] E felony.

3. A second or subsequent violation of this section [shall be] is a class [C] D felony.

566.203. 1. A person commits the [crime] offense of abusing an individual through forced labor by knowingly providing or obtaining the labor or services of a person:

(1) By causing or threatening to cause serious physical injury to any person;

(2) By physically restraining or threatening to physically restrain another person;

(3) By blackmail;

(4) By means of any scheme, plan, or pattern of behavior intended to cause such person to believe that, if the person does not perform the labor services, the person or another person will

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suffer serious physical injury, physical restraint, or financial harm; or

(5) By means of the abuse or threatened abuse of the law or the legal process.

2. A person who **[**pleads guilty to or**]** is found guilty of the crime of abuse through forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless such person is otherwise required to register pursuant to the provisions of such section.

3. The **[**crime**]** offense of abuse through forced labor is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred fifty thousand dollars. If death results from a violation of this section, or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony, or an attempt to commit sexual abuse when punishable as a class B felony, or an attempt to kill, it shall be punishable for a term of years not less than five years or life and a fine not to exceed two hundred fifty thousand dollars.

566.206. 1. A person commits the **[**crime**]** offense of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor if **[**a person**]** he or she knowingly recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, another person for labor or services, for the purposes of slavery, involuntary servitude, peonage, or forced labor, or benefits, financially or by

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receiving anything of value, from participation in such activities.

2. A person who [pleads guilty to or] is found guilty of the [crime] offense of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless [such person] he or she is otherwise required to register pursuant to the provisions of such section.

3. Except as provided in subsection 4 of this section, the offense of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred fifty thousand dollars.

4. If death results from a violation of this section, or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony or an attempt to commit sexual abuse when the sexual abuse attempted is punishable as a class B felony, or an attempt to kill, it shall be punishable by imprisonment for a term of years not less than five years or life and a fine not to exceed two hundred fifty thousand dollars.

566.209. 1. A person commits the [crime] offense of trafficking for the purposes of sexual exploitation if [a person] he or she knowingly recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm,

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another person for the use or employment of such person in sexual conduct, a sexual performance, or the production of explicit sexual material as defined in section [573.010] 556.061, without his or her consent, or benefits, financially or by receiving anything of value, from participation in such activities.

2. The [crime] offense of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred fifty thousand dollars. If a violation of this section was effected by force, abduction, or coercion, the crime of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars.

[566.213.] 566.210. 1. A person commits the [crime] offense of sexual trafficking of a child [under the age of twelve if the individual] in the first degree if he or she knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, a person under the age of twelve to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010, or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of twelve to engage in a commercial sex act, a sexual performance, or the production of

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explicit sexual material as defined in section 573.010.

2. It shall not be a defense that the defendant believed that the person was twelve years of age or older.

3. The offense of sexual trafficking of a child [less than twelve years of age shall be] in the first degree is a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the [defendant] offender has served not less than twenty-five years of such sentence. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has [pleaded guilty to or] been found guilty of sexual trafficking of a child less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

[566.212.] 566.211. 1. A person commits the [crime] offense of sexual trafficking of a child in the second degree if [the individual] he or she knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, a person under the age of eighteen to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010, or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of eighteen to engage in a commercial sex act, a sexual performance, or the production of

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explicit sexual material as defined in section 573.010.

2. It shall not be a defense that the defendant believed that the person was eighteen years of age or older.

3. The offense sexual trafficking of a child in the second degree is a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars if the child is under the age of eighteen. If a violation of this section was effected by force, abduction, or coercion, the crime of sexual trafficking of a child shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence.

566.215. 1. A person commits the **[**crime**]** offense of contributing to human trafficking through the misuse of documentation when **[**the individual**]** he or she knowingly:

(1) Destroys, conceals, removes, confiscates, or possesses a valid or purportedly valid passport, government identification document, or other immigration document of another person while committing **[**crimes**]** offenses or with the intent to commit **[**crimes**]** offenses, pursuant to sections **[**566.200**]** 566.203 to 566.218; or

(2) Prevents, restricts, or attempts to prevent or restrict, without lawful authority, a person's ability to move or travel by restricting the proper use of identification, in order to maintain the labor or services of a person who is the victim of **[**a crime**]** an offense committed pursuant to sections **[**566.200**]** 566.203 to 566.218.

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2. A person who [pleads guilty to or] is found guilty of the [crime] offense of contributing to human trafficking through the misuse of documentation shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless [such person] he or she is otherwise required to register pursuant to the provisions of such section.

3. The [crime] offense of contributing to human trafficking through the misuse of documentation is a class [D] E felony.

566.218. Notwithstanding sections 557.011, 558.019, and 559.021, a [court sentencing a defendant convicted of] person found guilty of violating [the] any provisions of section 566.203, 566.206, 566.209, [566.212, or 566.213 shall order the defendant] 566.210, 566.211, or 566.215 shall be ordered by the sentencing court to pay restitution to the victim of the offense regardless of whether the defendant is sentenced to a term of imprisonment or probation. The minimum restitution ordered by the court shall be in the amount determined by the court necessary to compensate the victim for the value of the victim's labor and/or for the mental and physical rehabilitation of the victim and any child of the victim.

567.010. As used in this chapter, the following terms mean:

(1) ["Promoting prostitution", a person promotes prostitution if, acting other than as a prostitute or a patron of a prostitute, he knowingly

(a) Causes or aids a person to commit or engage in prostitution; or

(b) Procures or solicits patrons for prostitution; or

(c) Provides persons or premises for prostitution purposes;

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or

(d) Operates or assists in the operation of a house of prostitution or a prostitution enterprise; or

(e) Accepts or receives or agrees to accept or receive something of value pursuant to an agreement or understanding with any person whereby he participates or is to participate in proceeds of prostitution activity; or

(f) Engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution;

(2) "Prostitution", a person commits prostitution if he engages or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by the person or by a third person;

(3) "Patronizing prostitution", a person patronizes prostitution if

(a) Pursuant to a prior understanding, he gives something of value to another person as compensation for that person or a third person having engaged in sexual conduct with him or with another; or

(b) He gives or agrees to give something of value to another person on an understanding that in return therefor that person or a third person will engage in sexual conduct with him or with another; or

(c) He solicits or requests another person to engage in sexual conduct with him or with another, or to secure a third person to engage in sexual conduct with him or with another, in return for something of value;

(4)**]** "Deviate sexual intercourse", any sexual act involving

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the genitals of one person and the mouth, hand, tongue or anus of another person; or any act involving the penetration, however slight, of the penis or the vagina or the anus by a finger, instrument, or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim;

(2) "Prostitution-related offense", any violation of state law for prostitution, patronizing prostitution or promoting prostitution;

(3) "Persistent prostitution offender", a person is a persistent prostitution offender if they have pled guilty to or been found guilty of two or more prostitution-related offenses;

(4) "Sexual conduct" **[**occurs when there is**]** sexual intercourse, deviate sexual intercourse, or sexual contact;

[(a)**]** (5) "Sexual intercourse" **[**which means**]**, any penetration, however slight, of the **[**female sex organ**]** vagina by the **[**male sex organ, whether or not an emission results or**]** penis;

[(b) "Deviate sexual intercourse" which means any sexual act involving the genitals of one person and the mouth, hand, tongue or anus of another person; or

(c)**]** (6) "Sexual contact" **[**which means**]**, any touching**[**, manual or otherwise, of the anus or**]** of another person with the genitals **[**of one person by another, done**]** or any touching of the genitals or anus of another person or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying sexual desire of **[**either party**]** any person or for the purpose of terrorizing the victim;

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[(5)**]** (7) "Something of value" **[**means**]**, any money or property, or any token, object or article exchangeable for money or property**[**;**]**.

567.020. 1. A person commits the **[**crime**]** offense of prostitution if **[**the person performs an act of prostitution**]** he or she engages in or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by any person.

2. The offense of prostitution is a class B misdemeanor unless the person knew prior to performing the act of prostitution that he or she was infected with HIV in which case prostitution is a class B felony. The use of condoms is not a defense to this **[**crime**]** offense.

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

4. The judge may order a drug and alcohol abuse treatment program for any person found guilty of prostitution, either after trial or upon a plea of guilty, before sentencing. For the class B misdemeanor offense, upon the successful completion of such program by the defendant, the court may at its discretion allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. For the class B felony offense, the court shall not allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. The judge, however, has discretion to take into consideration successful completion of a drug or alcohol treatment program in determining the defendant's

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sentence.

567.030. 1. A person commits the [crime] offense of patronizing prostitution if he [patronizes prostitution] or she:

(1) Pursuant to a prior understanding, gives something of value to another person as compensation for having engaged in sexual conduct with any person; or

(2) Gives or agrees to give something of value to another person on an understanding that such person or another person will engage in sexual conduct with any person; or

(3) Solicits or requests another person to engage in sexual conduct with any person in return for something of value.

2. It shall not be [an affirmative] a defense that the [defendant] person believed that the [person] individual he or she patronized for prostitution was eighteen years [of age] old or older.

3. The offense of patronizing prostitution is a class B misdemeanor, unless the individual who the person [is patronizing] patronizes is [under the age of] less than eighteen years of age but older than [the age of] fourteen years of age, in which case patronizing prostitution is a class A misdemeanor.

4. The offense of patronizing prostitution is a class [D] E felony if the individual who the person patronizes is fourteen years of age or younger. Nothing in this section shall preclude the prosecution of an individual for the offenses of:

(1) Statutory rape in the first degree pursuant to section 566.032;

(2) Statutory rape in the second degree pursuant to section 566.034;

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(3) Statutory sodomy in the first degree pursuant to section 566.062; or

(4) Statutory sodomy in the second degree pursuant to section 566.064.

567.050. 1. A person commits the **[**crime**]** offense of promoting prostitution in the first degree if he or she knowingly:

(1) Promotes prostitution by compelling a person to enter into, engage in, or remain in prostitution; or

(2) Promotes prostitution of a person less than sixteen years **[**old**]** of age.

2. The term "compelling" includes

(1) The use of forcible compulsion;

(2) The use of a drug or intoxicating substance to render a person incapable of controlling his conduct or appreciating its nature;

(3) Withholding or threatening to withhold dangerous drugs or a narcotic from a drug dependent person.

3. The offense of promoting prostitution in the first degree is a class B felony.

567.060. 1. A person commits the **[**crime**]** offense of promoting prostitution in the second degree if he or she knowingly promotes prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more prostitutes.

2. The offense of promoting prostitution in the second

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degree is a class [C] D felony.

567.070. 1. A person commits the [crime] offense of promoting prostitution in the third degree if he or she knowingly [promotes prostitution]:

(1) Causes or aids a person to commit or engage in prostitution; or

(2) Procures or solicits patrons for prostitution; or

(3) Provides persons or premises for prostitution purposes; or

(4) Operates or assists in the operation of a house of prostitution or a prostitution business or enterprise; or

(5) Accepts or receives or agrees to accept or receive something of value pursuant to an agreement or understanding with any person whereby he or she participates or is to participate in proceeds of prostitution activity; or

(6) Engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution.

2. The offense of promoting prostitution in the third degree is a class [D] E felony.

567.080. 1. Any room, building or other structure regularly used for [sexual contact for pay as defined in section 567.010 or] any [unlawful] prostitution activity prohibited by this chapter is a public nuisance.

2. The attorney general, circuit attorney or prosecuting attorney may, in addition to all criminal sanctions, prosecute a suit in equity to enjoin the nuisance. If the court finds that the owner of the room, building or structure knew or had reason to believe that the premises were being used regularly for

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[sexual contact for pay or unlawful] prostitution activity, 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, and they may be enjoined from engaging in any [sexual contact for pay or unlawful] prostitution activity anywhere within the jurisdiction of the court.

4. Appeals shall be allowed from the judgment of the court as in other civil actions.

567.085. 1. A person commits the [crime] offense of promoting travel for prostitution if [the person] he or she knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in prostitution as defined by section [567.010] 567.020.

2. The [crime] offense of promoting travel for prostitution is a class [C] D felony.

567.087. 1. No travel agency or charter tour operator shall:

(1) Promote travel for prostitution [under] as described in section 567.085;

(2) Sell, advertise, or otherwise offer to sell travel services or facilitate travel:

(a) For the purpose of engaging in a commercial sex act as defined in section 566.200;

(b) That consists of tourism packages or activities using

and offering any sexual contact as defined in section 566.010 as enticement for tourism; or

(c) That provides or purports to provide access to or that facilitates the availability of sex escorts or sexual services.

2. There shall be a rebuttable presumption that any travel agency or charter tour operator using advertisements that include the term "sex tours" or "sex travel" or include depictions of human genitalia is in violation of this section.

567.110. Any person who **[**pleads guilty to or is**]** has been found guilty of a violation of section 567.020 or 567.030 and who is alleged and proved to be a persistent prostitution offender is guilty of a class **[**D**]** E felony.

567.120. Any person arrested for a prostitution-related offense, who has **[**a prior conviction of or has pled**]** been found guilty **[**to**]** of a prior prostitution-related offense, may, within the sound discretion of the court, be required to undergo HIV testing as a condition precedent to the issuance of bond for the offense.

568.010. 1. A married person commits the **[**crime**]** offense of bigamy if he or she:

(1) Purports to **[**contract**]** marry another **[**marriage**]**; or

(2) Cohabits **[**in this state after**]** with one whom he or she entered into a bigamous marriage in another jurisdiction.

2. A married person does not commit bigamy if, at the time of the subsequent marriage ceremony, he or she reasonably believes that he or she is legally eligible to remarry.

3. The defendant shall have the burden of injecting the issue of reasonable belief of eligibility to remarry.

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4. An unmarried person commits the [crime] offense of bigamy if he or she:

(1) Purports to [contract marriage] marry another knowing that the other person is married; or

(2) Cohabits [in this state after] with one whom he or she entered into a bigamous marriage in another jurisdiction.

5. The offense of bigamy is a class A misdemeanor.

568.020. 1. A person commits the [crime] offense of incest if he or she marries or purports to marry or engages in sexual intercourse or deviate sexual intercourse with a person he or she knows to be, without regard to legitimacy, his or her:

(1) [His] Ancestor or descendant by blood or adoption; or

(2) [His] Stepchild, while the marriage creating that relationship exists; or

(3) [His] Brother or sister of the whole or half-blood; or

(4) [His] Uncle, aunt, nephew or niece of the whole blood.

2. The offense of incest is a class [D] E felony.

3. The court shall not grant probation to a person who has previously been found guilty of an offense under this section.

568.030. 1. A person commits the [crime] offense of abandonment of a child in the first degree if, as a parent, guardian or other person legally charged with the care or custody of a child less than four years [old] of age, he or she leaves the child in any place with purpose wholly to abandon [it] the child, under circumstances which are likely to result in serious physical injury or death.

2. The offense of abandonment of a child in the first degree is a class [B] C felony, unless the child suffers serious

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physical injury or death, in which case it is a class B felony.

568.032. 1. A person commits the [crime] offense of abandonment of a child in the second degree if, as a parent, guardian or other person legally charged with the care or custody of a child less than eight years [old] of age, he or she leaves the child in any place with purpose wholly to abandon [it] the child, under circumstances which are likely to result in serious physical injury or death.

2. The offense of abandonment of a child in the second degree is a class D felony, unless the child suffers serious physical injury or death, in which case it is a class C felony.

568.040. 1. A person commits the [crime] offense of nonsupport if [such person] he or she knowingly fails to provide adequate support for his or her spouse; a parent commits the [crime] offense of nonsupport if such parent knowingly fails to provide adequate support which such parent is legally obligated to provide for his or her child or stepchild who is not otherwise emancipated by operation of law.

2. For purposes of this section:

(1) "Child" means any biological or adoptive child, or any child whose paternity has been established under chapter 454, or chapter 210, or any child whose relationship to the defendant has been determined, by a court of law in a proceeding for dissolution or legal separation, to be that of child to parent;

(2) "Good cause" means any substantial reason why the defendant is unable to provide adequate support. Good cause does not exist if the defendant purposely maintains his inability to support;

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(3) "Support" means food, clothing, lodging, and medical or surgical attention;

(4) It shall not constitute a failure to provide medical and surgical attention, if nonmedical remedial treatment recognized and permitted under the laws of this state is provided.

3. Inability to provide support for good cause shall be an affirmative defense under this section. A **[**person**]** defendant who raises such affirmative defense has the burden of proving the defense by a preponderance of the evidence.

4. The defendant shall have the burden of injecting the issues raised by subdivision (4) of subsection 2 and subsection 3 of this section.

5. The offense of criminal nonsupport is a class A misdemeanor, unless the total arrearage is in excess of an aggregate of twelve monthly payments due under any order of support issued by any court of competent jurisdiction or any authorized administrative agency, in which case it is a class **[**D**]** E felony.

6. If at any time **[**a defendant**]** an offender convicted of criminal nonsupport is placed on probation or parole, there may be ordered as a condition of probation or parole that the **[**defendant**]** offender commence payment of current support as well as satisfy the arrearages. Arrearages may be satisfied first by making such lump sum payment as the **[**defendant**]** offender is capable of paying, if any, as may be shown after examination of **[**defendant's**]** the offender's financial resources or assets, both real, personal, and mixed, and second by making periodic

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payments. Periodic payments toward satisfaction of arrears when added to current payments due may be in such aggregate sums as is not greater than fifty percent of the [defendant's] offender's adjusted gross income after deduction of payroll taxes, medical insurance that also covers a dependent spouse or children, and any other court- or administrative-ordered support, only. If the [defendant] offender fails to pay the current support and arrearages as ordered, the court may revoke probation or parole and then impose an appropriate sentence within the range for the class of offense that the [defendant] offender was convicted of as provided by law, unless the [defendant] offender proves good cause for the failure to pay as required under subsection 3 of this section.

7. During any period that a nonviolent [defendant] offender is incarcerated for criminal nonsupport, if the [defendant] offender is ready, willing, and able to be gainfully employed during said period of incarceration, the [defendant] offender, if he or she meets the criteria established by the department of corrections, may be placed on work release to allow the [defendant] offender to satisfy [defendant's] his or her obligation to pay support. Arrearages shall be satisfied as outlined in the collection agreement.

8. Beginning August 28, 2009, every nonviolent first- and second-time offender then incarcerated for criminal nonsupport, who has not been previously placed on probation or parole for conviction of criminal nonsupport, may be considered for parole, under the conditions set forth in subsection 6 of this section, or work release, under the conditions set forth in subsection 7

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of this section.

9. Beginning January 1, 1991, every prosecuting attorney in any county which has entered into a cooperative agreement with the child support enforcement service of the family support division of the department of social services shall report to the division on a quarterly basis the number of charges filed and the number of convictions obtained under this section by the prosecuting attorney's office on all IV-D cases. The division shall consolidate the reported information into a statewide report by county and make the report available to the general public.

10. Persons accused of committing the offense of nonsupport of the child shall be prosecuted:

(1) In any county in which the child resided during the period of time for which the defendant is charged; or

(2) In any county in which the defendant resided during the period of time for which the defendant is charged.

568.045. 1. A person commits the **[**crime**]** offense of endangering the welfare of a child in the first degree if he or she:

(1) **[**The person**]** Knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years **[**old**]** of age; or

(2) **[**The person**]** Knowingly engages in sexual conduct with a person under the age of seventeen years over whom the person is a parent, guardian, or otherwise charged with the care and custody;

(3) **[**The person**]** Knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct

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which violates the provisions of chapter [195] 579;

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

(5) Such person,] In the presence of a [person] child less than seventeen years [of age] old or in a residence where a [person] child less than seventeen years [of age] old resides, unlawfully manufactures, or attempts to manufacture compounds, possesses, produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.

2. The offense of endangering the welfare of a child in the first degree is a class [C] E felony unless the offense:

(1) Is committed as part of [a ritual or ceremony, or except on] an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity, or where physical injury to the child results, or the offense is a second or subsequent offense under this section, in which case the [crime] offense is a class [B] C felony; or

(2) Results in serious physical injury to the child, in which case the offense is a class B felony; or

(3) Results in death of a child, in which case the offense is a class A felony.

[3. This section shall be known as "Hope's Law".]

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568.050. 1. A person commits the [crime] offense of endangering the welfare of a child in the second degree if he or she:

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

(2) [He or she] Knowingly encourages, aids or causes a child less than seventeen years [old] of age to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031; or

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

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

(5) He or she operates a vehicle in violation of subdivision (2) or (3) of subsection 1 of section 565.024, subdivision (4) of subsection 1 of section 565.060, section 577.010, or section 577.012 while a child less than seventeen years old is present in the vehicle] 579.105.

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

3. The offense of endangering the welfare of a child in the second degree is a class A misdemeanor unless the offense is committed as part of **[**a ritual or ceremony**]** an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity, in which case the **[**crime**]** offense is a class **[**D**]** E felony.

568.060. 1. A person commits the **[**crime**]** offense of abuse of a child if **[**such person:

(1)**]** he or she knowingly inflicts cruel and inhuman **[**punishment**]** treatment upon a child less than seventeen years **[**old; or

(2) Photographs or films a child less than eighteen years old engaging in a prohibited sexual act or in the simulation of such an act or who causes or knowingly permits a child to engage in a prohibited sexual act or in the simulation of such an act for the purpose of photographing or filming the act.

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

3.**]** of age.

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2. The offense of abuse of a child is a class [C] D felony, unless:

(1) In the course thereof the person inflicts serious emotional injury or serious physical injury on the child, or the offense is committed as part of [a ritual or ceremony] an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity, in which case the [crime] offense is a class B felony; or

(2) A child dies as a result of injuries sustained from conduct chargeable pursuant to the provisions of this section, in which case the [crime] offense is a class A felony.

[4. As used in this section, the word "fetishism" means a condition in which erotic feelings are excited by an object or body part whose presence is psychologically necessary for sexual stimulation or gratification.]

3. The court shall not grant probation to a person who has previously been found guilty of an offense under this section.

568.065. 1. A person commits the [crime] offense of genital mutilation if [such person] he or she:

(1) Excises or infibulates, in whole or in part, the labia majora, labia minora, vulva or clitoris of a female child less than seventeen years [of age] old; or

(2) Is a parent, guardian or other person legally responsible for a female child less than seventeen years [of age] old and permits the excision or infibulation, in whole or in part, of the labia majora, labia minora, vulva or clitoris of such female child.

2. The offense of genital mutilation is a class B felony.

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3. Belief that the conduct described in subsection 1 of this section is required as a matter of custom, ritual or standard practice, or consent to the conduct by the child on whom it is performed or by the child's parent or legal guardian, shall not be an affirmative defense to a charge pursuant to this section.

4. It is **[**an affirmative**]** a defense **[**that the defendant engaged in**]** if the conduct **[**charged**]** which constitutes genital mutilation **[**if the conduct**]** was:

(1) Necessary to preserve the health of the child on whom it is performed and is performed by a person licensed to practice medicine in this state; or

(2) Performed on a child who is in labor or who has just given birth and is performed for medical purposes connected with such labor or birth by a person licensed to practice medicine in this state.

568.070. 1. A person commits the **[**crime**]** offense of unlawful transactions with a child if he or she:

(1) Being a pawnbroker, junk dealer, dealer in secondhand goods, or any employee of such person, **[**he**]** with criminal negligence buys or receives any personal property other than agricultural products from an unemancipated minor, unless the child's custodial parent or guardian has consented in writing to the transaction; or

(2) **[**He**]** Knowingly permits a minor child to enter or remain in a place where illegal activity in controlled substances, as defined in chapter **[**195**]** 579, is maintained or conducted; or

(3) **[**He**]** With criminal negligence sells blasting caps, bulk

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gunpowder, or explosives to a child under the age of seventeen, or fireworks as defined in section 320.110, to a child under the age of fourteen, unless the child's custodial parent or guardian has consented in writing to the transaction. Criminal negligence as to the age of the child is not an element of this crime.

2. The offense of unlawful transactions with a child is a class B misdemeanor.

568.175. 1. A person[, partnership, corporation, agency, association, institution, society or other organization] or entity commits the [crime] offense of trafficking in children if he, she, or it offers, gives, receives or solicits any money, consideration or other thing of value for the delivery or offer of delivery of a child to another person[, partnership, corporation, agency, association, institution, society or other organization] or entity for purposes of adoption, or for the execution of a consent to adopt or waiver of consent to future adoption or a consent to termination of parental rights.

2. [A crime] An offense is not committed under this section if the money, consideration or thing of value or conduct is permitted under chapter 453 relating to adoption.

3. The [crime] offense of trafficking in children is a class [C] D felony.

569.010. As used in this chapter the following terms mean:

(1) ["Forcibly steals", a person "forcibly steals", and thereby commits robbery, when, in the course of stealing, as defined in section 570.030, he uses or threatens the immediate use of physical force upon another person for the purpose of:

(a) Preventing or overcoming resistance to the taking of

the property or to the retention thereof immediately after the taking; or

(b) Compelling the owner of such property or another person to deliver up the property or to engage in other conduct which aids in the commission of the theft;

(2) "Inhabitable structure" includes a ship, trailer, sleeping car, airplane, or other vehicle or structure:

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

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

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

(3) "Of another", property is that "of another" if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein;

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

(5) "Vital public facility" includes a facility maintained for use as a bridge, whether over land or water, dam, reservoir, tunnel, communication installation or power station;

(6) "Utility", an enterprise which provides gas, electric, steam, water, sewerage disposal or communication services and any common carrier. It may be either publicly or privately owned or

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operated;

(7) "To tamper", to interfere with something improperly, to meddle with it, displace it, make unwarranted alterations in its existing condition, or to deprive, temporarily, the owner or possessor of that thing**]** "Cave or cavern", any naturally occurring subterranean cavity enterable by man including, without limitation, a pit, pothole, natural well, grotto, and tunnel, whether or not the opening has a natural entrance;

[(8)**]** (2) "Enter unlawfully or remain unlawfully", a person **[**"enters unlawfully or remains unlawfully"**]** enters or remains in or upon premises when he or she is not licensed or privileged to do so. A person who, regardless of his or her purpose, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he defies a lawful order not to enter or remain, personally communicated to him or her by the owner of such premises or by other authorized person. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public;

(3) "To tamper", to interfere with something improperly, to meddle with it, displace it, make unwarranted alterations in its existing condition, or to deprive, temporarily, the owner or possessor of that thing;

(4) "Utility", an enterprise which provides gas, electric, steam, water, sewerage disposal or communication services and any common carrier. It may be either publicly or privately owned or operated.

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569.040. 1. A person commits the [crime] offense of arson in the first degree [when] if he or she[:

(1)] knowingly damages a building or inhabitable structure, and when any person is then present or in near proximity thereto, by starting a fire or causing an explosion and thereby recklessly places such person in danger of death or serious physical injury[; or

(2) By starting a fire or explosion, damages a building or inhabitable structure in an attempt to produce methamphetamine].

2. The offense of arson in the first degree is a class B felony unless a person has suffered serious physical injury or has died as a result of the fire or explosion set by the [defendant or as a result of a fire or explosion started in an attempt by the defendant to produce methamphetamine] person, in which case arson in the first degree is a class A felony.

569.050. 1. A person commits the [crime] offense of arson in the second degree [when] if he or she knowingly damages a building or inhabitable structure by starting a fire or causing an explosion.

2. A person does not commit a [crime] offense under this section if:

(1) No person other than himself or herself has a possessory, proprietary or security interest in the damaged building, or if other persons have those interests, all of them consented to his or her conduct; and

(2) [His] The person's sole purpose was to destroy or damage the building for a lawful and proper purpose.

3. The defendant shall have the burden of injecting the

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issue under subsection 2 of this section.

4. The offense of arson in the second degree is a class [C] D felony unless a person has suffered serious physical injury or has died as a result of the fire or explosion [set by the defendant], in which case [arson in the second degree] it is a class B felony.

569.053. 1. A person commits the offense of arson in the third degree if he or she knowingly starts a fire or causes an explosion and thereby recklessly damages or destroys a building or an inhabitable structure of another.

2. The offense of arson in the third degree is a class A misdemeanor.

569.055. 1. A person commits the [crime] offense of knowingly burning or exploding [when] if he or she knowingly damages property of another by starting a fire or causing an explosion.

2. The offense of knowingly burning or exploding is a class [D] E felony.

569.060. 1. A person commits the [crime] offense of reckless burning or exploding [when] if he [knowingly] or she recklessly starts a fire or causes an explosion and thereby [recklessly] damages or destroys [a building or an inhabitable structure] the property of another.

2. The offense of reckless burning or exploding is a class [A] B misdemeanor.

569.065. 1. A person commits the [crime] offense of negligent burning or exploding [when] if he or she with criminal negligence causes damage to property or to the woodlands,

cropland, grassland, prairie, or marsh of another by [fire or explosion]:

(1) Starting a fire or causing an explosion; or

(2) Allowing a fire burning on lands in his or her possession or control onto the property of another.

2. The offense negligent burning or exploding is a class [B] C misdemeanor.

[578.445.] 569.075. 1. [No] A person [shall possess] commits the offense of possessing a tool to break into a vending machine if he or she possesses any key, tool, instrument, explosive, or similar device, or a drawing, print, mold of a key, tool, instrument, explosive, or device designed to open, break into, tamper with, or damage a coin-operated vending machine or any other machine or device which is activated by the customer depositing some form of payment, with the intent to commit a theft from such machine. [Violation of this subsection is a class A misdemeanor.]

2. The owner of a coin-operated vending machine or any other machine or device which is activated by the customer depositing some form of payment may maintain a civil cause of action against any person who [pleads guilty or if] has been found guilty of a violation of [subsection 1 of] this section. If such owner of a coin-operated vending machine or any other machine or device which is activated by the customer depositing some form of payment prevails in such action, the court may award treble damages, reasonable attorney's fees, and costs.

3. The offense of possession of a tool to break into a vending machine is a class A misdemeanor.

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569.080. 1. A person commits the [crime] offense of tampering in the first degree if he or she:

(1) [He or she] For the purpose of causing a substantial interruption or impairment of a service rendered to the public by a utility or by an institution providing health or safety protection, damages or tampers with property or facilities of such a utility or institution, and thereby causes substantial interruption or impairment of service; or

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

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

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

(1) [That he or she] Received, possessed, sold, [altered, defaced, destroyed,] or operated an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle unlawfully on a separate occasion;

(2) [That he or she] Acquired the automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle for a consideration which he or she knew was far below its reasonable value.

3. The offense of tampering in the first degree is a class D felony.

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

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

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

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

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

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

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

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

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

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unless:

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

(2) The defendant has a prior conviction or has **[**had a prior finding of guilt**]** previously been found guilty pursuant to paragraph (a) of subdivision (3) of subsection 3 of section 570.030, **[**section 570.080,**]** or subdivision (2) of subsection 1 of this section, in which case it is a class **[**C**]** D felony.

569.095. 1. A person commits the **[**crime**]** offense of tampering with computer data if he or she knowingly and without authorization or without reasonable grounds to believe that he has such authorization:

(1) Modifies or destroys data or programs residing or existing internal to a computer, computer system, or computer network; or

(2) Modifies or destroys data or programs or supporting documentation residing or existing external to a computer, computer system, or computer network; or

(3) Discloses or takes data, programs, or supporting documentation, residing or existing internal or external to a computer, computer system, or computer network; or

(4) Discloses or takes a password, identifying code, personal identification number, or other confidential information about a computer system or network that is intended to or does control access to the computer system or network;

(5) Accesses a computer, a computer system, or a computer network, and intentionally examines information about another

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person;

(6) Receives, retains, uses, or discloses any data he knows or believes was obtained in violation of this subsection.

2. The offense of tampering with computer data is a class A misdemeanor, unless the offense is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property, the value of which is **[**five**]** seven hundred fifty dollars or more, in which case **[**tampering with computer data**]** it is a class **[**D**]** E felony.

569.097. 1. A person commits the **[**crime**]** offense of tampering with computer equipment if he knowingly and without authorization or without reasonable grounds to believe that he has such authorization:

(1) Modifies, destroys, damages, or takes equipment or data storage devices used or intended to be used in a computer, computer system, or computer network; or

(2) Modifies, destroys, damages, or takes any computer, computer system, or computer network.

2. The offense of tampering with computer equipment is a class A misdemeanor, unless:

(1) The offense is committed for the purpose of executing any scheme or artifice to defraud or obtain any property, the value of which is **[**five**]** seven hundred fifty dollars or more, in which case it is a class **[**D**]** E felony; or

(2) The damage to such computer equipment or to the computer, computer system, or computer network is **[**five**]** seven hundred fifty dollars or more **[**but less than one thousand dollars**]**, in which case it is a class **[**D**]** E felony; or

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(3) The damage to such computer equipment or to the computer, computer system, or computer network is **[**one**]** twenty-five thousand dollars or **[**greater**]** more, in which case it is a class **[**C**]** D felony.

569.099. 1. A person commits the **[**crime**]** offense of tampering with computer users if he or she knowingly and without authorization or without reasonable grounds to believe that he or she has such authorization:

(1) Accesses or causes to be accessed any computer, computer system, or computer network; or

(2) Denies or causes the denial of computer system services to an authorized user of such computer system services, which, in whole or in part, is owned by, under contract to, or operated for, or on behalf of, or in conjunction with another.

2. The offense of tampering with computer users is a class A misdemeanor unless the offense is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property, the value of which is **[**five**]** seven hundred fifty dollars or more, in which case tampering with computer users is a class **[**D**]** E felony.

569.100. 1. A person commits the **[**crime**]** offense of property damage in the first degree if he or she:

(1) **[**He**]** Knowingly damages property of another to an extent exceeding seven hundred **[**and**]** fifty dollars; or

(2) **[**He**]** Damages property to an extent exceeding **[**one thousand**]** seven hundred fifty dollars for the purpose of defrauding an insurer.

2. The offense of property damage in the first degree is a

class [D] E felony.

569.120. 1. A person commits the [crime] offense of property damage in the second degree if he or she:

(1) [He] Knowingly damages property of another; or

(2) [He] Damages property for the purpose of defrauding an insurer.

2. The offense of property damage in the second degree is a class B misdemeanor.

569.130. 1. A person does not commit an offense by damaging, tampering with, operating, riding in or upon, or making connection with property of another if he or she does so under a claim of right and has reasonable grounds to believe he or she has such a right.

2. The defendant shall have the burden of injecting the issue of claim of right.

[578.416. No person shall] 569.132. 1. This section shall be known and may be cited as the "Crop Protection Act".

2. A person commits the offense of prohibited act involving crops if he or she:

(1) Intentionally [cause] causes the loss of any crop;

(2) [Damage, vandalize, or steal] Damages, vandalizes, or steals any property in or on a crop;

(3) [Obtain] Obtains access to a crop by false pretenses for the purpose of performing acts not authorized by the landowner;

(4) [Enter] Enters or otherwise [interfere] interferes with a crop with the intent to destroy, alter, duplicate or obtain unauthorized possession of such crop;

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(5) Knowingly **[**obtain**]** obtains, by theft or deception, control over a crop for the purpose of depriving the rightful owner of such crop, or for the purpose of destroying such crop; or

(6) **[**Enter or remain**]** Enters or remains on land on which a crop is located with the intent to commit an act prohibited by this section.

3. The offense of prohibited act involving crops is a class A misdemeanor for each such violation unless:

(1) The loss or damage to the crop is fifty dollars or more, in which case it is a class E felony;

(2) The loss or damage to the crop is seven hundred fifty dollars or more, in which case it is a class D felony;

(3) The loss or damage to the crop is one thousand dollars or more, in which case it is a class C felony;

(4) The loss or damage to the crop is twenty-five thousand dollars or more, in which case it is a class B felony;

(5) The loss or damage to the crop is seventy-five thousand dollars or more, in which case it is a class A felony.

4. Any person who has been damaged by a violation of this section shall have a civil cause of action pursuant to section 537.353.

5. Nothing in this section shall preclude any owner or operator injured in his or her business or in his or her property by a violation of this section from seeking appropriate relief under any other provision of law or remedy including the issuance of an injunction against any person who violates this section. The owner or operator of the business may petition the court to

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permanently enjoin such persons from violating this section and the court shall provide such relief.

6. The director of the department of agriculture shall have the authority to investigate any alleged violation of this section, along with any other law enforcement agency, and may take any action within the director's authority necessary for the enforcement of this section. The attorney general, the highway patrol, and other law enforcement officials shall provide assistance required for the investigation.

7. The director may promulgate rules and regulations necessary for the enforcement of this section. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be invalid and void.

[578.210.**]** 569.135. 1. **[**A person, without the prior written permission of the owner or if a corporation is the owner, of an officer of the corporation, lessee, or if the cavern is located on public land, the superintendent thereof shall not**]** Unless a person has the prior written permission of the owner of the cave or cavern, an officer of a cave or cavern, a lessee of

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the cave or cavern, or a superintendent of the cave or cavern, such person commits the offense of unlawfully entering or defacing a cave or cavern if he or she:

(1) Willfully or knowingly **[**break, break off, crack, carve upon, write or otherwise mark**]** breaks, breaks off, cracks, carves upon, writes or otherwise marks upon, or in any manner **[**destroy, mutilate, injure, deface, remove, displace, mar or harm**]** destroys, mutilates, injures, defaces, removes, displaces, mars, or harms the surfaces of any cave or any natural material therein including, without limitation, stalactites, stalagmites, helictites, anthodites, gypsum flowers, or needles, cave pearls, flowstone, draperies, rimstone, spathites, columns or similar crystalline mineral formation, including the host rock thereof**[**.

2. A person shall not, without the permission required in subsection 1 of this section, break, force, tamper with, remove or otherwise disturb**]**; or

(2) Breaks, forces, tampers with, removes, or otherwise disturbs a lock, gate, door or other structure designed to prevent entrance to a cave or cavern. A person violates this subsection whether or not entrance to the cave or cavern is achieved.

2. No additional appropriations may be made for the enforcement of this section.

3. The provisions of this section do not apply to vertical or horizontal underground mining operations.

4. The offense of unlawfully entering or defacing a cave or cavern is a class A misdemeanor.

[578.215.**]** 569.137. 1. As used in this section the

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following terms mean:

(1) "Cave system", the caves in a given area related to each other hydrologically, whether continuous or discontinuous from a single opening;

(2) "Sinkhole", a hollow place or depression in the ground in which drainage may collect with an opening therefrom into an underground channel or cave including any subsurface opening that might be bridged by a formation of silt, gravel, humus, or any other material through which percolation into the channel or cave may occur.

2. A person **[**shall not**]** commits the offense of polluting cave or subsurface waters if he or she purposely **[**introduce**]** introduces into any cave, cave system, sinkhole or subsurface waters of the state any substance or structure that will or could violate any provision of the Missouri clean water law as set forth in chapter **[**204**]** 644, or any water quality standard or effluent limitation promulgated pursuant thereto.

[2.**]** 3. The provisions of **[**subsection 1 of**]** this section do not apply:

(1) Where natural subsurface drainage systems including, without limitation, caves, cave systems, sinkholes, fissures and related openings are used for purposes of storm water drainage, artificial recharge of aquifers, and irrigation return flow, and where modifications of natural drainage systems are made for purposes of improving natural drainage relationships; or

(2) To vertical or horizontal underground mining operations.

[3.**]** 4. No additional appropriations may be made for the

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enforcement of [sections 578.200 to 578.225] this section.

5. The offense of polluting cave or subsurface waters is a class A misdemeanor.

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

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

(1) Actual communication to the actor; or

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

3. The offense of trespass in the first degree is a class B misdemeanor.

569.145. In addition to the posting of real property as set forth in section 569.140, the owner or lessee of any real property may post the property by placing identifying purple marks on trees or posts around the area to be posted. Each purple mark shall be:

(1) A vertical line of at least eight inches in length and the bottom of the mark shall be no less than three feet nor more than five feet high. Such marks shall be placed no more than one hundred feet apart and shall be readily visible to any person approaching the property; or

(2) A post capped or otherwise marked on at least its top

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two inches. The bottom of the cap or mark shall be not less than three feet but not more than five feet six inches high. Posts so marked shall be placed not more than thirty-six feet apart and shall be readily visible to any person approaching the property. Prior to applying a cap or mark which is visible from both sides of a fence shared by different property owners or lessees, all such owners or lessees shall concur in the decision to post their own property. **[**Property so posted is to be considered posted for all purposes, and any unauthorized entry upon the property is trespass in the first degree, and a class B misdemeanor**]** Posting in such a manner shall be found to be reasonably likely to come to the attention of intruders for the purposes of section 569.140.

569.150. 1. A person commits **[**the offense of**]** trespass in the second degree if he or she enters unlawfully upon real property of another. This is an offense of absolute liability.

2. Trespass in the second degree is an infraction.

569.155. 1. A person commits the **[**crime**]** offense of trespass of a school bus if he or she knowingly and unlawfully enters any part of or unlawfully operates any school bus.

2. **[**Trespass of a school bus is a class A misdemeanor.

3.**]** For the purposes of this section, the terms "unlawfully enters" and "unlawfully operates" refer to any entry or operation of a school bus which is not:

(1) Approved of and established in a school district's written policy on access to school buses; or

(2) Authorized by specific written approval of the school board.

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[4.**]** 3. In order to preserve the public order, any district which adopts the policies described in subsection **[**3**]** 2 of this section shall establish and enforce a student behavior policy for students on school buses.

4. The offense of trespass of a school bus is a class A misdemeanor.

569.160. 1. A person commits the **[**crime**]** offense of burglary in the first degree if he or she knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure for the purpose of committing **[**a crime**]** an offense therein, and when in effecting entry or while in the building or inhabitable structure or in immediate flight therefrom, **[**he**]** the person or another participant in the **[**crime**]** offense:

(1) Is armed with explosives or a deadly weapon or;

(2) Causes or threatens immediate physical injury to any person who is not a participant in the crime; or

(3) There is present in the structure another person who is not a participant in the crime.

2. The offense of burglary in the first degree is a class B felony.

569.170. 1. A person commits the **[**crime**]** offense of burglary in the second degree when he or she knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure for the purpose of committing a crime therein.

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

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569.180. 1. A person commits the [crime] offense of possession of burglar's tools if he or she possesses any tool, instrument or other article adapted, designed or commonly used for committing or facilitating offenses involving forcible entry into premises, with a purpose to use or knowledge that some person has the purpose of using the same in making an unlawful forcible entry into a building or inhabitable structure or a room thereof.

2. The offense of possession of burglar's tools is a class [D] E felony.

570.010. As used in this chapter the following terms mean:

(1) "Adulterated" [means], varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage;

(2) "Appropriate" [means], to take, obtain, use, transfer, conceal [or], retain [possession of] or dispose;

(3) "Authorization to participate" or "ATP card", a document which is issued by a state or federal agency to a certified household to show the food stamp allotment the household is authorized to receive on presentation of the document;

(4) "Cable television service", includes microwave television transmission from a multipoint distribution service not capable of reception by conventional television receivers without the use of special equipment;

(5) "Check", a check or other similar sight order or any other form of presentment involving the transmission of account

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information for the payment of money;

(6) "Coercion" **[**means**]**, a threat, however communicated:

(a) To commit any **[**crime**]** offense; or

(b) To inflict physical injury in the future on the person threatened or another; or

(c) To accuse any person of any **[**crime**]** offense; or

(d) To expose any person to hatred, contempt or ridicule; or

(e) To harm the credit or business **[**repute**]** reputation of any person; or

(f) To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or

(g) To inflict any other harm which would not benefit the actor. A threat of accusation, lawsuit or other invocation of official action is justified and not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat;

[(4)**]** (7) "Credit device" **[**means**]**, a writing, card, code, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer;

[(5)**]** (8) "Dealer" **[**means**]**, a person in the business of buying and selling goods;

[(6)**]** (9) "Debit device" **[**means**]**, a writing, card, code,

number or other device, other than a check, draft or similar paper instrument, by the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients;

[(7)**]** (10) "Deceit or deceive" **[**means purposely**]**, making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind, or concealing a material fact as to the terms of a contract or agreement. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

[(8)**]** (11) "Deprive" **[**means**]**:

(a) To withhold property from the owner permanently; or

(b) To restore property only upon payment of reward or other compensation; or

(c) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely;

(12) "Financial institution", a bank, trust company, savings and loan association, or credit union;

(13) "Food stamp coupons" or "food stamp", any coupon, stamp or other type of document used or intended for use in the purchase of food pursuant to the Missouri food stamp program;

(14) "Forcibly steals", a person, in the course of

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stealing, uses or threatens the immediate use of physical force upon another person for the purpose of:

(a) Preventing or overcoming resistance to the taking of the property or to the retention thereof immediately after the taking; or

(b) Compelling the owner of such property or another person to deliver up the property or to engage in other conduct which aids in the commission of the theft;

(15) "Means of identification", anything used by a person as a means to uniquely distinguish himself or herself;

(16) "Merchant", a person who deals in goods of the kind or otherwise by his or her occupation holds oneself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his or her employment of an agent or broker or other intermediary who by his or her occupation holds oneself out as having such knowledge or skill;

[(9)**]** (17) "Mislabeled" **[**means**]**, varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage; or represented as being another person's product, though otherwise accurately labeled as to quality and quantity;

[(10) "New and unused property" means tangible personal property that has never been used since its production or manufacture and is in its original unopened package or container if such property was packaged;

(11) "Of another" property or services is that "of another"

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if any natural person, corporation, 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;

(12)**]** (18) "Pharmacy", any building, warehouse, physician's office, hospital, pharmaceutical house or other structure used in whole or in part for the sale, storage, or dispensing of any controlled substance as defined in chapter 195;

(19) "Property" **[**means**]**, anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument;

[(13) "Receiving" means acquiring possession, control or title or lending on the security of the property;

(14)**]** (20) "Public assistance", anything of value, including money, food, ATP cards, food stamp coupons, commodities, clothing, utilities, utilities payments, shelter, drugs and medicine, materials, goods, and any service including institutional care, medical care, dental care, child care, psychiatric and psychological service, rehabilitation instruction, training, or counseling, received by or paid on behalf of any person under chapters 198, 205, 207, 208, 209, and 660, or benefits, programs, and services provided or administered by the Missouri department of social services or any of its

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divisions;

(21) "Services" includes transportation, telephone, electricity, gas, water, or other public service, cable television service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles;

(22) "Stealing-related offense", federal and state violations of criminal statutes against stealing, robbery, or buying or receiving stolen property and shall also include municipal ordinances against the same if the offender was either represented by counsel or knowingly waived counsel in writing and the judge accepting the plea or making the findings was a licensed attorney at the time of the court proceedings;

[(15)**]** (23) "Writing" includes printing, any other method of recording information, money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and any other symbols of value, right, privilege or identification.

570.020. For the purposes of this chapter, the value of property shall be ascertained as follows:

(1) Except as otherwise specified in this section, "value" means the market value of the property at the time and place of the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the crime. If the victim is a merchant, **[**as defined in section 400.2-104,**]** and the property is a type that the merchant sells in the ordinary course of business, then the property shall be valued at the price that such merchant would normally sell such property;

(2) Whether or not they have been issued or delivered,

certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities, shall be evaluated as follows:

(a) The value of an instrument constituting evidence of debt, such as a check, draft or promissory note, shall be deemed the amount due or collectible thereon or thereby, such figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(b) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument;

(3) When the value of property cannot be satisfactorily ascertained pursuant to the standards set forth in subdivisions (1) and (2) of this section, its value shall be deemed to be an amount less than **[**five**]** seven hundred fifty dollars.

[569.020.**]** 570.023. 1. A person commits the **[**crime**]** offense of robbery in the first degree **[**when**]** if he or she forcibly steals property and in the course thereof he or she, or another participant in the **[**crime,**]** offense:

(1) Causes serious physical injury to any person; or

(2) Is armed with a deadly weapon; or

(3) Uses or threatens the immediate use of a dangerous instrument against any person; or

(4) Displays or threatens the use of what appears to be a deadly weapon or dangerous instrument; or

(5) Steals any controlled substance from a pharmacy.

2. The offense of robbery in the first degree is a class A felony.

[569.030.**]** 570.025. 1. A person commits the **[**crime**]** offense of robbery in the second degree **[**when**]** if he or she forcibly steals property and in the course thereof causes physical injury to another person.

2. The offense of robbery in the second degree is a class **[**B**]** C felony.

570.030. 1. A person commits the **[**crime**]** offense of stealing if he or she:

(1) Appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion; or

(2) Attempts to appropriate anhydrous ammonia or liquid nitrogen of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion; or

(3) For the purpose of depriving the owner of a lawful interest therein, receives, retains or disposes of property of another knowing that it has been stolen, or believing that it has been stolen.

2. **[**Evidence of the following is admissible in any criminal prosecution pursuant to this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or

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negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse;

(5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal price code label, or possesses with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

3. Notwithstanding any other provision of law, any offense in which the value of property or services is an element is a class C felony if:

(1) The value of the property or services appropriated is five hundred dollars or more but less than twenty-five thousand dollars; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) Any explosive weapon as defined in section 571.010; or

(f) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the

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open; or

(g) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(h) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(i) Any book of registration or list of voters required by chapter 115; or

(j) Any animal considered livestock as that term is defined in section 144.010; or

(k) Live fish raised for commercial sale with a value of seventy-five dollars; or

(l) Captive wildlife held under permit issued by the conservation commission; or

(m) Any controlled substance as defined by section 195.010; or

(n) Anhydrous ammonia;

(o) Ammonium nitrate; or

(p) Any document of historical significance which has fair market value of five hundred dollars or more.

4. If an actor appropriates any material with a value less than five hundred dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class C felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid

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nitrogen, is a class B felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

5. The theft of any item of property or services pursuant to subsection 3 of this section which exceeds five hundred dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (j) or (l) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (j) or (l) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony. Notwithstanding any provision of law to the contrary, such person shall serve a minimum prison term of not less than eighty percent of his or her sentence before he or she is eligible for probation, parole, conditional release, or other early release by the department of corrections.

7. Any offense in which the value of property or services is an element is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.

8. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.**]** The offense of stealing is a class A felony if the property appropriated consists of any of the following containing any amount of anhydrous ammonia: a tank truck, tank trailer, rail tank car, bulk storage tank, field nurse, field tank or field applicator.

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3. The offense of stealing is a class B felony if:

(1) The property appropriated or attempted to be appropriated consists of any amount of anhydrous ammonia or liquid nitrogen; or

(2) A person has been found guilty of violating this section, when the property is of the kind described under paragraph (j) or (l) of subdivision (3) of subsection 5 of this section and the value of the animal or animals stolen exceeds three thousand dollars and that person has previously been found guilty of stealing property of the kind described under paragraph (j) or (l) of subdivision (3) of subsection 5 of this section. Notwithstanding any provision of law to the contrary, such person shall serve a minimum prison term of not less than eighty percent of his or her sentence before he or she is eligible for probation, parole, conditional release, or other early release by the department of corrections;

(3) A person appropriates property consisting of a motor vehicle, watercraft or aircraft, and that person has previously pleaded guilty to or been found guilty of two stealing-related offenses committed on two separate occasions where such offenses occurred within ten years of the date of occurrence of the present offense.

4. The offense of stealing is a class C felony if the value of the property or services appropriated is twenty-five thousand dollars or more.

5. The offense of stealing is a class D felony if:

(1) The value of the property or services appropriated is seven hundred fifty dollars or more; or

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(2) The offender physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit device, debit device or letter of credit; or

(d) Any firearms; or

(e) Any explosive weapon as defined in section 571.010; or

(f) Any United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(g) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(h) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(i) Any book of registration or list of voters required by chapter 115; or

(j) Any animal considered livestock as that term is defined in section 144.010; or

(k) Any live fish raised for commercial sale with a value of seventy-five dollars or more; or

(l) Any captive wildlife held under permit issued by the conservation commission; or

(m) Any controlled substance as defined by section 195.010; or

(n) Ammonium nitrate; or

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(o) Any wire, electrical transformer, metallic wire associated with transmitting telecommunications, or any other device or pipe that is associated with conducting electricity or transporting natural gas or other combustible fuels; or

(p) Any material appropriated with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues.

6. The offense of stealing is a class E felony if:

(1) The property appropriated is an animal; or

(2) A person has been previously found guilty of three stealing-related offenses committed on three separate occasions where such offenses occurred within ten years of the date of occurrence of the present offense, and the person received a sentence of ten days or more on such previous offenses.

7. The offense of stealing is a class D misdemeanor if the property is not of a type listed in subsection 2, 3, 5, or 6 of this section and the property appropriated has a value of less than one hundred fifty dollars and the person has no previous findings of guilt for a stealing-related offense.

8. The offense of stealing is a class A misdemeanor if not other penalty is specified in this section.

9. If a violation of this section is subject to enhanced punishment based on prior findings of guilt, such findings of guilt shall be pleaded and proven in the same manner as required by section 558.021.

10. The appropriation of any property or services of a type listed in subsection 2, 3, 5, or 6 or of a value of seven hundred fifty dollars or more may be considered a separate felony and may

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be charged in separate counts.

11. The value of property or services appropriated pursuant to one scheme or course of conduct, whether from the same or several owners and whether at the same or different times, constitute a single criminal episode and may be aggregated in determining the grade of the offense, except as set forth in subsection 10 of this section.

570.039. A person who appropriates cable television service shall not be deemed to have stolen that service within the meaning of section 570.030, if a cable television company either:

(1) Provides unsolicited cable television service; or

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

[578.075.**]** 570.053. 1. A person **[**who**]** commits the offense of feigned blindness if he or she simulates blindness or pretends to be a blind person with the purpose of obtaining something of value from another person by deceit **[**commits the offense of feigned blindness**]**.

2. The offense of feigned blindness is a class A misdemeanor.

[578.150.**]** 570.057. 1. A person commits the **[**crime**]** offense of stealing leased or rented property if, with the intent to deprive the owner thereof, such person:

(1) Purposefully fails to return leased or rented personal

property to the place and within the time specified in an agreement in writing providing for the leasing or renting of such personal property;

(2) Conceals or aids or abets the concealment of the property from the owner;

(3) Sells, encumbers, conveys, pawns, loans, abandons or gives away the leased or rented property or any part thereof, without the written consent of the lessor, or without informing the person to whom the property is transferred to that the property is subject to a lease;

(4) Returns the property to the lessor at the end of the lease term, plus any agreed upon extensions, but does not pay the lease charges agreed upon in the written instrument, with the intent to wrongfully deprive the lessor of the agreed upon charges.

2. The provisions of this section shall apply to all forms of leasing and rental agreements, including, but not limited to, contracts which provide the consumer options to buy the leased or rented personal property, lease-purchase agreements and rent-to-own contracts. For the purpose of determining if a violation of this section has occurred, leasing contracts which provide options to buy the merchandise are owned by the owner of the property until such time as the owner endorses the sale and transfer of ownership of the leased property to the lessee.

3. Evidence that a lessee used a false, fictitious, or not current name, address, or place of employment in obtaining the property or that a lessee fails or refuses to return the property or pay the lease charges to the lessor within seven days after

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written demand for the return has been sent by certified mail, return receipt requested, to the address the person set forth in the lease agreement, or in the absence of the address, to the person's last known place of residence, shall be evidence of intent to violate the provisions of this section, except that if a motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, such failure to return the motor vehicle shall be prima facie evidence of the intent of the crime of stealing leased or rented property. Where the leased or rented property is a motor vehicle, if the motor vehicle has not been returned within seventy-two hours after the expiration of the lease or rental agreement, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle, and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles. Any law enforcement officer which stops such a motor vehicle may seize the motor vehicle and notify the lessor that he may recover such motor vehicle after it is photographed and its vehicle identification number is recorded for evidentiary purposes. Where the leased or rented property is not a motor vehicle, if such property has not been returned within the seven-day period prescribed in this subsection, the owner of the property shall report the failure to return the property to the local law enforcement agency, and such law enforcement agency may within five days notify the person who leased or rented the property that such person is in violation of this section, and that failure to immediately return the property may subject such

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person to arrest for the violation.

4. This section shall not apply if such personal property is a vehicle and such return is made more difficult or expensive by a defect in such vehicle which renders such vehicle inoperable, if the lessee shall notify the lessor of the location of such vehicle and such defect before the expiration of the lease or rental agreement, or within ten days after proper notice.

5. Any person who has leased or rented personal property of another who destroys such property so as to avoid returning it to the owner **[**shall be guilty**]** commits the offense of property damage pursuant to section 569.100 or 569.120, in addition to being in violation of this section.

6. Venue shall lie in the county where the personal property was originally rented or leased.

7. The offense of stealing leased or rented property is a class A misdemeanor unless the property involved has a value of **[**one thousand**]** seven hundred fifty dollars or more, in which case stealing leased or rented property is a class **[**C**]** D felony.

570.070. 1. A person does not commit an offense under section 570.030 if, at the time of the appropriation, he or she:

(1) Acted in the honest belief that he had the right to do so; or

(2) Acted in the honest belief that the owner, if present, would have consented to the appropriation.

2. The defendant shall have the burden of injecting the issue of claim of right.

570.085. 1. A person commits the **[**crime**]** offense of

alteration or removal of item numbers if he or she, with the purpose of depriving the owner of a lawful interest therein:

(1) Destroys, removes, covers, conceals, alters, defaces, or causes to be destroyed, removed, covered, concealed, altered, or defaced, the manufacturer's original serial number or other distinguishing owner-applied number or mark, on any item which bears a serial number attached by the manufacturer or distinguishing number or mark applied by the owner of the item, for any reason whatsoever;

(2) Sells, offers for sale, pawns or uses as security for a loan, any item on which the manufacturer's original serial number or other distinguishing owner-applied number or mark has been destroyed, removed, covered, concealed, altered, or defaced; or

(3) Buys, receives as security for a loan or in pawn, or in any manner receives or has in his possession any item on which the manufacturer's original serial number or other distinguishing owner-applied number or mark has been destroyed, removed, covered, concealed, altered, or defaced.

2. The offense of alteration or removal of item numbers is a class **[**D**]** E felony if the value of the item or items in the aggregate is **[**five**]** seven hundred fifty dollars or more**[**. If the value of the item or items in the aggregate is less than five hundred dollars, then**]**; otherwise it is a class B misdemeanor.

570.090. 1. A person commits the **[**crime**]** offense of forgery if, with the purpose to defraud, the person:

(1) Makes, completes, alters or authenticates any writing so that it purports to have been made by another or at another time or place or in a numbered sequence other than was in fact

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the case or with different terms or by authority of one who did not give such authority; or

(2) Erases, obliterates or destroys any writing; or

(3) Makes or alters anything other than a writing, including receipts and universal product codes, so that it purports to have a genuineness, antiquity, rarity, ownership or authorship which it does not possess; or

(4) Uses as genuine, or possesses for the purpose of using as genuine, or transfers with the knowledge or belief that it will be used as genuine, any writing or other thing including receipts and universal product codes, which the **[**actor**]** person knows has been made or altered in the manner described in this section.

2. The offense of forgery is a class **[**C**]** D felony.

570.100. 1. A person commits the **[**crime**]** offense of possession of a forging instrumentality if, with the purpose of committing forgery, he or she makes, causes to be made or possesses any plate, mold, instrument or device for making or altering any writing or anything other than a writing.

2. The offense of possession of a forging instrumentality is a class **[**C**]** D felony.

570.103. 1. As used in this section and section 570.105, the following words mean:

(1) "Counterfeit mark", any unauthorized reproduction or copy of intellectual property or intellectual property affixed to any item knowingly sold, offered for sale, manufactured, or distributed, or identifying services offered or rendered, without the authority of the owner of the intellectual property;

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(2) "Intellectual property", any trademark, service mark, trade name, label, term, device, design, or word adopted or used by a person to identify such person's goods or services;

(3) "Retail value", the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.

2. **[**Any**]** A person **[**who**]** commits the offense of counterfeiting if he or she willfully manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses **[**with intent to sell or distribute**]** for the purpose of selling or distributing any item, or services, bearing or identified by a counterfeit mark**[**, shall be guilty of the crime of counterfeiting**]**. A person having possession, custody or control of more than twenty-five items bearing a counterfeit mark shall be presumed to possess said items **[**with intent to sell or distribute**]** for the purpose of selling or distributing.

3. The offense of counterfeiting **[**shall be**]** is a class A misdemeanor, except as provided in subsections 4 and 5 of this section.

4. The offense of counterfeiting **[**shall be**]** is a class **[**D**]** E felony if:

(1) The defendant has previously been convicted under this section; or

(2) The violation involves more than one hundred but fewer than one thousand items bearing a counterfeit mark or the total

retail value of all items bearing, or services identified by, a counterfeit mark is seven hundred fifty dollars or more [than one thousand dollars, but less than ten thousand dollars].

5. The offense of counterfeiting [shall be] is a class [C] D felony if:

(1) The defendant has been previously convicted of two or more offenses under this section;

(2) The violation involves the manufacture or production of items bearing counterfeit marks; or

(3) The violation involves one thousand or more items bearing a counterfeit mark or the total retail value of all items bearing, or services identified by, a counterfeit mark is twenty-five thousand dollars or more [than ten thousand dollars].

6. For purposes of this section, the quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses.

7. [Any person convicted of counterfeiting shall be fined an amount up to three times the retail value of the items bearing, or services identified by, a counterfeit mark, unless extenuating circumstances are shown by the defendant.

8.] The remedies provided for herein shall be cumulative to the other civil remedies provided by law.

[9.] 8. Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.

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570.110. 1. A person commits the [crime] offense of issuing a false instrument or certificate when, being authorized by law to take proof or acknowledgment of any instrument which by law may be recorded, or being authorized by law to make or issue official certificates or other official written instruments, he or she issues such an instrument or certificate, or makes the same with the purpose that it be issued, knowing:

(1) That it contains a false statement or false information; or

(2) That it is wholly or partly blank.

2. The offense of issuing a false instrument or certificate is a class A misdemeanor.

570.120. 1. A person commits the [crime] offense of passing a bad check when he or she:

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

(2) [The person] Makes, issues, or passes a check or other similar sight order or any other form of presentment involving the transmission of account information for the payment of money, knowing that there are insufficient funds in or on deposit with that account for the payment of such check, sight order, or other form of presentment involving the transmission of account information in full and all other checks, sight orders, or other forms of presentment involving the transmission of account information upon such funds then outstanding, or that there is no

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such account or no drawee and fails to pay the check or sight order or other form of presentment involving the transmission of account information within ten days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

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

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

4. The offense of passing bad checks is a class A misdemeanor, unless:

(1) The face amount of the check or sight order or the aggregated amounts is **[**five**]** seven hundred fifty dollars or more; or

(2) The issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued,

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in which [cases] case passing a bad [checks] check is a class [C] E felony.

5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes any action pursuant to the provisions of this section shall collect from the issuer in such action an administrative handling cost. The cost shall be twenty-five dollars for checks of less than one hundred dollars, and fifty dollars for checks of one hundred dollars but less than two hundred fifty dollars. For checks of two hundred fifty dollars or more an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for administrative handling costs not to exceed seventy-five dollars total. Notwithstanding the provisions of sections 50.525 to 50.745, the costs provided for in this subsection shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. The funds shall be expended, upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that previously authorized in this section. Any revenues that are not required for the purposes of this section may be placed in the general revenue fund of the county or city not within a county. Notwithstanding any law to the contrary, in addition to the administrative handling cost, the prosecuting attorney or circuit attorney shall collect an additional cost of five dollars per check for deposit to the Missouri office of prosecution services fund established in subsection 2 of section 56.765. All moneys collected pursuant to this section which are payable to

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the Missouri office of prosecution services fund shall be transmitted at least monthly by the county treasurer to the director of revenue who shall deposit the amount collected pursuant to the credit of the Missouri office of prosecution services fund under the procedure established pursuant to subsection 2 of section 56.765.

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

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

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

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

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

(2) If a check that is dishonored or returned unpaid by a

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

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

570.125. 1. A person commits the **[**crime**]** offense of **["]**fraudulently stopping payment of an instrument**["]** if he or she, **[**knowingly,**]** with the purpose to defraud, stops payment on a check **[**or**]**, draft **[**given**]**, or debit device used in payment for the receipt of goods or services.

2. The offense of fraudulently stopping payment of an instrument is a class A misdemeanor, unless the face amount of the check or draft is **[**five**]** seven hundred fifty dollars or more or, if the stopping of payment of more than one check or draft is involved in the same course of conduct, the aggregate amount is **[**five**]** seven hundred fifty dollars or more, in which case the offense is a class **[**D**]** E felony.

3. It shall be prima facie evidence of a violation of this section if a person stops payment on a check **[**or**]**, draft, or

debit device and fails to make good the check [or], draft, or debit device transaction, or fails to return or make and comply with reasonable arrangements to return the property for which the check [or], draft, or debit device was [given] used in the same or substantially the same condition as when received within ten days after notice in writing from the payee that the check [or], draft, or debit device transaction has not been paid because of a stop payment order by the issuer to the drawee.

4. "Notice in writing" means notice deposited as certified or registered mail in the United States mail and addressed to the issuer at his address as it appears on the dishonored check [or], draft, or debit device transaction or to his last known address. The notice shall contain a statement that failure to make good the check [or], draft, or debit device transaction within ten days of receipt of the notice may subject the issuer to criminal prosecution.

570.130. 1. A person commits the [crime] offense of fraudulent use of a credit device or debit device if [the person] he or she uses a credit device or debit device for the purpose of obtaining services or property, knowing that:

(1) The device is stolen, fictitious or forged; or

(2) The device has been revoked or canceled; or

(3) For any other reason his or her use of the device is unauthorized; or

(4) Uses a credit device or debit device for the purpose of paying property taxes and knowingly cancels [said] such charges or payment without just cause. It shall be prima facie evidence of a violation of this section if a person cancels [said] such

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charges or payment after obtaining a property tax receipt to obtain license tags from the Missouri department of revenue.

2. The offense of fraudulent use of a credit device or debit device is a class A misdemeanor unless the value of the property tax or the value of the property or services obtained or sought to be obtained within any thirty-day period is **[**five**]** seven hundred fifty dollars or more, in which case fraudulent use of a credit device or debit device is a class **[**D**]** E felony.

570.135. 1. **[**No person shall**]** A person commits the offense of fraudulent procurement of a credit or debit device if he or she:

(1) Knowingly make or cause to be made, directly or indirectly, a false statement regarding another person for the purpose of fraudulently procuring the issuance of a credit **[**card**]** or debit **[**card.

2. No person shall willfully obtains personal identifying information**]** device; or

(2) Knowingly obtains a means of identification of another person without the authorization of that person and **[**use**]** uses that **[**information**]** means of identification fraudulently to obtain, or attempt to obtain, credit, goods or services in the name of the other person without the consent of that person.

[3. Any person who violates the provisions of subsection 1 or 2 of this section is guilty of a**]**

2. The offense of fraudulent procurement of a credit or debit device is class A misdemeanor.

[4. As used in this section, "personal identifying information" means the name, address, telephone number, driver's

license number, Social Security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number or credit card number of a person.

5.] 3. Notwithstanding [subsections 1 to 4 of] any other provision of this section, no corporation, proprietorship, partnership, limited liability company, limited liability partnership or other business entity shall be liable under this section for accepting applications for credit [cards] or debit [cards] devices or for the use of a credit [cards] or debit [cards] device in any [credit or debit] transaction, absent clear and convincing evidence that such business entity conspired with or was a part of the fraudulent procuring of the issuance of a credit [card] or debit [card] device.

570.140. 1. A person commits the [crime] offense of deceptive business practice if in the course of engaging in a business, occupation or profession, he or she recklessly:

(1) Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity; or

(2) Sells, offers [or exposes], displays for sale, or delivers less than the represented quantity of any commodity or service; or

(3) Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he or she furnishes the weight or measure; or

(4) Sells, offers, or exposes for sale adulterated or mislabeled commodities; or

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(5) Makes a false or misleading written statement for the purpose of obtaining property or credit; or

(6) Promotes the sale of property or services by a false or misleading statement in any advertisement; or

(7) Advertises in any manner the sale of property or services with the purpose not to sell or provide the property or services:

(a) At the price which he or she offered them; or

(b) In a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement; or

(c) At all.

2. The offense of deceptive business practice is a class A misdemeanor.

570.145. 1. A person commits the [crime] offense of financial exploitation of an elderly or disabled person if [such person] he or she knowingly [and by deception, intimidation, or force] obtains control over the elderly or disabled person's property with the intent to permanently deprive the elderly or disabled person of the use, benefit or possession of his or her property thereby benefitting [such person] the offender or detrimentally affecting the elderly or disabled person[. Financial exploitation of an elderly or disabled person is a class A misdemeanor if the value of the property is less than fifty dollars, a class D felony if the value of the property is fifty dollars but less than five hundred dollars, a class C felony if the value of the property is five hundred dollars but less than one thousand dollars, a class B felony if the value of

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the property is one thousand dollars but less than fifty thousand dollars, and a class A felony if the value of the property is fifty thousand dollars or more.

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

(1) "Deception", a misrepresentation or concealment of material fact relating to the terms of a contract or agreement entered into with the elderly or disabled person or to the existing or preexisting condition of any of the property involved in such contract or agreement, or the use or employment of any misrepresentation, false pretense or false promise in order to induce, encourage or solicit the elderly or disabled person to enter into a contract or agreement. Deception includes:

(a) Creating or confirming another person's impression which is false and which the offender does not believe to be true; or

(b) Failure to correct a false impression which the offender previously has created or confirmed; or

(c) Preventing another person from acquiring information pertinent to the disposition of the property involved; or

(d) Selling or otherwise transferring or encumbering property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; or

(e) Promising performance which the offender does not intend to perform or knows will not be performed. Failure to perform standing alone is not sufficient evidence to prove that the offender did not intend to perform;

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(2) "Disabled person", a person with a mental, physical, or developmental disability that substantially impairs the person's ability to provide adequately for the person's care or protection;

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

(4) "Intimidation", a threat of physical or emotional harm to an elderly or disabled person, or the communication to an elderly or disabled person that he or she will be deprived of food and nutrition, shelter, prescribed medication, or medical care and treatment**]** by:

(1) Deceit;

(2) Coercion;

(3) Creating or confirming another person's impression which is false and which the offender does not believe to be true; or

(4) Failure to correct a false impression which the offender previously has created or confirmed; or

(5) Preventing another person from acquiring information pertinent to the disposition of the property involved; or

(6) Selling or otherwise transferring or encumbering property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; or

(7) Promising performance which the offender does not intend to perform or knows will not be performed. Failure to perform standing alone is not sufficient evidence to prove that the offender did not intend to perform.

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2. The offense of financial exploitation of an elderly or disabled person is a class A misdemeanor unless:

(1) The value of the property is fifty dollars or more, in which case it is a class E felony;

(2) The value of the property is seven hundred fifty dollars or more, in which case it is a class D felony;

(3) The value of the property is five thousand dollars or more, in which case it is a class C felony;

(4) The value of the property is twenty-five thousand dollars or more, in which case it is a class B felony;

(5) The value of the property is seventy-five thousand dollars or more, in which case it is a class A felony.

3. Nothing in this section shall be construed to limit the remedies available to the victim pursuant to any state law relating to domestic violence.

4. Nothing in this section shall be construed to impose criminal liability on a person who has made a good faith effort to assist the elderly or disabled person in the management of his or her property, but through no fault of his or her own has been unable to provide such assistance.

5. Nothing in this section shall limit the ability to engage in bona fide estate planning, to transfer property and to otherwise seek to reduce estate and inheritance taxes; provided that such actions do not adversely impact the standard of living to which the elderly or disabled person has become accustomed at the time of such actions.

6. It shall not be a defense to financial exploitation of an elderly or disabled person that the accused reasonably

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believed that the victim was not an elderly or disabled person.

570.150. 1. A person commits the **[**crime**]** offense of commercial bribery if he or she:

(1) **[**If he**]** Solicits, accepts or agrees to accept any benefit as consideration for knowingly violating or agreeing to violate a duty of fidelity **[**to**]**, which he or she is subject to as:

(a) An agent or employee of another;

(b) A trustee, guardian or other fiduciary;

(c) A lawyer, physician, accountant, appraiser or other professional adviser or informant;

(d) An officer, director, partner, manager or other participant in the direction of the affairs of an incorporated or unincorporated association; or

(e) An arbitrator or other purportedly disinterested adjudicator or referee;

(2) **[**If**]** As a person who holds himself or herself out to the public as being engaged in the business of making disinterested selection, appraisal or criticism of commodities or services, **[**he**]** solicits, accepts or agrees to accept any benefit to influence his or her selection, appraisal or criticism;

(3) **[**If he**]** Confers or offers or agrees to confer any benefit the acceptance of which would be criminal under subdivisions (1) and (2) of this section.

2. The offense of commercial bribery is a class A misdemeanor.

570.180. 1. A person commits the **[**crime**]** offense of defrauding secured creditors if he or she destroys, removes,

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conceals, encumbers, transfers or otherwise deals with property subject to a security interest with purpose to defraud the holder of the security interest.

2. The offense of defrauding secured creditors is a class A misdemeanor unless the amount remaining to be paid on the secured debt, including interest, is [five] seven hundred fifty dollars or more, in which case defrauding secured creditors is a class [D] E felony.

570.217. 1. A person commits the [crime] offense of misapplication of funds of a financial institution if, being an officer, director, agent, or employee of, or connected in any capacity with, any [bank, trust company, savings and loan association, or credit union] financial institution, he or she embezzles, [abstracts, purloins] appropriates, or [willfully] purposely misapplies any of the money, funds, or credits of such financial institution or any moneys, funds, assets, or securities entrusted to the custody or care of such financial institution, or to the custody or care of any such agent, officer, director, employee, or receiver.

2. The offense of misapplication of funds of a financial institution is a class [C] E felony, [but if] unless the amount embezzled, [abstracted, purloined] appropriated, or misapplied [does not exceed one thousand dollars,] is seven hundred fifty dollars or more, in which case it is a class D felony.

570.219. 1. A person commits the [crime] offense of making false entries in the records of a financial institution if he or she makes any false entry in any book, report, or statement of a [bank, trust company, savings and loan association, or credit

union] financial institution with intent to injure or defraud such [bank, trust company, savings and loan association, or credit union] financial institution, or any other [company, body politic or corporate, or any individual person] entity, or with intent to deceive any officer or director of [such bank, trust company, savings and loan association, or credit union,] a financial institution or any agent or examiner appointed to examine the affairs of such [bank, trust company, savings and loan association, or credit union] financial institution.

2. The offense of making false entries in the records of a financial institution is a class [C] D felony.

570.220. 1. A person commits the [crime] offense of check kiting if he[, pursuant to a scheme or artifice] or she, with intent to defraud, obtains money from a financial institution by drawing a check against an account in which there [are] is not sufficient collected funds to pay the check and, [as part of the scheme or artifice,] he or she purports to cover that check by depositing in such account another check drawn against insufficient collected funds.

2. For purposes of this section, the term ["financial institution" shall mean a bank, trust company, savings and loan association, or credit union; "check" shall include any check, draft, negotiable order of withdrawal, or similar instrument used to transfer or withdraw funds held in a deposit account at a financial institution; and the term] "collected funds" [shall mean] means that portion of a deposit account representing checks and other credits as to which the depositary has directly and

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affirmatively verified that final payment has been made or, in the alternative, with respect to checks as to which at least ten business days have elapsed, without return of the checks, since presentation for payment.

3. The offense of check kiting is a class [C] E felony.

570.223. 1. A person commits the [crime] offense of identity theft if he or she knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, transfer or use, one or more means of identification not lawfully issued for his or her use.

2. [The term "means of identification" as used in this section includes, but is not limited to, the following:

(1) Social Security numbers;

(2) Drivers license numbers;

(3) Checking account numbers;

(4) Savings account numbers;

(5) Credit card numbers;

(6) Debit card numbers;

(7) Personal identification (PIN) code;

(8) Electronic identification numbers;

(9) Digital signatures;

(10) Any other numbers or information that can be used to access a person's financial resources;

(11) Biometric data;

(12) Fingerprints;

(13) Passwords;

(14) Parent's legal surname prior to marriage;

(15) Passports; or

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(16) Birth certificates.

3. A person found guilty of identity theft shall be punished as follows:

(1) Identity theft or attempted identity theft which does not result in the theft or appropriation of credit, money, goods, services, or other property**]** The offense of identity theft is a class B misdemeanor**[**;

(2) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property**]** unless the identity theft results in the theft or appropriation of credit, money, goods, services, or other property:

(1) Not exceeding **[**five**]** seven hundred fifty dollars in value, in which case it is a class A misdemeanor;

[(3) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property**]**

(2) Exceeding **[**five**]** seven hundred fifty dollars and not exceeding **[**five**]** twenty-five thousand dollars in value, in which case it is a class **[**C**]** D felony;

[(4) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property**]**

(3) Exceeding **[**five**]** twenty-five thousand dollars and not exceeding **[**fifty**]** seventy-five thousand dollars in value, in which case is a class **[**B**]** C felony;

[(5) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other

property**]**

(4) Exceeding **[**fifty**]** seventy-five thousand dollars in value, in which case it is a class **[**A**]** B felony.

[4.**]** 3. In addition to the provisions of subsection **[**3**]** 2 of this section, the court may order that the defendant make restitution to any victim of the offense. Restitution may include payment for any costs, including attorney fees, incurred by the victim:

(1) In clearing the credit history or credit rating of the victim; and

(2) In connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising from the actions of the defendant.

[5.**]** 4. In addition to the criminal penalties in subsections **[**3**]** 2 and **[**4**]** 3 of this section, any person who commits an act made unlawful by subsection 1 of this section shall be liable to the person to whom the identifying information belonged for civil damages of up to five thousand dollars for each incident, or three times the amount of actual damages, whichever amount is greater. A person damaged as set forth in subsection 1 of this section may also institute a civil action to enjoin and restrain future acts that would constitute a violation of subsection 1 of this section. The court, in an action brought under this subsection, may award reasonable attorneys' fees to the plaintiff.

[6.**]** 5. If the identifying information of a deceased person is used in a manner made unlawful by subsection 1 of this section, the deceased person's estate shall have the right to

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recover damages pursuant to subsection [5] 4 of this section.

[7.] 6. Civil actions under this section must be brought within five years from the date on which the identity of the wrongdoer was discovered or reasonably should have been discovered.

[8.] 7. Civil action pursuant to this section does not depend on whether a criminal prosecution has been or will be instituted for the acts that are the subject of the civil action. The rights and remedies provided by this section are in addition to any other rights and remedies provided by law.

[9.] 8. This section and section 570.224 shall not apply to the following activities:

(1) A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors[. Nothing in this subdivision shall affect the provisions of subsection 10 of this section];

(2) A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction;

(3) A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;

(4) A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so;

(5) A person is otherwise authorized by law to engage in the conduct that is the subject of the prosecution.

[10. Any person who obtains, transfers, or uses any means

of identification for the purpose of manufacturing and providing or selling a false identification card to a person under the age of twenty-one for the purpose of purchasing or obtaining alcohol shall be guilty of a class A misdemeanor.

11.] 9. Notwithstanding the provisions of subdivision (1) or (2) of subsection [3] 2 of this section, every person who has previously [pled guilty to or] been found guilty of identity theft or attempted identity theft, and who subsequently [pleads guilty to or] is found guilty of identity theft or attempted identity theft of credit, money, goods, services, or other property not exceeding [five hundred] seven hundred fifty dollars in value is guilty of a class [D] E felony and shall be punished accordingly.

[12. The value of property or services is its highest value by any reasonable standard at the time the identity theft is committed. Any reasonable standard includes, but is not limited to, market value within the community, actual value, or replacement value.

13.] 10. If credit, property, or services are obtained by two or more acts from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the identity thefts are attributable to a single scheme, plan, or conspiracy, the acts may be considered as a single identity theft and the value may be the total value of all credit, property, and services involved.

570.224. 1. A person commits the [crime] offense of trafficking in stolen identities [when such person] if he or she,

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for the purpose of committing identity theft, manufactures, sells, transfers, [purchases,] or possesses[,] with intent to sell or transfer means of identification [as defined in subsection 2 of section 570.223, for the purpose of committing identity theft].

2. Possession of five or more means of identification of the same person or possession of means of identification of five or more separate persons shall be evidence that the identities are possessed with intent to manufacture, sell, or transfer means of identification for the purpose of committing identity theft. In determining possession of five or more means of identification of the same person, or possession of means of identification of five or more separate persons for the purposes of evidence pursuant to this subsection, the following do not apply:

(1) The possession of his or her own identification documents;

(2) The possession of the identification documents of a person who has consented to the person at issue possessing his or her identification documents.

3. The offense of trafficking in stolen identities is a class B felony.

570.225. [No] 1. A person [shall] commits the offense of misappropriation of intellectual property if he or she, without the consent of the owner[, transfer or cause to be transferred]:

(1) Copies any sounds recorded on [a phonograph record, disc, wire, tape, film, videocassette or other article or] any medium now known or later developed on which sounds are recorded, with the [intent] purpose to sell or cause to be sold for profit

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or used to promote the sale of any article on which sounds are [so] transferred, except that this section shall only apply to sound recordings initially fixed prior to February 15, 1972; or

(2) Records sounds or images of any performance whether live before an audience or transmitted by wire or through the air by radio or television, with the intent to sell the performance or cause it to be sold for profit; or

(3) Offers for sale, or sells or processes for such purposes any article that has been produced in violation of subdivision (1) or (2) of subsection 1 of this section, knowing, or having reasonable grounds to know, that the sounds or images thereon have been so copied or recorded without the consent of the owner; or

(4) Advertises, rents, sells, offers for rental or sale, or possesses for such purposes any medium now known or later developed on which sounds or images are recorded if the article's label, cover, box or jacket does not contain in clearly readable print the name and address of the manufacturer.

2. This section shall not apply to:

(1) Any radio or television broadcaster who transfers any such sounds as part of, or in connection with, a radio or television broadcast transmission or for archival preservation;

(2) Any person transferring any such sounds at home for his or her personal use without any compensation being derived by such person or any other person from such transfer;

(3) Any cable television company that transfers any such sounds as part of its regular cable television service.

3. The offense of misappropriation of intellectual property

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is a class A misdemeanor unless:

(1) One hundred or more articles were involved; or

(2) A person is found guilty of violating this section, and that person has previously been found guilty of a violation of this section;

in which case it is a class D felony.

4. As used in this section the following terms mean:

(1) "Audiovisual works", works that consist of a series of related images which are intrinsically intended to be shown by the use of machines, electronic equipment or other devices, now known or later developed, together with accompanying sounds, if any;

(2) "Manufacturer", the person who transfers or causes to be transferred any sounds or images to the particular article, medium, recording or other physical embodiment of such sounds or images then in issue;

(3) "Motion pictures", audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;

(4) "Owner", the person who owns the sounds of any performance not yet fixed in a medium of expression, or the original fixation of sounds embodied in the master device or medium now known or later developed for the use of reproducing sounds, or other articles or media upon which sound is or may be recorded, and from which the copied recorded sounds are directly or indirectly derived;

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(5) "Person", any natural person, corporation or other business entity.

570.300. 1. A person commits the **[**crime**]** offense of facilitating the theft of cable television service if he**[**:

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

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

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

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

(5) Knowingly attempts to connect to, tamper with, or otherwise interfere with any cable television signal, cables, wires, devices, or equipment, which is used for the distribution of cable television and which results in the unauthorized use of a cable television system or the disruption of the delivery of the cable television service. Nothing in this section shall be construed to prohibit, restrict, or otherwise limit the purchase, sale, or use of any products, including without limitation

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hardware, software, or other items, intended to provide services and features to a customer who has lawfully obtained a connection from a cable company**]** <u>or she knowingly sells, uses, manufactures, rents, or offers for sale, rental, or use any device, plan, or kit designed and intended to obtain cable television without paying all lawful compensation to the operator of such service</u>.

2. <u>The offense of facilitating</u> theft of cable television service is a class **[**C**]** <u>D</u> felony**[** if the value of the service appropriated is five hundred dollars or more or if the theft is a violation of subdivision (5) of subsection 1 of this section, otherwise theft of cable television services is a class A misdemeanor.

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

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

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crime of theft of cable television service.

5. If a cable television company either:

(1) Provides unsolicited cable television service; or

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

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

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

[578.500.**]** 570.302. 1. **[**Any**]** A person commits the offense of operating an audiovisual recording device in a motion picture theater if he or she, while a motion picture is being exhibited, **[**who**]** knowingly operates an audiovisual recording function of a device in a motion picture theater without the consent of the owner or lessee of the motion picture theater **[**shall be guilty of criminal use of real property**]**.

2. As used in this section, the term "audiovisual recording

function" means the capability of a device to record or transmit a motion picture or any part thereof by means of any technology now known or later developed.

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

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

5. **[**Any person who has pled guilty to or been found guilty

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of violating the provisions of this section shall be guilty of**]** The offense of operating an audiovisual recording device in a motion picture theater is a class A misdemeanor, unless the person has previously **[**pled guilty or**]** been found guilty of violating the provisions of this section, in which case it is a class **[**D**]** E felony.

570.310. 1. **[**It is unlawful for**]** A person commits the offense of mortgage fraud if he or she, in connection with the application for or procurement of a loan secured by real estate **[**to**]**, willfully:

(1) **[**Employ**]** Employs a device, scheme, or artifice to defraud;

(2) **[**Make**]** Makes an untrue statement of a material fact or **[**to omit**]** omits to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading;

(3) **[**Receive**]** Receives any portion of the purchase, sale, or loan proceeds, or any other consideration paid or generated in connection with a real estate closing that such person knew involved a violation of this section; or

(4) **[**Influence**]** Influences, through extortion or bribery, the development, reporting, result, or review of a real estate appraisal, except that this subsection does not prohibit a mortgage lender, mortgage broker, mortgage banker, real estate licensee, or other person from asking the appraiser to do one or more of the following:

(a) Consider additional property information;

(b) Provide further detail, substantiation, or explanation

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for the appraiser's value conclusion; or

(c) Correct errors in the appraisal report in compliance with the Uniform Standards of Professional Appraisal Practice.

2. **[**Such acts shall be deemed to constitute mortgage fraud.

3.**]** The offense of mortgage fraud is a class **[**C**]** D felony.

[4.**]** 3. Each transaction in violation of this section shall constitute a separate offense.

[5.**]** 4. Venue over any dispute relating to mortgage fraud or a conspiracy or endeavor to engage in or participate in a pattern of mortgage fraud shall be:

(1) In the county in which the real estate is located;

(2) In the county in which any act was performed in furtherance of mortgage fraud;

(3) In any county in which any person alleged to have violated this section had control or possession of any proceeds from mortgage fraud;

(4) In any county in which a related real estate closing occurred; or

(5) In any county in which any document related to a mortgage fraud is filed with the recorder of deeds.

[6. Prosecution under the provisions of this section shall not preclude:

(1) The power of this state to punish a person for conduct that constitutes a crime under other laws of this state;

(2) A civil action by any person;

(3) Administrative or disciplinary action by the state or the United States or by any agency of the state or the United States;

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(4) A civil forfeiture action; or

(5) An action under chapter 407.**]**

5. The punishment imposed under this section shall be in addition to any punishment provided by law for the offense.

[578.510.**]** 570.350. 1. This section shall be known and may be cited as the "Stolen Valor Act of 2007".

2. Any person who, with the intent to misrepresent himself or herself as a veteran or medal recipient, knowingly wears, purchases, attempts to purchase, solicits for purchase, mails, ships, imports, exports, produces blank certificates of receipt for, manufactures, sells, attempts to sell, advertises for sale, trades, barters, or exchanges for anything of value any decoration or medal authorized under chapter 41, or by the Congress for the armed forces of the United States, or any of the service medals or badges awarded to the members of such forces, or the ribbon, button, or rosette of any such badge, decoration, or medal, or any colorable imitation thereof, except when authorized under regulations promulgated under law, is guilty of a class A misdemeanor. Any second or subsequent violation of this subsection is a class **[**D**]** E felony.

3. Any person who misrepresents himself or herself, verbally or in writing, to have been awarded any decoration or medal authorized under chapter 41, or by Congress for the armed forces of the United States, any of the service medals or badges awarded to the members of such forces, the ribbon, button, or rosette of any such badge, decoration, or medal, or any colorable imitation of such item is guilty of a class A misdemeanor. Any second or subsequent violation of this subsection is a class **[**D**]**

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E felony.

4. Any person who fraudulently uses the title of "veteran", as defined by the United States Department of Veterans Affairs or its successor agency, in order to obtain personal benefit, monetary or otherwise, and such person does not have verifiable proof of his or her status as a veteran is guilty of a class A misdemeanor. Any second or subsequent violation of this subsection is a class **[**D**]** E felony.

5. If a decoration or medal involved in an offense described in subsections 2 to 4 of this section is a distinguished-service cross awarded under Section 3742 of Title 10 of the United States Code, a Navy Cross awarded under Section 6242 of Title 10 of the United States Code, an Air Force Cross awarded under Section 8742 of Section 10 of the United States Code, a Silver Star awarded under Section 3742, 6244, or 8746 of Title 10 of the United States Code, a Purple Heart awarded under Section 1129 of Title 10 of the United States Code, or any replacement or duplicate medal for such medal as authorized by law, in lieu of the penalty provided in subsection 2, 3, or 4 of this section, the offender is guilty of a class **[**D**]** E felony.

6. If a decoration or medal involved in an offense described in subsections 2 to 4 of this section is the Medal of Honor awarded under Section 1560 of Title 38 of the United States Code, the offender is guilty of a class **[**C**]** D felony.

[578.570. Any**]** 570.375. 1. A person **[**who**]** commits the offense of fraud or deception in obtaining an instruction permit, driver's license or nondriver's license if he or she:

(1) **[**Knowing**]** Knowingly or in reckless disregard of the

truth, assists any person in committing fraud or deception during the examination process for an instruction permit, driver's license, or nondriver's license; or

(2) **[**Knowing**]** Knowingly or in reckless disregard of the truth, assists any person in **[**making application**]** applying for an instruction permit, driver's license, or nondriver's license that contains or is substantiated with false or fraudulent information or documentation; or

(3) **[**Knowing**]** Knowingly or in reckless disregard of the truth, assists any person in concealing a material fact or otherwise committing a fraud in an application for an instruction permit, driver's license, or nondriver's license; or

(4) Engages in any conspiracy to commit any of the preceding acts or aids or abets the commission of any of the preceding acts**[;]**.

2. The offense of fraud or deception in obtaining an instruction permit, driver's license, or nondriver's license is **[**guilty of**]** a class A misdemeanor.

570.380. **[**Any**]** 1. A person **[**who**]** commits the offense of manufacture or possession of five or more fake IDs if he or she manufactures or possesses five or more fictitious or forged means of identification, as defined in section **[**570.223**]** 570.010, with the intent to distribute to others for the purpose of committing **[**a crime shall be guilty of a class C felony**]** an offense.

2. The offense of manufacture or possession of five or more fake IDs is a class D felony.

[578.377.**]** 570.400. 1. A person commits the **[**crime**]** offense of unlawfully receiving food stamp coupons or ATP cards

if he or she knowingly receives or uses the proceeds of food stamp coupons or ATP cards to which he or she is not lawfully entitled or for which he has not applied and been approved by the department to receive.

2. The offense of unlawfully receiving food stamp coupons or ATP cards is a class [D felony unless the face value of the food stamp coupon or ATP cards is less than five hundred dollars, in which case unlawful receiving of food stamp coupons and ATP cards is a class] A misdemeanor, unless the face value of the food stamp coupons or ATP cards is seven hundred fifty dollars or more, in which case it is a class E felony, or the person has previously been found guilty of two violations under sections 570.400 to 570.410, in which case it is a class D felony.

[578.379.] 570.402. 1. A person commits the [crime] offense of conversion of food stamp coupons or ATP cards if he or she knowingly engages in any transaction to convert food stamp coupons or ATP cards to other property contrary to statutes, rules and regulations, either state or federal, governing the food stamp program.

2. The offense of unlawful conversion of food stamp coupons or ATP cards is a class [D felony unless the face value of said food stamp coupons or ATP cards is less than five hundred dollars, in which case unlawful conversion of food stamp coupons or ATP cards is a class] A misdemeanor, unless the face value of the food stamp coupons or ATP cards is seven hundred fifty dollars or more, in which case it is a class E felony, or the person has previously been found guilty of two violations under sections 570.400 to 570.410, in which case it is a class D

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felony.

[578.381.**]** 570.404. 1. A person commits the **[**crime**]** offense of unlawful transfer of food stamp coupons or ATP cards if he or she knowingly transfers food stamp coupons or ATP cards to another not lawfully entitled or approved by the department of social services to receive the food stamp coupons or ATP cards.

2. The offense of unlawful transfer of food stamp coupons or ATP cards is a class **[**D felony unless the face value of said food stamp coupons or ATP cards is less than five hundred dollars, in which case unlawful transfer of food stamp coupons or ATP cards is a class**]** A misdemeanor, unless the face value of the food stamp coupons or ATP cards is seven hundred fifty dollars or more, in which case it is a class E felony, or the person previously been found guilty of two violations under sections 570.400 to 570.410, in which case it is a class D felony.

[578.383.**]** 570.406. The face value of all food stamp coupons or ATP cards stolen, possessed, transferred or converted from one scheme or course of conduct, whether from one or several rightful possessors, or at the same or different times shall constitute a single criminal episode and their face values may be aggregated in determining the grade of offense.

[578.385.**]** 570.408. 1. A person commits the **[**crime**]** offense of perjury for the purpose of **[**this section**]** obtaining public assistance if he or she knowingly makes a false or misleading statement or misrepresents a fact material for the purpose of obtaining public assistance if the false or misleading statement is reduced to writing and verified by the signature of the person making the statement and by the signature of any

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employee of the Missouri department of social services. The same person may not be charged with unlawfully receiving public assistance benefits and perjury pursuant to this section when both offenses arise from the same application for benefits.

2. A statement or fact is material, regardless of its admissibility under rules of evidence, if it could substantially affect or did substantially affect the granting of public assistance.

3. Knowledge of the materiality of the statement or fact is not an element of this **[**crime**]** offense, and it is no defense that:

(1) The **[**defendant**]** person mistakenly believed the fact to be immaterial; or

(2) The **[**defendant**]** person was not competent, for reasons other than mental disability, to make the statement.

4. **[**Perjury committed as part of a transaction involving the making of an application to obtain public assistance is a class D felony unless the value of the public assistance unlawfully obtained or unlawfully attempted to be obtained is less than five hundred dollars in which case it is a class A misdemeanor**]** The offense of perjury for the purpose of obtaining public assistance is a class A misdemeanor, unless the value of the public assistance unlawfully obtained or unlawfully attempted to be obtained is seven hundred fifty dollars or more, in which case it is a class E felony, or the person has previously been found guilty of two violations under sections 570.400 to 570.410, in which case it is a class D felony.

[578.387.**]** 570.410. 1. For the purpose of any

investigation or proceeding relating to public assistance unlawfully received or an application for public assistance unlawfully tendered, the director of the department of social services or any officer designated by him [and/or] or her or the attorney general for the state of Missouri or any officer designated by him or her may administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony, require answers to written interrogatories and require production of any books, papers, correspondence, memoranda, agreements or other documents or records which the director of the department [and/or] or the attorney general deem relevant and material to the inquiry.

2. In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the circuit court of any county of the state or the city of St. Louis, upon application by the department director [and/or] or the attorney general may issue to the person an order requiring him or her to appear before the department director[,] or the officer designated by him or her, [and/or] or the attorney general[,] or the officer designated by him or her, there to produce documentary evidence if so ordered or to give testimony or answer interrogatories touching the matter under investigation or in question in accordance with the forms and procedures otherwise authorized by the Rules of Civil Procedure. Failure to obey the order of the court may be punished by the court as a contempt of court.

3. Information or documents obtained under this section by the director of the department [and/or] or the attorney general shall not be disclosed except in the course of civil or criminal

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litigation or to another prosecutorial or investigative agency, or to the divisions of the department.

4. **[**Anyone improperly disclosing information obtained**]** The offense of improper disclosure under this section is **[**guilty of**]** a class A misdemeanor.

5. The provisions of this section do not repeal existing provisions of law and shall be construed as supplementary thereto.

571.010. As used in this chapter, the following terms shall mean:

(1) "Ammunition", any cartridge, shell, or projectile designed for use in a firearm;

(2) "Antique, curio or relic firearm", includes any firearm so defined by the National Gun Control Act, 18 U.S.C. Title 26, Section 5845, and the United States Treasury/Bureau of Alcohol Tobacco and Firearms, 27 CFR Section 178.11:

(a) "Antique firearm" is any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, said ammunition not being manufactured any longer; this includes any matchlock, wheel lock, flintlock, percussion cap or similar type ignition system, or replica thereof;

(b) "Curio or relic firearm" is any firearm deriving value as a collectible weapon due to its unique design, ignition system, operation or at least fifty years **[**old**]** of age, associated with a historical event, renown personage or major war;

[(2)**]** (3) "Blackjack", any instrument that is designed or

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adapted for the purpose of stunning or inflicting physical injury by striking a person, and which is readily capable of lethal use;

[(3)**]** (4) "Blasting agent", any material or mixture, consisting of fuel and oxidizer that is intended for blasting, but not otherwise defined as an explosive under this section, provided that the finished product, as mixed for use of shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined;

[(4)**]** (5) "Concealable firearm", any firearm with a barrel less than sixteen inches in length, measured from the face of the bolt or standing breech;

[(5) "Deface", to alter or destroy the manufacturer's or importer's serial number or any other distinguishing number or identification mark;**]**

(6) "Detonator", any device containing a detonating charge that is used for initiating detonation in an explosive, including but not limited to, electric blasting caps of instantaneous and delay types, nonelectric blasting caps for use with safety fuse or shock tube and detonating cord delay connectors;

(7) "Explosive weapon", any explosive, incendiary, or poison gas bomb or similar device designed or adapted for the purpose of inflicting death, serious physical injury, or substantial property damage; or any device designed or adapted for delivering or shooting such a weapon. For the purposes of this subdivision, the term "explosive" shall mean any chemical compound mixture or device, the primary or common purpose of which is to function by explosion, including but not limited to, dynamite and other high explosives, pellet powder, initiating

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explosives, detonators, safety fuses, squibs, detonating cords, igniter cords, and igniters or blasting agents;

(8) "Firearm", any weapon that is designed or adapted to expel a projectile by the action of an explosive;

(9) "Firearm silencer", any instrument, attachment, or appliance that is designed or adapted to muffle the noise made by the firing of any firearm;

(10) "Gas gun", any gas ejection device, weapon, cartridge, container or contrivance other than a gas bomb that is designed or adapted for the purpose of ejecting any poison gas that will cause death or serious physical injury, but not any device that ejects a repellant or temporary incapacitating substance;

(11) "Intoxicated", substantially impaired mental or physical capacity resulting from introduction of any substance into the body;

(12) "Knife", any dagger, dirk, stiletto, or bladed hand instrument that is readily capable of inflicting serious physical injury or death by cutting or stabbing a person. For purposes of this chapter, "knife" does not include any ordinary pocketknife with no blade more than four inches in length;

(13) "Knuckles", any instrument that consists of finger rings or guards made of a hard substance that is designed or adapted for the purpose of inflicting serious physical injury or death by striking a person with a fist enclosed in the knuckles;

(14) "Machine gun", any firearm that is capable of firing more than one shot automatically, without manual reloading, by a single function of the trigger;

(15) "Projectile weapon", any bow, crossbow, pellet gun,

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slingshot or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious physical injury or death by striking or piercing a person;

(16) "Rifle", any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed metallic cartridge to fire a projectile through a rifled bore by a single function of the trigger;

(17) "Short barrel", a barrel length of less than sixteen inches for a rifle and eighteen inches for a shotgun, both measured from the face of the bolt or standing breech, or an overall rifle or shotgun length of less than twenty-six inches;

(18) "Shotgun", any firearm designed or adapted to be fired from the shoulder and to use the energy of the explosive in a fixed shotgun shell to fire a number of shot or a single projectile through a smooth bore barrel by a single function of the trigger;

(19) **[**"Spring gun", any fused, timed or nonmanually controlled trap or device designed or adapted to set off an explosion for the purpose of inflicting serious physical injury or death;

(20)**]** "Switchblade knife", any knife which has a blade that folds or closes into the handle or sheath, and:

(a) That opens automatically by pressure applied to a button or other device located on the handle; or

(b) That opens or releases from the handle or sheath by the force of gravity or by the application of centrifugal force.

571.014. 1. A person commits the **[**crime**]** <u>offense</u> of unlawful refusal to transfer by denying <u>the</u> sale of a firearm to

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a nonlicensee, who is otherwise not prohibited from possessing a firearm under state or federal law, solely on the basis that the nonlicensee purchased a firearm that was later the subject of a trace request by law enforcement.

2. [Violation of subsection 1 of this section shall be] The offense of unlawful refusal to transfer by denying the sale of a firearm a class A misdemeanor.

3. Notwithstanding any other provision of law to the contrary, no [federal firearms] dealer [licensed under 18 U.S.C. Section 923] who engages in the sale of firearms within this state shall fail or refuse to complete the sale of a firearm to a customer in every case in which the sale is authorized by federal law.

4. [The provisions of] This section shall not apply to any [individual federal firearms license holder, his agents, or employees to the extent they chose in their] firearms dealer who, in his or her individual judgment [to], chooses not to complete the sale or transfer of a firearm for articulable reasons specific to that transaction, so long as those reasons are not based on the race, gender, religion, or creed of the buyer.

571.015. 1. Except as provided in subsection 4 of this section, any person who commits any felony under the laws of this state by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon is also guilty of the [crime] offense of armed criminal action and, upon conviction, shall be punished by imprisonment by the department of corrections [and human resources] for a term of not less than three years. The punishment imposed pursuant to this subsection

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shall be in addition to any punishment provided by law for the crime committed by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon. No person convicted under this subsection shall be eligible for parole, probation, conditional release or suspended imposition or execution of sentence for a period of three calendar years.

2. Any person convicted of a second offense of armed criminal action shall be punished by imprisonment by the department of corrections **[**and human resources**]** for a term of not less than five years. The punishment imposed pursuant to this subsection shall be in addition to any punishment provided by law for the **[**crime**]** offense committed by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon. No person convicted under this subsection shall be eligible for parole, probation, conditional release or suspended imposition or execution of sentence for a period of five calendar years.

3. Any person convicted of a third or subsequent offense of armed criminal action shall be punished by imprisonment by the department of corrections **[**and human resources**]** for a term of not less than ten years. The punishment imposed pursuant to this subsection shall be in addition to any punishment provided by law for the **[**crime**]** offense committed by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon. No person convicted under this subsection shall be eligible for parole, probation, conditional release or suspended imposition or execution of sentence for a period of ten calendar years.

4. The provisions of this section shall not apply to the felonies defined in **[**sections 564.590, 564.610, 564.620, 564.630,

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and 564.640**]** this chapter.

5. Nothing contained in any other provisions of law, except as provided in subsection 4 of this section, shall prevent imposition of sentences for both armed criminal action and the crime committed by, with or through the use, assistance, or aid of a dangerous instrument or deadly weapon.

571.020. 1. A person commits **[**a crime**]** the offense of unlawful possession, manufacture, or sale of a weapon if **[**such person**]** he of she knowingly possesses, manufactures, **[**transports, repairs,**]** or sells:

(1) An explosive weapon;

(2) An explosive, incendiary or poison substance or material with the purpose to possess, manufacture or sell an explosive weapon;

(3) A gas gun;

(4) A switchblade knife;

(5) A bullet or projectile which explodes or detonates upon impact because of an independent explosive charge after having been shot from a firearm; **[**or**]**

(6) Knuckles; **[**or**]**

(7) Any of the following in violation of federal law:

(a) A machine gun;

(b) A short-barreled rifle or shotgun; or

(c) A firearm silencer.

2. A person does not commit **[**a crime**]** an offense pursuant to this section if his or her conduct involved any of the items in subdivisions (1) to (6) of subsection 1 of this section, the item was possessed in conformity with any applicable federal law,

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and the conduct:

(1) Was incident to the performance of official duty by the armed forces, national guard, a governmental law enforcement agency, or a penal institution; or

(2) Was incident to engaging in a lawful commercial or business transaction with an organization enumerated in subdivision (1) of this section; or

(3) Was incident to using an explosive weapon in a manner reasonably related to a lawful industrial or commercial enterprise; or

(4) Was incident to displaying the weapon in a public museum or exhibition; or

(5) Was incident to using the weapon in a manner reasonably related to a lawful dramatic performance.

3. **[**A crime**]** An offense pursuant to subdivision (1), (2), (3) or (7) of subsection 1 of this section is a class **[**C**]** D felony; **[**a crime**]** an offense pursuant to subdivision (4), (5) or (6) of subsection 1 of this section is a class A misdemeanor.

571.031. 1. A person commits the offense of carrying a concealed weapon if he or she knowingly carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use.

2. The offense of carrying a concealed weapon is a class E felony.

3. This section shall not apply to any person who:

(1) Has a valid concealed carry endorsement issued pursuant to sections 319.1025 to 319.1043 or a valid permit or endorsement to carry concealed firearms issued by another state or political

subdivision of another state; or

(2) Being twenty-one years of age or older, is transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed; or

(3) Is transporting weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible; or

(3) Is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game; or

(4) Is in his or her dwelling unit or upon premises over which the person has possession, authority or control; or

(5) Is traveling in a continuous journey peaceably through this state.

4. No person found guilty of the offense of carrying a concealed weapon shall receive a suspended imposition of sentence if such person has previously received a suspended imposition of sentence for any other firearms or weapons-related felony offense.

571.033. 1. A person commits the offense of unlawful discharge of a firearm in the first degree if he or she knowingly discharges or shoots a firearm:

(1) At any person; or

(2) Into a dwelling house or habitable structure or a building used for the assembling of people; or

(3) At or from a motor vehicle, as the term "motor vehicle" is defined in section 301.010, or at any other motor vehicle, railroad train, boat, aircraft, building, or habitable structure.

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2. The offense of unlawful discharge of a firearm in the first degree shall be punished as follows:

(1) For a first violation a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony;

(2) For any violation by a prior offender as defined in section 558.016, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation or conditional release for a term of ten years;

(3) For any violation by a persistent offender as defined in section 558.016, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation, or conditional release;

(4) For any violation which results in injury or death to another person, a person shall be sentenced to an authorized disposition for a class A felony.

3. No person found guilty of unlawful discharge of a firearm in the first degree shall receive a suspended imposition of sentence if such person has previously received a suspended imposition of sentence for any other firearms or weapons-related felony offense.

571.034. 1. A person commits the offense of unlawful discharge of a firearm in the second degree if he or she knowingly discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway, or into any outbuilding, or within one hundred yards of any occupied schoolhouse, courthouse, or church building.

2. The offense of unlawful discharge of a firearm in the

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second degree is a class B misdemeanor.

3. Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored or club-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.

4. No person found guilty of unlawful discharge of a firearm in the second degree shall receive a suspended imposition of sentence if such person has previously received a suspended imposition of sentence for any other firearms or weapons-related felony offense.

571.036. 1. A person commits the offense of brandishing a weapon if he or she, in the presence of one or more persons, exhibits any weapon readily capable of lethal use in an angry or threatening manner.

2. The offense of brandishing a weapon is a class E felony.

3. No person found guilty of brandishing a weapon shall receive a suspended imposition of sentence if such person has previously received a suspended imposition of sentence for any other firearms or weapons-related felony offense.

571.038. 1. A person commits the offense of possession of a weapon in a prohibited place if he or she knowingly:

(1) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity

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sponsored or sanctioned by school officials or the district school board; or

(2) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof.

2. The offense of possession of a weapon in a prohibited place shall be punished as follows:

(1) Violation of subdivision (1) of subsection 1 of this section is a class A misdemeanor, unless committed with a loaded firearm, in which case it is a class E felony;

(2) Violation of subdivision (2) of subsection 1 of this section is a class B misdemeanor.

3. This section shall not apply to any person who:

(1) Has a valid concealed carry endorsement issued under sections 319.1025 to 319.1043 or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state; or

(2) Otherwise lawfully possesses a firearm while traversing school premises for the purposes of transporting a student to or from school, or is an adult who lawfully possesses a firearm for the purposes of facilitation of a school-sanctioned firearm-related event or club event; or

(3) Is transporting a weapon in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible.

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4. Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored or club-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.

5. No person found guilty of possession of a weapon in a prohibited place shall receive a suspended imposition of sentence if such person has previously received a suspended imposition of sentence for any other firearms or weapons-related felony offense.

571.041. 1. Nothing in section 571.031, carrying a concealed weapon, and section 571.038, possession of a weapon in a prohibited place, shall apply to any of the following persons described in this section, regardless of whether such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties, except as otherwise provided in this section. Nothing in section 571.033, unlawful discharge of a firearm in the first degree; section 571.034, unlawful discharge of a firearm in the second degree; and section 571.036, brandishing a weapon, shall apply to or effect any of the following persons when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties, except as otherwise provided in this section:

(1) All state, county, and municipal peace officers who have completed the training required by the police officer

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standards and training commission under sections 590.030 to 590.050 and who possess the duty and power of arrest for violations of the general criminal laws of the state or for violations of ordinances of counties or municipalities of the state, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection 2 of this section, and who carry the identification defined in subsection 3 of this section, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents, and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of crime;

(3) Members of the armed forces or national guard while performing their official duty;

(4) Those persons vested by article V, section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;

(5) Any person whose bona fide duty is to execute process, civil or criminal;

(6) Any federal probation officer or federal flight deck officer as defined under the federal flight deck officer program, 49 U.S.C. Section 44921, regardless of whether such officers are on duty, or within the law enforcement agency's jurisdiction;

(7) Any state probation or parole officer, including

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supervisors and members of the board of probation and parole;

(8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under section 84.340;

(9) Any prosecuting attorney or assistant prosecuting attorney or any circuit attorney or assistant circuit attorney who has completed the firearms safety training course required under subsection 2 of section 319.1034;

(10) Any member of a fire department or fire protection district, who is employed on a full-time basis as a fire investigator and who has a valid concealed carry endorsement under sections 319.1025 to 319.1043, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties; and

(11) Any coroner, deputy coroner, medical examiner, or assistant medical examiner.

2. As used in this section "qualified retired peace officer" means an individual who:

(1) Retired in good standing from service with a public agency as a peace officer, other than for reasons of mental instability;

(2) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

(3) Before such retirement, was regularly employed as a peace officer for an aggregate of fifteen years or more, or retired from service with such agency, after completing any

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applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

(4) Has a nonforfeitable right to benefits under the retirement plan of the agency if such a plan is available;

(5) During the most recent twelve-month period, has met, at the expense of the individual, the standards for training and qualification for active peace officers to carry firearms;

(6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) Is not prohibited by federal law from receiving a firearm.

3. The identification required by subdivision (1) of subsection 1 of this section is:

(1) A photographic identification issued by the agency from which the individual retired from service as a peace officer that indicates that the individual has, within one year of the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm; or

(2) A photographic identification issued by the agency from which the individual retired from service as a peace officer; and

(3) A certification issued by the state in which the individual resides that indicates that the individual has, within one year of the date the individual is carrying the concealed firearm, been tested or otherwise found by the state to meet the standards established by the state for training and qualification

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for active peace officers to carry a firearm of the same type as the concealed firearm.

571.042. 1. A person commits the offense of possession of a weapon while intoxicated if he or she has a firearm or projectile weapon readily capable of lethal use on his or her person, while he or she is intoxicated.

2. The offense of possession of a weapon while intoxicated is a class A misdemeanor, unless committed with a loaded firearm, in which case it is a class E felony.

3. This section shall not apply to a person transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible.

4. It shall be an affirmative defense to this section that the person is in his or her own residence at the time of the offense, unless he or she handles or otherwise uses such firearm or projectile weapon in either a negligent or unlawful manner or discharges such firearm or projectile weapon.

5. No person found guilty of possession of a weapon while intoxicated shall receive a suspended imposition of sentence if such person has previously received a suspended imposition of sentence for any other firearms or weapons-related felony offense.

571.043. It shall be a defense to section 571.033, unlawful discharge of a firearm in the first degree; section 571.034, unlawful discharge of a firearm in the second degree; section 571.036, brandishing a weapon; section 571.038, possession of a weapon in a prohibited place; and section 571.042, possession of

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a weapon while intoxicated; that the offense was committed by a person engaged in a lawful act of defense under section 563.031. The defendant shall have the burden of injecting the issue of lawful defense.

571.044. 1. A person commits the offense of setting a spring gun if he or she knowingly sets any fused, timed or nonmanually controlled trap or device designed or adapted to set off an explosion for the purpose of inflicting serious physical injury or death.

2. The offense of setting a spring gun is a class E felony.

3. No person found guilty of setting a spring gun shall receive a suspended imposition of sentence if such person has previously received a suspended imposition of sentence for any other firearms or weapons-related felony offense.

571.045. 1. A person commits the **[**crime**]** offense of defacing a firearm if he or she knowingly **[**defaces**]** alters or destroys the manufacturer's or importer's serial number or any other distinguishing number or identification mark of any firearm.

2. The offense of defacing a firearm is a class A misdemeanor.

571.050. 1. A person commits the **[**crime**]** offense of possession of a defaced firearm if he or she knowingly possesses a firearm on which **[**is defaced**]** the manufacturer's or importer's serial number or any other distinguishing number or identification mark has been altered or destroyed.

2. The offense of possession of a defaced firearm is a class B misdemeanor.

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571.060. 1. A person commits the [crime] offense of unlawful transfer of [weapons] a weapon if he or she:

(1) Knowingly [sells, leases, loans, gives away or delivers] transfers a firearm or ammunition for a firearm to any person who, under the provisions of section 571.070, is not lawfully entitled to possess such;

(2) Knowingly [sells, leases, loans, gives away or delivers] transfers a blackjack to a person less than eighteen years [old] of age without the consent of the child's custodial parent or guardian[,]; or

(3) Recklessly[, as defined in section 562.016, sells, leases, loans, gives away or delivers] transfers any firearm to a person less than eighteen years [old] of age without the consent of the child's custodial parent or guardian; [provided, that this does not prohibit the delivery of such weapons to any peace officer or member of the armed forces or national guard while performing his official duty;] or

[(3)] (4) Recklessly, [as defined in section 562.016, sells, leases, loans, gives away or delivers] transfers a firearm or ammunition for a firearm to a person who is intoxicated.

2. The offense of unlawful transfer of [weapons] a weapon under subdivision (1) of subsection 1 of this section is a class [D] E felony; unlawful transfer of [weapons] a weapon under subdivisions (2) [and], (3) and (4) of subsection 1 of this section is a class A misdemeanor.

571.063. 1. [As used in this section the following terms shall mean:

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(1) "Ammunition", any cartridge, shell, or projectile designed for use in a firearm;

(2) "Licensed dealer", a person who is licensed under 18 U.S.C. Section 923 to engage in the business of dealing in firearms;

(3) "Materially false information", any information that portrays an illegal transaction as legal or a legal transaction as illegal;

(4) "Private seller", a person who sells or offers for sale any firearm, as defined in section 571.010, or ammunition.

2.**]** A person commits the **[**crime**]** offense of fraudulent purchase of a firearm if **[**such person**]** he or she:

(1) Knowingly solicits, persuades, encourages or entices a **[**licensed dealer or private**]** seller of firearms or ammunition to transfer a firearm or ammunition under circumstances which the person knows would violate the laws of this state or the United States; or

(2) Provides to a **[**licensed dealer or private**]** seller of firearms or ammunition what the person knows to be **[**materially**]** false information with intent to deceive the **[**dealer or**]** seller about the legality of a transfer of a firearm or ammunition**[**; or

(3) Willfully procures another to violate the provisions of subdivision (1) or (2) of this subsection**]**.

[3.**]** 2. The offense of fraudulent purchase of a firearm is a class **[**D**]** E felony.

[4.**]** 3. This section shall not apply to criminal investigations conducted by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives, authorized agents of such

investigations, or to a [peace] law enforcement officer, [as defined in section 542.261,] acting at the explicit direction of the United States Bureau of Alcohol, Tobacco, Firearms and Explosives.

571.070. 1. A person commits the [crime] offense of unlawful possession of a firearm or explosive weapon if [such person] he or she knowingly has any firearm or explosive weapon in his or her possession and such person:

(1) [Such person] Has been convicted of a felony under the laws of this state, or of [a crime] an offense under the laws of any [state or of the United States] jurisdiction which, if committed [within] in this state, would be a felony; or

(2) [Such person] Is a fugitive from justice[,]; or

(3) Is habitually in an intoxicated or drugged condition[,]; or

(4) Is currently adjudged mentally incompetent.

2. The offense of unlawful possession of a firearm or explosive weapon is a class [C] D felony.

3. The provisions of subdivision (1) of subsection 1 of this section shall not apply to the possession of an antique firearm.

571.150. 1. As used in this section, the term "metal-penetrating bullet" means handgun bullet or projectile of 9 mm, .25, .32, .38, .357, .41, .44, or .451 or other caliber which is comprised of a hardened core equal to the minimum of the maximum attainable hardness by solid red metal alloy which purposely reduces the normal expansion or mushrooming of the bullet's or projectile's shape upon impact. Metal-penetrating

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bullet does not include any bullet or projectile composed of copper or brass jacket with lead or lead alloy cores or any bullet or projectile composed of lead or lead alloys.

2. **[**Any person who uses or possesses**]** The offense of using or possessing a metal-penetrating bullet during the commission of **[**a crime is guilty of**]** an offense is a class B felony.

572.010. As used in this chapter the following terms mean:

(1) "Advance gambling activity", a person "advances gambling activity" if, acting other than as a player, he or she engages in conduct that materially aids any form of gambling activity. Conduct of this nature includes but is not limited to conduct directed toward the creation or establishment of the particular game, lottery, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement or communication of any of its financial or recording phases, or toward any other phase of its operation. A person advances gambling activity if, having substantial proprietary control or other authoritative control over premises being used with his or her knowledge for purposes of gambling activity, he or she permits that activity to occur or continue or makes no effort to prevent its occurrence or continuation. The supplying, servicing and operation of a licensed excursion gambling boat under sections 313.800 to 313.840 does not constitute advancing gambling activity;

(2) "Bookmaking", **[**means**]** advancing gambling activity by

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unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcomes of future contingent events;

(3) "Contest of chance" **[**means**]**, any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that the skill of the contestants may also be a factor therein;

(4) "Gambling", a person engages in "gambling" when he or she stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his or her control or influence, upon an agreement or understanding that he or she will receive something of value in the event of a certain outcome. Gambling does not include bona fide business transactions valid under the law of contracts, including but not limited to contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance; nor does gambling include playing an amusement device that confers only an immediate right of replay not exchangeable for something of value. Gambling does not include any licensed activity, or persons participating in such games which are covered by sections 313.800 to 313.840;

(5) "Gambling device" **[**means**]**, any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person with a machine. However, lottery tickets, policy slips and other items

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used in the playing phases of lottery and policy schemes are not gambling devices within this definition;

(6) "Gambling record" **[**means**]**, any article, instrument, record, receipt, ticket, certificate, token, slip or notation used or intended to be used in connection with unlawful gambling activity;

(7) "Lottery" or "policy" **[**means**]**, an unlawful gambling scheme in which for a consideration the participants are given an opportunity to win something of value, the award of which is determined by chance;

(8) "Player" **[**means**]**, a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who gambles at a social game of chance on equal terms with the other participants therein does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor and supplying cards or other equipment used therein. A person who engages in "bookmaking" as defined in subdivision (2) of this section is not a "player";

(9) "Professional player" **[**means**]**, a player who engages in gambling for a livelihood or who has derived at least twenty percent of his or her income in any one year within the past five

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years from acting solely as a player;

(10) "Profit from gambling activity", a person "profits from gambling activity" if, other than as a player, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity;

(11) "Slot machine" [means], a gambling device that as a result of the insertion of a coin or other object operates, either completely automatically or with the aid of some physical act by the player, in such a manner that, depending upon elements of chance, it may eject something of value. A device so constructed or readily adaptable or convertible to such use is no less a slot machine because it is not in working order or because some mechanical act of manipulation or repair is required to accomplish its adaptation, conversion or workability. Nor is it any less a slot machine because apart from its use or adaptability as such it may also sell or deliver something of value on a basis other than chance;

(12) "Something of value" [means], any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge;

(13) "Unlawful" [means], not specifically authorized by law.

572.015. Nothing in this chapter prohibits constitutionally

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authorized activities pursuant to article III, sections 39(a) to 39(f) of the Missouri Constitution.

572.020. 1. A person commits the **[**crime**]** offense of gambling if he or she knowingly engages in gambling.

2. The offense of gambling is **[**a class C misdemeanor**]** an infraction unless:

(1) It is committed by a professional player, in which case it is a class **[**D felony**]** A misdemeanor; or

(2) The person knowingly engages in gambling with a **[**minor**]** child less than seventeen years of age, in which case it is a class B misdemeanor.

572.030. 1. A person commits the **[**crime**]** offense of promoting gambling in the first degree if he or she knowingly advances or profits from unlawful gambling or lottery activity by:

(1) Setting up and operating a gambling device to the extent that more than one hundred dollars of money is gambled upon or by means of the device in any one day, or setting up and operating any slot machine; or

(2) Engaging in bookmaking to the extent that he or she receives or accepts in any one day more than one bet and a total of more than one hundred dollars in bets; or

(3) Receiving in connection with a lottery or policy or enterprise:

(a) Money or written records from a person other than a player whose chances or plays are represented by such money or records; or

(b) More than one hundred dollars in any one day of money

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played in the scheme or enterprise; or

(c) Something of value played in the scheme or enterprise with a fair market value exceeding one hundred dollars in any one day.

2. The offense of promoting gambling in the first degree is a class **[**D**]** E felony.

572.040. 1. A person commits the **[**crime**]** offense of promoting gambling in the second degree if he or she knowingly advances or profits from unlawful gambling or lottery activity.

2. The offense of promoting gambling in the second degree is a class A misdemeanor.

572.050. 1. A person commits the **[**crime**]** offense of possession of gambling records in the first degree if, with knowledge of the contents thereof, he or she possesses any gambling record of a kind used:

(1) In the operation or promotion of a bookmaking scheme or enterprise, and constituting, reflecting or representing more than five bets totaling more than five hundred dollars; or

(2) In the operation, promotion or playing of a lottery or policy scheme or enterprise, and constituting, reflecting or representing more than five hundred plays or chances therein.

2. **[**A person does not commit a crime**]** No offense is committed under subdivision (1) of subsection 1 of this section if the gambling record possessed by the **[**defendant**]** person constituted, reflected or represented his or her own bets **[**of the defendant himself**]** in a number not exceeding ten.

3. The defendant shall have the burden of injecting the issue under subsection 2.

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4. The offense of possession of gambling records in the first degree is a class [D] E felony.

572.060. 1. A person commits the [crime] offense of possession of gambling records in the second degree if, with knowledge of the contents thereof, he or she possesses any gambling record of a kind used:

(1) In the operation or promotion of a bookmaking scheme or enterprise; or

(2) In the operation, promotion or playing of a lottery or policy scheme or enterprise.

2. [A person does not commit a crime] No offense is committed under subdivision (1) of subsection 1 of this section if the gambling record possessed by the [defendant] person constituted, reflected or represented bets [of the defendant himself] in a number not exceeding ten.

3. The defendant shall have the burden of injecting the issue under subsection 2.

4. The offense of possession of gambling records in the second degree is a class A misdemeanor.

572.070. 1. A person commits the [crime] offense of possession of a gambling device if, with knowledge of the character thereof, he or she manufactures, sells, transports, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of:

(1) A slot machine; or

(2) Any other gambling device, knowing or having reason to believe that it is to be used in the state of Missouri in the advancement of unlawful gambling activity.

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2. The offense of possession of a gambling device is a class A misdemeanor.

573.010. As used in this chapter the following terms shall mean:

(1) "Adult cabaret", a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, regardless of whether alcoholic beverages are served, which regularly features persons who appear semi-nude;

(2) "Characterized by", describing the essential character or dominant theme of an item;

(3) "Child", any person under the age of fourteen;

[(2)**]** (4) "Child pornography":

(a) Any obscene material or performance depicting sexual conduct, sexual contact as defined in section 566.010, or a sexual performance**[**, as these terms are defined in section 556.061,**]** and which has as one of its participants or portrays as an observer of such conduct, contact, or performance a minor **[**under the age of eighteen**]**; or

(b) Any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where:

a. The production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;

b. Such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct, in that the depiction is such that an ordinary

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person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct; or

c. Such visual depiction has been created, adapted, or modified to show that an identifiable minor is engaging in sexually explicit conduct. "Identifiable minor" means a person who was a minor at the time the visual depiction was created, adapted, or modified; or whose image as a minor was used in creating, adapting, or modifying the visual depiction; and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature. The term "identifiable minor" shall not be construed to require proof of the actual identity of the identifiable minor;

[(3) "Displays publicly", exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway or public sidewalk, or from the property of others or from any portion of the person's store, or the exhibitor's store or property when items and material other than this material are offered for sale or rent to the public;

(4)**]** (5) "Employ", "employee", or "employment", means any person who performs any service on the premises of a sexually oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of

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the premises or for the delivery of goods to the premises;

(6) "Explicit sexual material", any pictorial or three-dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation or unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of postpubertal human genitals; provided, however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition;

[(5)**]** (7) "Furnish", to issue, sell, give, provide, lend, mail, deliver, transfer, circulate, disseminate, present, exhibit or otherwise provide;

[(6) "Graphic", when used with respect to a depiction of sexually explicit conduct, that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted;

(7) "Identifiable minor":

(a) A person:

a. (i) Who was a minor at the time the visual depiction was created, adapted, or modified; or

(ii) Whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

b. Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

(b) The term shall not be construed to require proof of the actual identity of the identifiable minor;

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(8) "Indistinguishable", when used with respect to a depiction, virtually indistinguishable, in that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct. Indistinguishable does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults;

(9)] (8) "Material", anything printed or written, or any picture, drawing, photograph, motion picture film, videotape or videotape production, or pictorial representation, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or stored computer data, or anything which is or may be used as a means of communication. Material includes undeveloped photographs, molds, printing plates, stored computer data and other latent representational objects;

[(10)] (9) "Minor", any person [under the age of] less than eighteen years of age;

[(11)] (10) "Nudity" or "state of nudity", the showing of [postpubertal] the human genitals [or], pubic area, vulva, anus, anal cleft, or the female breast with less than a fully opaque covering of any part of the nipple or areola;

[(12)] (11) "Obscene", any comment, request, suggestion, material, or performance [is obscene] if, taken as a whole:

(a) Applying contemporary community standards, its predominant appeal is to prurient interest in sex; and

(b) The average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and

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(c) A reasonable person would find the material lacks serious literary, artistic, political or scientific value;

(12) "Operator", any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not such person is an owner, part owner, or licensee of the business;

(13) "Performance", any play, motion picture film, videotape, dance or exhibition performed before an audience of one or more;

(14) "Pornographic for minors", any material or performance **[**is pornographic for minors**]** if the following apply:

(a) The average person, applying contemporary community standards, would find that the material or performance, taken as a whole, has a tendency to cater or appeal to a prurient interest of minors; and

(b) The material or performance depicts or describes nudity, sexual conduct, **[**sexual excitement**]** the condition of human genitals when in a state of sexual stimulation or arousal, or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors; and

(c) The material or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors;

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(15) "Premises", the real property upon which a sexually oriented business is located, and all appurtenances thereto and buildings thereon, including but not limited to the sexually oriented business, the grounds, private walkways, and parking lots or parking garages or both;

(16) "Promote", to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same, by any means including a computer;

(17) "Regularly, the consistent and repeated doing of the act so described;

[(16)**]** (18) "Sadomasochistic abuse", flagellation or torture by or upon a person as an act of sexual stimulation or gratification;

(19) "Semi-nude" or "state of semi-nudity", the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at such point, or the showing of the male or female buttocks. Such definition includes the lower portion of the human female breast, but shall not include any portion of the cleavage of the female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part;

[(17)**]** (20) "Sexual conduct", actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation

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or gratification or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification;

[(18)**]** (21) "Sexually explicit conduct", actual or simulated:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(b) Bestiality;

(c) Masturbation;

(d) Sadistic or masochistic abuse; or

(e) Lascivious exhibition of the genitals or pubic area of any person;

[(19) "Sexual excitement", the condition of human male or female genitals when in a state of sexual stimulation or arousal;

(20)**]** (22) "Sexually oriented business" includes:

(a) An adult bookstore or adult video store. "Adult bookstore" or "adult video store" means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. A "principal business activity" exists where the commercial establishment:

a. Has a substantial portion of its displayed merchandise

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which consists of such items; or

b. Has a substantial portion of the wholesale value of its displayed merchandise which consists of such items; or

c. Has a substantial portion of the retail value of its displayed merchandise which consists of such items; or

d. Derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of such items; or

e. Maintains a substantial section of its interior business space for the sale or rental of such items; or

f. Maintains an adult arcade. "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas;

(b) An adult cabaret;

(c) An adult motion picture theater. "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions, which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five persons for any form of consideration;

(d) A semi-nude model studio. "Semi-nude model studio" means a place where persons regularly appear in a state of semi-

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nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. Such definition shall not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

a. By a college, junior college, or university supported entirely or partly by taxation;

b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

c. In a structure:

i. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

ii. Where, in order to participate in a class, a student must enroll at least three days in advance of the class;

(e) A sexual encounter center. "Sexual encounter center" means a business or commercial enterprise that, as one of its principal purposes, purports to offer for any form of consideration physical contact in the form of wrestling or tumbling between two or more persons when one or more of the persons is semi-nude;

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

(24) "Specified anatomical areas" include:

(a) Less than completely and opaquely covered: human

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genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered;

(25) "Specified sexual activity", includes any of the following:

(a) Intercourse, oral copulation, masturbation, or sodomy; or

(b) Excretory functions as a part of or in connection with any of the activities described in paragraph (a) of this subdivision;

(26) "Substantial", at least thirty percent of the item or items so modified;

(27) "Visual depiction", includes undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image**[**;

(21) "Wholesale promote", to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purposes of resale or redistribution**]**.

573.020. 1. A person commits the **[**crime**]** offense of promoting obscenity in the first degree if he or she:

(1) **[**He or she**]** Wholesale promotes or possesses with the purpose to wholesale promote any obscene material; or

(2) **[**He or she**]** Wholesale promotes for minors or possesses with the purpose to wholesale promote for minors any material pornographic for minors; or

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(3) [He or she] Promotes, wholesale promotes or possesses with the purpose to wholesale promote for minors material that is pornographic for minors via computer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

2. The offense of promoting obscenity in the first degree is a class [D] E felony.

3. As used in this section, "wholesale promote" means to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purposes of resale or redistribution.

573.023. 1. A person commits the [crime] offense of sexual exploitation of a minor if such person knowingly or recklessly photographs, films, videotapes, produces or otherwise creates obscene material with a minor or child pornography.

2. The offense of sexual exploitation of a minor is a class B felony unless the minor is a child, in which case it is a class A felony.

573.025. 1. A person commits the [crime] offense of promoting child pornography in the first degree if [such person] he or she possesses with the intent to promote or promotes child pornography of a child less than fourteen years [of age] old or obscene material portraying what appears to be a child less than fourteen years [of age] old.

2. The offense of promoting child pornography in the first degree is a class B felony unless the person knowingly promotes such material to a minor, in which case it is a class A felony.

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No person who [pleads guilty to or is] has been found guilty of[, or is convicted of,] promoting child pornography in the first degree shall be eligible for probation, parole, or conditional release for a period of three calendar years.

3. Nothing in this section shall be construed to require a provider of electronic communication services or remote computing services to monitor any user, subscriber or customer of the provider, or the content of any communication of any user, subscriber or customer of the provider.

573.030. 1. A person commits the [crime] offense of promoting pornography for minors or obscenity in the second degree if he or she:

(1) Promotes or possesses with the purpose to promote any obscene material for pecuniary gain; or

(2) Produces, presents, directs or participates in any obscene performance for pecuniary gain; or

(3) Promotes or possesses with the purpose to promote any material pornographic for minors for pecuniary gain; or

(4) Produces, presents, directs or participates in any performance pornographic for minors for pecuniary gain; or

(5) Promotes, possesses with the purpose to promote, produces, presents, directs or participates in any performance that is pornographic for minors via computer, electronic transfer, internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

2. The offense of promoting pornography for minors or obscenity in the second degree is a class A misdemeanor unless

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the person has [pleaded guilty to or has] been found guilty of an offense pursuant to this section committed at a different time, in which case it is a class [D] E felony.

573.035. 1. A person commits the [crime] offense of promoting child pornography in the second degree if such person possesses with the intent to promote or promotes child pornography of a minor [under the age of] less than eighteen years of age or obscene material portraying what appears to be a minor [under the age of] less than eighteen years of age.

2. The offense of promoting child pornography in the second degree is a class [C] D felony unless the person knowingly promotes such material to a minor, in which case it is a class B felony. No person who is found guilty of[, pleads guilty to, or is convicted of] promoting child pornography in the second degree shall be eligible for probation.

573.037. 1. A person commits the [crime] offense of possession of child pornography if such person knowingly or recklessly possesses any child pornography of a minor under the age of eighteen or obscene material portraying what appears to be a minor [under the age of] less than eighteen old.

2. The offense of possession of child pornography is a class [C] D felony unless the person possesses more than twenty still images of child pornography, possesses one motion picture, film, videotape, videotape production, or other moving image of child pornography, or has [pleaded guilty to or has] been found guilty of an offense under this section, in which case it is a class B felony.

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573.040. 1. A person commits the **[**crime**]** offense of furnishing pornographic material to minors if he or she:

(1) Furnishes any material pornographic for minors, knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor; or

(2) Produces, presents, directs or participates in any performance pornographic for minors that is furnished to a minor knowing that any person viewing such performance is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance; or

(3) Furnishes, produces, presents, directs, participates in any performance or otherwise makes available material that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the **[**defendant**]** person to be a minor.

2. It is not an affirmative defense to a prosecution for a violation of this section that the person being furnished the pornographic material is a peace officer masquerading as a minor.

3. The offense of furnishing pornographic material to minors or attempting to furnish pornographic material to minors is a class A misdemeanor unless the person has **[**pleaded guilty to or has**]** been found guilty of an offense committed at a different time pursuant to this chapter, chapter 566 or chapter 568, in which case it is a class **[**D**]** E felony.

573.050. 1. In any prosecution under this chapter evidence shall be admissible to show:

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(1) What the predominant appeal of the material or performance would be for ordinary adults or minors;

(2) The literary, artistic, political or scientific value of the material or performance;

(3) The degree of public acceptance in this state and in the local community;

(4) The appeal to prurient interest in advertising or other promotion of the material or performance;

(5) The purpose of the author, creator, promoter, furnisher or publisher of the material or performance.

2. Testimony of the author, creator, promoter, furnisher, publisher, or expert testimony, relating to factors entering into the determination of the issues of obscenity or child pornography, shall be admissible.

3. In any prosecution **[**for possession of child pornography or promoting child pornography in the first or second degree, the determination that the person who participated in the child pornography was younger than eighteen years of age may be made as set forth in section 568.100, or reasonable inferences drawn by a judge or jury after viewing the alleged pornographic material shall constitute sufficient evidence of the child's age to support a conviction**]** under this chapter, when it becomes necessary to determine whether a person was less than seventeen or eighteen years old, the court or jury may make this determination by any of the following methods:

(1) Personal inspection of the child;

(2) Inspection of the photograph or motion picture that shows the child engaging in the sexual performance;

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(3) Oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;

(4) Expert medical testimony based on the appearance of the child engaging in the sexual performance; or

(5) Any other method authorized by law or by the rules of evidence.

4. In any prosecution for promoting child pornography in the first or second degree, no showing is required that the performance or material involved appeals to prurient interest, that it lacks serious literary, artistic, political or scientific value, or that it is patently offensive to prevailing standards in the community as a whole.

573.052. Upon receipt of any information that child pornography as defined in section 573.010 is contained on a website, the attorney general shall investigate such information. If the attorney general has probable cause to believe the website contains child pornography, the attorney general shall notify a website operator of any child pornography site residing on that website operator's server, in writing. If the website operator promptly, but in no event longer than five days after receiving notice, removes the alleged pornography from its server, and so long as the website operator is not the purveyor of such child pornography, it shall be immune from civil liability. If the website operator does not promptly remove the alleged pornography, the attorney general may seek an injunction pursuant to section 573.070 to remove the child pornography site from the website operator's server. This section shall not be construed

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to create any defense to any criminal charges brought pursuant to this chapter [or chapter 568].

573.060. 1. A person commits the [crime] offense of public display of explicit sexual material if he [knowingly] or she recklessly:

(1) [Displays publicly] Exposes, places, exhibits, or in any fashion, displays explicit sexual material in any location, whether public or private, and in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision as viewed from a street, highway, public sidewalk, or the property of others, or from any portion of the person's store, the exhibitor's store or property when items and material other than this material are offered for sale or rent to the public; or

(2) Fails to take prompt action to remove such a display from property in his or her possession after learning of its existence.

2. The offense of public display of explicit sexual material is a class A misdemeanor unless the person has [pleaded guilty to or has] been found guilty of an offense under this section committed at a different time, in which case it is a class [D] E felony.

3. For purposes of this section, each day there is a violation of this section shall constitute a separate offense.

573.065. 1. A person commits the [crime] offense of coercing acceptance of obscene material if he or she:

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(1) **[**He**]** Requires acceptance of obscene material as a condition to any sale, allocation, consignment or delivery of any other material; or

(2) **[**He**]** Denies any franchise or imposes any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept any material obscene or pornographic for minors.

2. The offense of coercing acceptance of obscene material is a class **[**D**]** E felony.

573.090. 1. Video cassettes or other video reproduction devices, or the jackets, cases or coverings of such video reproduction devices shall be displayed or maintained in a separate area if the same are pornographic for minors as defined in section 573.010, or if:

(1) Taken as a whole and applying contemporary community standards, the average person would find that it has a tendency to cater or appeal to morbid interest in violence for persons **[**under the age of**]** seventeen years of age; and

(2) It depicts violence in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for persons **[**under the age of**]** less than seventeen years of age; and

(3) Taken as a whole, it lacks serious literary, artistic, political, or scientific value for persons **[**under the age of**]** less than seventeen years of age.

2. Any video cassettes or other video reproduction devices meeting the description in subsection 1 of this section shall not

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be rented or sold to a person [under the age of] less than seventeen years of age.

3. [Any] Violation of the provisions of subsection 1 or 2 of this section shall be punishable as an infraction, unless such violation constitutes furnishing pornographic materials to minors as defined in section 573.040, in which case it shall be punishable as a class A misdemeanor or class [D] E felony as prescribed in section 573.040, or unless such violation constitutes promoting obscenity in the second degree as defined in section 573.030, in which case it shall be punishable as a class A misdemeanor or class [D] E felony as prescribed in section 573.030.

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

(1)] term "indecent"[,] means language or material that depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs[;

(2) "Obscene", any comment, request, suggestion or proposal is obscene if:

(a) Applying contemporary community standards, its predominant appeal is to prurient interest in sex; and

(b) Taken as a whole with respect to the average person, applying contemporary community standards, it depicts or describes sexual conduct in a patently offensive way; and

(c) Taken as a whole, it lacks serious literary, artistic, political or scientific value. Obscenity shall be judged with reference to its impact upon ordinary adults].

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2. [It shall be unlawful for any] A person commits the offense of obscene or indecent commercial messaging if he or she, by means of a telephone communication for commercial purposes, [to make] makes directly or by means of an electronic recording device, any comment, request, suggestion, or proposal which is obscene or indecent; or knowingly permits any telephone or telephone facility connected to a local exchange telephone under such person's control to be used for obscene or indecent commercial messaging. Any person who makes any such comment, request, suggestion, or proposal shall be in violation of the provisions of this section regardless of whether such person placed or initiated the telephone call.

3. [It shall be unlawful for any person to permit knowingly any telephone or telephone facility connected to a local exchange telephone under such person's control to be used for any purpose prohibited by subsection 2 of this section.

4. Any person who violates any provision of this section is guilty of] The offense of obscene or indecent commercial messaging is a class A misdemeanor unless such person has [pleaded guilty to or has] been found guilty of the same offense committed at a different time, in which case the violation is a class [D] E felony. For purposes of this subsection, each violation constitutes a separate offense.

[5.] 4. The prohibitions and penalties contained herein are not applicable to a telecommunications company as defined in section 386.020 over whose facilities prohibited communications may be transmitted.

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[568.080.**]** 573.200. 1. A person commits the **[**crime**]** offense of use of a child in a sexual performance if, knowing the character and content thereof, the person employs, authorizes, or induces a child less than **[**seventeen**]** eighteen years of age to engage in a **[**sexual**]** performance which includes sexual conduct or, being a parent, legal guardian, or custodian of such child, consents to the participation by such child in such sexual performance.

2. The offense of use of a child in a sexual performance is a class C felony, unless in the course thereof the person inflicts serious emotional injury on the child, in which case the **[**crime**]** offense is a class B felony.

3. The court shall not grant a suspended imposition of sentence or a suspended execution of sentence to a person who has previously been found guilty of an offense under this section.

[568.090.**]** 573.205. 1. A person commits the **[**crime**]** offense of promoting a sexual performance by a child if, knowing the character and content thereof, the person promotes a **[**sexual**]** performance which includes sexual conduct by a child less than **[**seventeen**]** eighteen years of age or produces, or directs**[**, or promotes**]** any performance which includes sexual conduct by a child less than **[**seventeen**]** eighteen years of age.

2. The offense of promoting a sexual performance by a child is a class C felony.

3. The court shall not grant a suspended imposition of sentence or a suspended execution of sentence to a person who has previously been found guilty of an offense under this section.

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[568.110.**]** 573.215. 1. **[**Any**]** A person commits the offense of failure to report child pornography if he or she being a film and photographic print processor, computer provider, installer or repair person, or any Internet service provider who has knowledge of or observes, within the scope of the person's professional capacity or employment, any film, photograph, videotape, negative, slide, or computer-generated image or picture depicting a child under **[**the age of**]** eighteen years of age engaged in an act of sexual conduct **[**shall**]** fails to report such instance to **[**the**]** any law enforcement agency **[**having jurisdiction over the case**]** immediately or as soon as practically possible.

2. The offense of failure to **[**make such report shall be**]** report child pornography is a class B misdemeanor.

3. Nothing in this section shall be construed to require a provider of electronic communication services or remote computing services to monitor any user, subscriber or customer of the provider, or the content of any communication of any user, subscriber or customer of the provider.

573.509. 1. No person less than nineteen years **[**of age**]** old shall dance in an adult cabaret **[**as defined in section 573.500**]**, nor shall any proprietor of such establishment permit any person less than nineteen years **[**of age**]** old to dance in an adult cabaret.

2. **[**Any person who violates the provisions of subsection 1**]** Violation of this section is **[**guilty of**]** a class A misdemeanor.

573.531. 1. No person shall establish a sexually oriented business within one thousand feet of any preexisting primary or secondary school, house of worship, state-licensed day care

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facility, public library, public park, residence, or other sexually oriented business. This subsection shall not apply to any sexually oriented business lawfully established prior to August 28, 2010. For purposes of this subsection, measurements shall be made in a straight line, without regard to intervening structures or objects, from the closest portion of the parcel containing the sexually oriented business to the closest portion of the parcel containing the preexisting primary or secondary school, house of worship, state-licensed day care facility, public library, public park, residence, or other sexually oriented business.

2. No person shall establish a sexually oriented business if a person with an influential interest in the sexually oriented business has been **[**convicted of or pled guilty or nolo contendere to a specified criminal act**]** found guilty of any of the following specified offenses for which less than eight years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is later:

(1) Rape and sexual assault offenses;

(2) Sexual offenses involving minors;

(3) Offenses involving prostitution;

(4) Obscenity offenses;

(5) Offenses involving money laundering;

(6) Offenses involving tax evasion;

(7) Any attempt, solicitation, or conspiracy to commit one of the offenses listed in subdivisions (1) to (6) of this subsection; or

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(8) Any offense committed in another jurisdiction which if committed in this state would have constituted an offense listed in subdivisions (1) to (7) of this subsection.

3. No person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity.

4. No employee shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the employee, while semi-nude, shall be and remain on a fixed stage at least six feet from all patrons and at least eighteen inches from the floor in a room of at least six hundred square feet.

5. No employee, who appears in a semi-nude condition in a sexually oriented business, shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.

6. A sexually oriented business, which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction, characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:

(1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose;

(2) An operator's station shall not exceed thirty-two square feet of floor area;

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(3) If the premises has two or more operator's stations designated, the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations;

(4) The view required under this subsection shall be by direct line of sight from the operator's station;

(5) It is the duty of the operator to ensure that at least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by such operator station; and

(6) It shall be the duty of the operator and of any employees present on the premises to ensure that the view area specified in this subsection remains unobstructed by any doors, curtains, walls, merchandise, display racks, or other materials or enclosures at all times that any patron is present on the premises.

7. Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of sections 573.525 to 573.537 shall be given one hundred eighty days after August 28, 2010, to comply with the stage and building requirements of sections 573.525 to 573.537. During such one hundred eighty-day period, any employee who appears within view of any patron in a semi-nude condition shall remain, while semi-nude, at least six feet from all patrons.

8. No operator shall allow or permit a sexually oriented business to be or remain open between the hours of 12:00 midnight and 6:00 a.m. on any day.

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9. No person shall knowingly or intentionally sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

10. No person shall knowingly allow a person under the age of eighteen years on the premises of a sexually oriented business.

11. As used in this section the following terms mean:

(1) "Establish" or "establishment", includes any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(c) The addition of any sexually oriented business to any other existing sexually oriented business;

(2) "Influential interest", includes any of the following:

(a) The actual power to operate a sexually oriented business or control the operation, management, or policies of a sexually oriented business or legal entity which operates a sexually oriented business;

(b) Ownership of a financial interest of thirty percent or more of a business or of any class of voting securities of a business; or

(c) Holding an office, such as president, vice president, secretary, treasurer, managing member, or managing director, in a legal entity which operates a sexually oriented business;

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(3) "Viewing room", the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, video cassette, digital video disc, or other video reproduction.

574.005. 1. As used in this chapter the following terms mean:

(1) "Property of another", any property in which the person does not have a possessory interest;

(2) "Private property", any place which at the time of the offense is not open to the public. It includes property which is owned publicly or privately;

(3) "Public place", any place which at the time of the offense is open to the public. It includes property which is owned publicly or privately.

574.010. 1. A person commits the **[**crime**]** offense of peace disturbance if he or she:

(1) **[**He**]** Unreasonably and knowingly disturbs or alarms another person or persons by:

(a) Loud noise; or

(b) Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate violent response from a reasonable recipient; or

(c) Threatening to commit a felonious act against any person under circumstances which are likely to cause a reasonable person to fear that such threat may be carried out; or

(d) Fighting; or

(e) Creating a noxious and offensive odor;

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(2) **[**He**]** Is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:

(a) Vehicular or pedestrian traffic; or

(b) The free ingress or egress to or from a public or private place.

2. The offense of peace disturbance is a class B misdemeanor upon the first conviction. Upon a second or subsequent conviction, peace disturbance is a class A misdemeanor. Upon a third or subsequent conviction, a person shall be sentenced to pay a fine of no less than one thousand dollars and no more than five thousand dollars.

574.020. 1. A person commits the **[**crime**]** offense of private peace disturbance if he or she is on private property and unreasonably and purposely causes alarm to another person or persons on the same premises by:

(1) Threatening to commit **[**a crime**]** an offense against any person; or

(2) Fighting.

2. The offense of private peace disturbance is a class C misdemeanor.

3. For purposes of this section, if a building or structure is divided into separately occupied units, such units are separate premises.

574.040. 1. A person commits the **[**crime**]** offense of unlawful assembly if he or she knowingly assembles with six or more other persons and agrees with such persons to violate any of

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the criminal laws of this state or of the United States with force or violence.

2. The offense of unlawful assembly is a class B misdemeanor.

574.050. 1. A person commits the **[**crime**]** offense of rioting if he or she knowingly assembles with six or more other persons and agrees with such persons to violate any of the criminal laws of this state or of the United States with force or violence, and thereafter, while still so assembled, does violate any of said laws with force or violence.

2. The offense of rioting is a class A misdemeanor.

574.060. 1. A person commits the **[**crime**]** offense of refusal to disperse if, being present at the scene of an unlawful assembly, or at the scene of a riot, he or she knowingly fails or refuses to obey the lawful command of a law enforcement officer to depart from the scene of such unlawful assembly or riot.

2. The offense of refusal to disperse is a class C misdemeanor.

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

(1) "Civil disorder", any public disturbance involving acts of violence by assemblages of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual;

(2) "Explosive or incendiary device", includes:

(a) Dynamite and all other forms of high explosives;

(b) Any explosive bomb, grenade, missile, or similar device; and

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(c) Any incendiary bomb or grenade, fire bomb, or similar device, including any device which consists of or includes a breakable container containing a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound, and can be carried or thrown by one individual acting alone;

(3) "Firearm", any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive, or the frame or receiver of any such weapon;

(4) "Law enforcement officer", any officer or employee of the United States, any state, any political subdivision of a state, or the District of Columbia. The term "law enforcement officer" shall specifically include, but shall not be limited to, members of the National Guard, as defined in section 101(9) of title 10, United States Code, and members of the organized militia of any state or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, not included within the definition of National Guard as defined by section 101(9) of title 10, United States Code, and members of the armed forces of the United States.

2. **[**Whoever**]** A person commits the offense of promoting civil disorder if he or she teaches or demonstrates to any other person the use, application, or construction of any firearm, explosive, or incendiary device capable of causing injury or death to any person, knowing or intending that such firearm, explosive, or incendiary device be used in furtherance of a civil disorder**[**, is guilty of the crime of promoting civil disorder in the first degree**]**.

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3. The offense of promoting civil disorder is a class D felony.

4. Nothing contained in this section shall be construed to prohibit the training or teaching of the use of weapons for law enforcement purposes, hunting, recreation, competition, or other lawful uses and activities.

[4. Promoting civil disorder in the first degree is a class C felony.**]**

574.075. **[**It shall be unlawful for any**]** 1. A person **[**in this state to enter**]** commits the offense of drunkenness or drinking in a prohibited place if he or she enters any schoolhouse or church house in which there is an assemblage of people, met for a lawful purpose, or any courthouse, in **[**a drunken or**]** an intoxicated and disorderly condition, or **[**to drink or offer**]** drinks or offers to drink any intoxicating liquors in the presence of such assembly of people, or in any courthouse **[**within this state and any person or persons so doing shall be guilty of a misdemeanor; unless, however, the circuit court has by local rule authorized law library associations to conduct social events after business hours in any courthouse**]**.

2. The offense of drunkenness or drinking in a prohibited place is a class B misdemeanor.

3. This section shall not apply to law library or bar associations which the circuit court has authorized to conduct social events after business hours in any courthouse.

[569.070.**]** 574.080. 1. A person commits the **[**crime**]** offense of causing catastrophe if he or she knowingly causes a catastrophe by explosion, fire, flood, collapse of a building,

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release of poison, radioactive material, bacteria, virus or other dangerous and difficult to confine force or substance.

2. As used in this section the following terms mean:

(1) "Catastrophe" **[**means**]**, death or serious physical injury to ten or more people or substantial damage to five or more buildings or inhabitable structures or substantial damage to a vital public facility which seriously impairs its usefulness or operation;

(2) "Vital public facility", includes a facility maintained for use as a bridge, whether over land or water, dam, reservoir, tunnel, communication installation or power station.

3. The offense of causing catastrophe is a class A felony.

574.085. 1. A person commits the **[**crime**]** offense of institutional vandalism **[**by knowingly vandalizing, defacing or otherwise damaging**]** if he or she knowingly vandalizes, defaces, or otherwise damages:

(1) Any church, synagogue or other building, structure or place used for religious worship or other religious purpose;

(2) Any cemetery, mortuary, military monument or other facility used for the purpose of burial or memorializing the dead;

(3) Any school, educational facility, community center, hospital or medical clinic owned and operated by a religious or sectarian group;

(4) The grounds adjacent to, and owned or rented by, any institution, facility, building, structure or place described in subdivision (1), (2), or (3) of this subsection;

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(5) Any personal property contained in any institution, facility, building, structure or place described in subdivision (1), (2), or (3) of this subsection; or

(6) Any motor vehicle which is owned, operated, leased or under contract by a school district or a private school for the transportation of school children.

2. The offense of institutional vandalism **[**is punishable as follows:

(1) institutional vandalism**]** is a class A misdemeanor, **[**except as provided in subdivisions (2) and (3) of this subsection;

(2) Institutional vandalism is a class D felony if the offender commits any act described in subsection 1 of this section which causes damage to, or loss of, the property of another in an amount in excess of one thousand dollars;

(3) Institutional vandalism is a class C felony if the offender commits any act described in subsection 1 of this section which causes damage to, or loss of, the property of another in an amount in excess of five thousand dollars**]** unless the value of the property damage is seven hundred fifty dollars or more, in which case the offense is a class E felony; or the value of the property damage is more than five thousand dollars, in which case the offense is a class D felony.

3. In determining the amount of damage to property **[**or loss of property**]**, for purposes of this section, damage includes the cost of repair or, where necessary, replacement of the property that was damaged **[**or lost**]**.

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

(1) "Conducts", initiating, concluding or participating in initiating or concluding a transaction;

(2) "Criminal activity", any act or activity constituting an offense punishable as a felony pursuant to the laws of Missouri or the United States;

(3) "Currency", currency and coin of the United States;

(4) "Currency transaction", a transaction involving the physical transfer of currency from one person to another. A transaction which is a transfer of funds by means of bank check, bank draft, wire transfer or other written order, and which does not include the physical transfer of currency is not a currency transaction;

(5) "Person", natural persons, partnerships, trusts, estates, associations, corporations and all entities cognizable as legal personalities.

2. A person commits the **[**crime**]** offense of money laundering if he or she:

(1) Conducts or attempts to conduct a currency transaction with the purpose to promote or aid the carrying on of criminal activity; or

(2) Conducts or attempts to conduct a currency transaction with the purpose to conceal or disguise in whole or in part the nature, location, source, ownership or control of the proceeds of criminal activity; or

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(3) Conducts or attempts to conduct a currency transaction with the purpose to avoid currency transaction reporting requirements under federal law; or

(4) Conducts or attempts to conduct a currency transaction with the purpose to promote or aid the carrying on of criminal activity for the purpose of furthering or making a terrorist threat or act.

3. The **[**crime**]** offense of money laundering is a class B felony and in addition to penalties otherwise provided by law, a fine of not more than five hundred thousand dollars or twice the amount involved in the transaction, whichever is greater, may be assessed.

574.115. 1. A person commits the **[**crime**]** offense of making a terrorist threat in the first degree if such person **[**communicates a threat to cause an incident or condition involving danger to life, communicates a knowingly false report of an incident or condition involving danger to life, or knowingly causes a false belief or fear that an incident has occurred or that a condition exists involving danger to life:

(1) With the purpose of frightening ten or more people;

(2) With the purpose of causing the evacuation, quarantine or closure of any portion of a building, inhabitable structure, place of assembly or facility of transportation; or

(3) With reckless disregard of the risk of causing the evacuation, quarantine or closure of any portion of a building, inhabitable structure, place of assembly or facility of transportation; or

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(4) With criminal negligence with regard to the risk of causing the evacuation, quarantine or closure of any portion of a building, inhabitable structure, place of assembly or facility of transportation.

2. Making a terrorist threat is a class C felony unless committed under subdivision (3) of subsection 1 of this section in which case it is a class D felony or unless committed under subdivision (4) of subsection 1 of this section in which case it is a class A misdemeanor.

3. For the purpose of this section, "threat" includes an express or implied threat.

4. A person who acts in good faith with the purpose to prevent harm does not commit a crime pursuant to this section.**]** with the purpose of frightening ten or more people or causing the evacuation, quarantine or closure of any portion of a building, inhabitable structure, place of assembly or facility of transportation and knowingly:

(1) Communicates an express or implied threat to cause an incident or condition involving danger to life; or

(2) Communicates a false report of an incident or condition involving danger to life; or

(3) Causes a false belief or fear that an incident has occurred or that a condition exists involving danger to life.

2. The offense of making a terrorist threat in the first degree is a class D felony.

3. No offense is committed pursuant to this section by a person acting in good faith with the purpose to prevent harm.

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574.120. 1. A person commits the offense of making a terrorist threat in the second degree if he or she, recklessly disregards the risk of causing the evacuation, quarantine or closure of any portion of a building, inhabitable structure, place of assembly or facility of transportation and knowingly:

(1) Communicates an express or implied threat to cause an incident or condition involving danger to life; or

(2) Communicates a false report of an incident or condition involving danger to life; or

(3) Causes a false belief or fear that an incident has occurred or that a condition exists involving danger to life.

2. The offense of making a terrorist threat in the second degree is a class E felony.

3. No offense is committed pursuant to this section by a person acting in good faith with the purpose to prevent harm.

574.125. 1. A person commits the offense of making a terrorist threat in the third degree if he or she, with criminal negligence with regard to the risk of causing the evacuation, quarantine or closure of any portion of a building, inhabitable structure, place of assembly or facility of transportation and knowingly:

(1) Communicates an express or implied threat to cause an incident or condition involving danger to life; or

(2) Communicates a knowingly false report of an incident or condition involving danger to life; or

(3) Causes a false belief or fear that an incident has occurred or that a condition exists involving danger to life.

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2. The offense of making a terrorist threat in the third degree is a class A misdemeanor.

3. No offense is committed pursuant to this section by a person acting in good faith with the purpose to prevent harm.

[578.008.**]** 574.130. 1. A person commits the **[**crime**]** offense of agroterrorism if such person purposely spreads any type of contagious, communicable or infectious disease among crops, poultry, livestock as defined in section 267.565, or other animals.

2. Agroterrorism is a class **[**D**]** E felony unless the damage to crops, poultry, livestock or animals is ten million dollars or more in which case it is a class B felony.

3. It shall be a defense to the crime of agroterrorism if such spreading is consistent with medically recognized therapeutic procedures or done in the course of legitimate, professional scientific research.

[565.095.**]** 574.140. 1. **[**It shall be unlawful for any person or persons with the intent to intimidate any person or group of persons to burn, or cause to be burned, a cross. Any person who shall violate any provision of this section shall be guilty of a class A misdemeanor for a first offense and a class D felony for a second or subsequent offense**]** A person commits the offense of cross burning if he or she burns, or causes to be burned, a cross with the purpose to frighten, intimidate, or cause emotional distress to any person or group of persons.

2. **[**For purposes of this section, a person acts with the intent to intimidate when he or she intentionally places or attempts to place another person in fear of physical injury or

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fear of damage to property**]** The offense of cross burning is a class A misdemeanor, unless the person has previously been found guilty of an offense under this section, in which case it is a class E felony.

[578.501.**]** 574.150. 1. This section shall be known as "Spc. Edward Lee Myers' Law".

2. **[**It shall be unlawful for any**]** A person **[**to engage**]** commits the offense of unlawful funeral protest if he or she engages in picketing or other protest activities in front of or about any location at which a funeral is held, within one hour prior to the commencement of any funeral, and until one hour following the cessation of any funeral. Each day on which a violation occurs shall constitute a separate offense. **[**Violation of this section is a class B misdemeanor, unless committed by a person who has previously pled guilty to or been found guilty of a violation of this section, in which case the violation is a class A misdemeanor.**]**

3. For the purposes of this section, "funeral" means the ceremonies, processions and memorial services held in connection with the burial or cremation of the dead.

4. The offense of unlawful funeral protest is a class B misdemeanor, unless committed by a person who has previously been found guilty of a violation of this section, in which case it is a class A misdemeanor.

[578.502.**]** 574.151. 1. This section shall be known as "Spc. Edward Lee Myers' Law".

2. [It shall be unlawful for any] A person **[**to engage**]** commits the offense of unlawful funeral protest if he or she

engases in picketing or other protest activities within three hundred feet of or about any location at which a funeral is held, within one hour prior to the commencement of any funeral, and until one hour following the cessation of any funeral. Each day on which a violation occurs shall constitute a separate offense. **[**Violation of this section is a class B misdemeanor, unless committed by a person who has previously pled guilty to or been found guilty of a violation of this section, in which case the violation is a class A misdemeanor.**]**

3. For purposes of this section, "funeral" means the ceremonies, processions, and memorial services held in connection with the burial or cremation of the dead.

4. The offense of unlawful funeral protest is a class B misdemeanor, unless committed by a person who has previously been found guilty of a violation of this section, in which case it is a class A misdemeanor.

[578.503.**]** 574.152. The enactment of section **[**578.502**]** 574.151 shall become effective only on the date the provisions of section **[**578.501**]** 574.150 are finally declared void or unconstitutional by a court of competent jurisdiction and upon notification by the attorney general to the revisor of statutes.

575.020. 1. A person commits the **[**crime**]** offense of concealing an offense if he or she:

(1) **[**He**]** Confers or agrees to confer any pecuniary benefit or other consideration to any person in consideration of that person's concealing of any offense, refraining from initiating or aiding in the prosecution of an offense, or withholding any evidence thereof; or

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(2) [He] Accepts or agrees to accept any pecuniary benefit or other consideration in consideration of his or her concealing any offense, refraining from initiating or aiding in the prosecution of an offense, or withholding any evidence thereof.

2. The offense of concealing an offense is a class [D felony if the offense concealed is a felony; otherwise concealing an offense is a class] A misdemeanor, unless the offense concealed a felony, in which case concealing an offense is a class E felony.

575.021. 1. A person commits the [crime] offense of obstruction of an ethics investigation if [such person] he or she, for the purpose of obstructing or preventing an ethics investigation, knowingly [commits any of the following acts]:

(1) Confers or agrees to confer anything of pecuniary benefit to any person in direct exchange for that person's concealing or withholding any information concerning any violation of sections 105.450 to 105.496 and chapter 130; or

(2) [Accepting or agreeing] Accepts or agrees to accept anything of pecuniary benefit in direct exchange for concealing or withholding any information concerning any violation of sections 105.450 to 105.496 or chapter 130; or

(3) Utters or submits a false statement that the person does not believe to be true to any member or employee of the Missouri ethics commission or to any official investigating any violation of sections 105.450 to 105.496 or chapter 130; or

(4) Submits any writing or other documentation that is inaccurate and that the person does not believe to be true to any member or employee of the Missouri ethics commission or to any

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official investigating any violation of sections 105.450 to 105.496 or chapter 130.

2. It is a defense to a prosecution under subdivisions (3) and (4) of subsection 1 of this section that the person retracted the false statement, writing, or other documentation, but this defense shall not apply if the retraction was made after:

(1) The falsity of the statement, writing, or other documentation was exposed; or

(2) Any member or employee of the Missouri ethics commission or any official investigating any violation of sections 105.450 to 105.496 or chapter 130 took substantial action in reliance on the statement, writing, or other documentation.

3. The defendant shall have the burden of injecting the issue of retraction under this section.

4. The offense of obstruction of an ethics investigation **[**under this section**]** is a class A misdemeanor.

575.030. 1. A person commits the **[**crime**]** offense of hindering prosecution if, for the purpose of preventing the apprehension, prosecution, conviction or punishment of another person for conduct constituting **[**a crime**]** an offense, he or she:

(1) Harbors or conceals such person; or

(2) Warns such person of impending discovery or apprehension, except this does not apply to a warning given in connection with an effort to bring another into compliance with the law; or

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(3) Provides such person with money, transportation, weapon, disguise or other means to aid him in avoiding discovery or apprehension; or

(4) Prevents or obstructs, by means of force, deception or intimidation, anyone from performing an act that might aid in the discovery or apprehension of such person.

2. The offense of hindering prosecution is a class **[**D felony if the conduct of the other person constitutes a felony; otherwise hindering prosecution is a class**]** A misdemeanor, unless the conduct of the other person constitutes a felony, in which case hindering prosecution is a class E felony.

575.040. 1. A person commits the **[**crime**]** offense of perjury if, with the purpose to deceive, he or she knowingly testifies falsely to any material fact upon oath or affirmation legally administered, in any official proceeding before any court, public body, notary public or other officer authorized to administer oaths.

2. A fact is material, regardless of its admissibility under rules of evidence, if it could substantially affect, or did substantially affect, the course or outcome of the cause, matter or proceeding.

3. Knowledge of the materiality of the statement is not an element of this crime, and it is no defense that:

(1) The **[**defendant**]** person mistakenly believed the fact to be immaterial; or

(2) The **[**defendant**]** person was not competent, for reasons other than mental disability or immaturity, to make the statement.

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4. It is a defense to a prosecution under subsection 1 of this section that the **[**actor**]** person retracted the false statement in the course of the official proceeding in which it was made provided he or she did so before the falsity of the statement was exposed. Statements made in separate hearings at separate stages of the same proceeding, including but not limited to statements made before a grand jury, at a preliminary hearing, at a deposition or at previous trial, are made in the course of the same proceeding.

5. The defendant shall have the burden of injecting the issue of retraction under subsection 4 of this section.

6. The offense of perjury committed in any proceeding not involving a felony charge is a class **[**D**]** E felony.

7. The offense of perjury committed in any proceeding involving a felony charge is a class **[**C**]** D felony unless:

(1) It is committed during a criminal trial for the purpose of securing the conviction of an accused for any felony except murder, in which case it is a class **[**A**]** B felony; or

(2) It is committed during a criminal trial for the purpose of securing the conviction of an accused for **[**any felony except**]** murder, in which case it is a class **[**B**]** A felony.

575.050. 1. A person commits the **[**crime**]** offense of making a false affidavit if, with purpose to mislead any person, he or she, in any affidavit, swears falsely to a fact which is material to the purpose for which said affidavit is made.

2. The provisions of subsections 2 and 3 of section 575.040 shall apply to prosecutions under subsection 1 of this section.

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3. It is a defense to a prosecution under subsection 1 of this section that the **[**actor**]** person retracted the false statement by affidavit or testimony but this defense shall not apply if the retraction was made after:

(1) The falsity of the statement was exposed; or

(2) Any person took substantial action in reliance on the statement.

4. The defendant shall have the burden of injecting the issue of retraction under subsection 3 of this section.

5. The offense of making a false affidavit is a class **[**A**]** C misdemeanor **[**if**]**, unless done for the purpose of misleading a public servant in the performance of his or her duty**[**; otherwise making a false affidavit**]**, in which case it is a class **[**C**]** A misdemeanor.

575.060. 1. A person commits the **[**crime**]** offense of making a false declaration if, with the purpose to mislead a public servant in the performance of his or her duty, **[**he**]** such person:

(1) Submits any written false statement, which he or she does not believe to be true:

(a) In an application for any pecuniary benefit or other consideration; or

(b) On a form bearing notice, authorized by law, that false statements made therein are punishable; or

(2) Submits or invites reliance on

(a) Any writing which he or she knows to be forged, altered or otherwise lacking in authenticity; or

(b) Any sample, specimen, map, boundary mark, or other object which he or she knows to be false.

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2. The falsity of the statement or the item under subsection 1 of this section must be as to a fact which is material to the purposes for which the statement is made or the item submitted; and the provisions of subsections 2 and 3 of section 575.040 shall apply to prosecutions under subsection 1 of this section.

3. It is a defense to a prosecution under subsection 1 of this section that the **[**actor**]** person retracted the false statement or item but this defense shall not apply if the retraction was made after:

(1) The falsity of the statement or item was exposed; or

(2) The public servant took substantial action in reliance on the statement or item.

4. The defendant shall have the burden of injecting the issue of retraction under subsection 3 of this section.

5. For the purpose of this section, "written" shall include filings submitted in an electronic or other format or medium approved or prescribed by the secretary of state.

6. The offense of making a false declaration is a class B misdemeanor.

575.070. No person shall be convicted of a violation of sections 575.040, 575.050 or 575.060 based upon the making of a false statement except upon proof of the falsity of the statement by:

(1) The direct evidence of two witnesses; or

(2) The direct evidence of one witness together with strongly corroborating circumstances; or

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(3) Demonstrative evidence which conclusively proves the falsity of the statement; or

(4) A directly contradictory statement by the defendant under oath together with:

(a) The direct evidence of one witness; or

(b) Strongly corroborating circumstances; or

(5) A judicial admission by the defendant that he or she made the statement knowing it was false. An admission, which is not a judicial admission, by the defendant that he or she made the statement knowing it was false may constitute strongly corroborating circumstances.

575.080. 1. A person commits the **[**crime**]** offense of making a false report if he or she knowingly:

(1) Gives false information to any person for the purpose of implicating another person in **[**a crime**]** an offense; or

(2) Makes a false report to a law enforcement officer that **[**a crime**]** an offense has occurred or is about to occur; or

(3) Makes a false report or causes a false report to be made to a law enforcement officer, security officer, fire department or other organization, official or volunteer, which deals with emergencies involving danger to life or property that a fire or other incident calling for an emergency response has occurred or is about to occur.

2. It is a defense to a prosecution under subsection 1 of this section that the **[**actor**]** person retracted the false statement or report before the law enforcement officer or any other person took substantial action in reliance thereon.

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3. The defendant shall have the burden of injecting the issue of retraction under subsection 2 of this section.

4. The offense of making a false report is a class B misdemeanor.

575.090. 1. A person commits the **[**crime**]** offense of making a false bomb report if he or she knowingly makes a false report or causes a false report to be made to any person that a bomb or other explosive has been placed in any public or private place or vehicle.

2. Making a false bomb report is a class **[**D**]** E felony.

[565.084.**]** 575.095. 1. A person commits the **[**crime**]** offense of tampering with a judicial officer if, with the purpose to harass, intimidate or influence a judicial officer in the performance of such officer's official duties, such person:

(1) Threatens or causes harm to such judicial officer or members of such judicial officer's family;

(2) Uses force, threats, or deception against or toward such judicial officer or members of such judicial officer's family;

(3) Offers, conveys or agrees to convey any benefit direct or indirect upon such judicial officer or such judicial officer's family;

(4) Engages in conduct reasonably calculated to harass or alarm such judicial officer or such judicial officer's family, including stalking pursuant to section 565.225 or 565.227.

2. A judicial officer for purposes of this section shall be a judge, arbitrator, special master, juvenile officer, deputy juvenile officer, state prosecuting or circuit attorney, state

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assistant prosecuting or circuit attorney, juvenile court commissioner, state probation or parole officer, or referee.

3. A judicial officer's family for purposes of this section shall be:

(1) Such officer's spouse; or

(2) Such officer or such officer's spouse's ancestor or descendant by blood or adoption; or

(3) Such officer's stepchild, while the marriage creating that relationship exists.

4. The offense of tampering with a judicial officer is a class **[**C**]** D felony.

575.100. 1. A person commits the **[**crime**]** offense of tampering with physical evidence if he or she:

(1) Alters, destroys, suppresses or conceals any record, document or thing with purpose to impair its verity, legibility or availability in any official proceeding or investigation; or

(2) Makes, presents or uses any record, document or thing knowing it to be false with the purpose to mislead a public servant who is or may be engaged in any official proceeding or investigation.

2. The offense of tampering with physical evidence is a class **[**D felony if the actor impairs or obstructs the prosecution or defense of a felony; otherwise, tampering with physical evidence is a class**]** A misdemeanor, unless the person impairs or obstructs the prosecution or defense of a felony, in which case tampering with physical evidence is a class E felony.

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575.110. 1. A person commits the **[**crime**]** offense of tampering with a public record if with the purpose to impair the verity, legibility or availability of a public record, he or she:

(1) **[**He**]** Knowingly makes a false entry in or falsely alters any public record; or

(2) Knowing he or she lacks authority to do so, **[**he**]** destroys, suppresses or conceals any public record.

2. The offense of tampering with a public record is a class A misdemeanor.

575.120. 1. A person commits the **[**crime**]** offense of false impersonation if such person:

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

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

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

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

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

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

(3) Upon being arrested, falsely represents himself or herself, to a law enforcement officer, with the first and last name, date of birth, or Social Security number, or a substantial

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number of identifying factors or characteristics as that of another person that results in the filing of a report or record of arrest or conviction for an infraction**[**, misdemeanor, or felony**]** or offense that contains the first and last name, date of birth, and Social Security number, or a substantial number of identifying factors or characteristics to that of such other person as to cause such other person to be identified as the actual person arrested or convicted.

2. If a violation of subdivision (3) of subsection 1 of this section is discovered prior to any conviction of the person actually arrested for an underlying charge, then the prosecuting attorney, bringing any action on the underlying charge, shall notify the court thereof, and the court shall order the false-identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate identifying factors from the arrest and court records.

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

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identify the defendant and shall expunge the incorrect and inaccurate identifying factors from the arrest and court records.

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

5. The offense of false impersonation is a class B misdemeanor unless the person represents himself or herself to be a law enforcement officer in which case **[**false impersonation**]** it is a class A misdemeanor.

575.130. 1. A person commits the **[**crime**]** offense of simulating legal process if, with purpose to mislead the recipient and cause him or her to take action in reliance thereon, he or she delivers or causes to be delivered:

(1) A request for the payment of money on behalf of any creditor that in form and substance simulates any legal process issued by any court of this state; or

(2) Any purported summons, subpoena or other legal process knowing that the process was not issued or authorized by any court.

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2. This section shall not apply to a subpoena properly issued by a notary public.

3. [Simulating legal process is a class B misdemeanor.

4. No person shall file] A person commits the offense of filing a nonconsensual common law lien if he or she files a nonconsensual common law lien as defined in section 428.105.

[5. A violation of subsection 4 of this section is a class B misdemeanor.

6.] 4. Subsection [4] 3 of this section shall not apply to a filing officer as defined in section 428.105 that is acting in the scope of his or her employment.

5. The offense of simulating legal process or filing a nonconsensual common law lien is a class B misdemeanor.

575.145. 1. It shall be the duty of the operator or driver of any vehicle or any other conveyance regardless of means of propulsion, or the rider of any animal traveling on the highways of this state to stop on signal of any [sheriff or deputy sheriff] law enforcement officer and to obey any other reasonable signal or direction of such [sheriff or deputy sheriff] law enforcement officer given in directing the movement of traffic on the highways[. Any person who] or enforcing any offense or infraction.

2. The offense of willfully [fails or refuses] failing or refusing to obey such signals or directions or [who] willfully [resists or opposes a sheriff or deputy sheriff] resisting or opposing a law enforcement officer in the proper discharge of his or her duties [shall be guilty of] is a class A misdemeanor [and

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on conviction thereof shall be punished as provided by law for such offenses**]**.

575.150. 1. A person commits the **[**crime**]** offense of resisting or interfering with arrest, detention, or stop if**[**, knowing**]** he or she knows or reasonably should know that a law enforcement officer is making an arrest**[**,**]** or attempting to lawfully detain or stop an individual or vehicle, **[**or the person reasonably should know that a law enforcement officer is making an arrest or attempting to lawfully detain or lawfully stop an individual or vehicle,**]** and for the purpose of preventing the officer from effecting the arrest, stop or detention, **[**the person**]** he or she:

(1) Resists the arrest, stop or detention of such person by using or threatening the use of violence or physical force or by fleeing from such officer; or

(2) Interferes with the arrest, stop or detention of another person by using or threatening the use of violence, physical force or physical interference.

2. This section applies to:

(1) Arrests, stops, or detentions, with or without warrants;

(2) Arrests, stops, or detentions, for any **[**crime**]** offense, infraction, or ordinance violation; and

(3) Arrests for warrants issued by a court or a probation and parole officer.

3. A person is presumed to be fleeing a vehicle stop if **[**that person**]** he or she continues to operate a motor vehicle after **[**that person**]** he or she has seen or should have seen

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clearly visible emergency lights or has heard or should have heard an audible signal emanating from the law enforcement vehicle pursuing [that person] him or her.

4. It is no defense to a prosecution pursuant to subsection 1 of this section that the law enforcement officer was acting unlawfully in making the arrest. However, nothing in this section shall be construed to bar civil suits for unlawful arrest.

5. The offense of resisting or interfering with an arrest is a class [D] E felony for an arrest for a:

(1) Felony; or

(2) Warrant issued for failure to appear on a felony case; or

(3) Warrant issued for a probation violation on a felony case.

The offense of resisting an arrest, detention or stop [by fleeing in such a manner that the person fleeing creates a substantial risk of serious physical injury or death to any person is a class D felony; otherwise, resisting or interfering with an arrest, detention or stop] in violation of subdivision (1) or (2) of subsection 1 of this section is a class A misdemeanor, unless the person fleeing creates a substantial risk of serious physical injury or death to any person, in which case it is a class E felony.

575.153. 1. A person commits the [crime] offense of disarming a peace officer, as defined in section 590.100, or a correctional officer if [such person] he or she intentionally:

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(1) Removes a firearm or other deadly weapon from the person of a peace officer or correctional officer while such officer is acting within the scope of his or her official duties; or

(2) Deprives a peace officer or correctional officer of such officer's use of a firearm or deadly weapon while the officer is acting within the scope of his or her official duties.

2. The provisions of this section shall not apply when:

(1) The **[**defendant**]** person does not know or could not reasonably have known that the person he or she disarmed was a peace officer or correctional officer; or

(2) The peace officer or correctional officer was engaged in an incident involving felonious conduct by the peace officer or correctional officer at the time the **[**defendant**]** person disarmed such officer.

3. The offense of disarming a peace officer or correctional officer is a class **[**C**]** D felony.

[565.085.**]** 575.155. 1. An offender or prisoner commits the **[**crime**]** offense of endangering a corrections employee, a visitor to a correctional **[**facility**]** center, county or city jail, or another offender or prisoner if he or she attempts to cause or knowingly causes such person to come into contact with blood, seminal fluid, urine, feces, or saliva.

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

(1) "Corrections employee", a person who is an employee, or contracted employee of a subcontractor, of a department or agency responsible for operating a jail, prison, correctional facility,

or sexual offender treatment center or a person who is assigned to work in a jail, prison, correctional facility, or sexual offender treatment center;

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

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

3. The offense of endangering a corrections employee, a visitor to a correctional **[**facility**]** center, county or city jail, or another offender or prisoner is a class **[**D**]** E felony unless the substance is unidentified in which case it is a class A misdemeanor. If an offender or prisoner is knowingly infected with the human immunodeficiency virus (HIV), hepatitis B or hepatitis C and exposes another person to HIV or hepatitis B or hepatitis C by committing the **[**crime**]** offense of endangering a corrections employee, a visitor to a correctional facility, or another offender or prisoner, it is a class **[**C**]** D felony.

[565.086.**]** 575.157. 1. An offender commits the **[**crime**]** offense of endangering a department of mental health employee, a visitor or other person at a secure facility, or another offender if he or she attempts to cause or knowingly causes such individual to come into contact with blood, seminal fluid, urine, feces, or saliva.

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

(1) "Department of mental health employee", a person who is an employee of the department of mental health, an employee or contracted employee of a subcontractor of the department of mental health, or an employee or contracted employee of a

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subcontractor of an entity responsible for confining offenders as authorized by section 632.495;

(2) "Offender", persons ordered to the department of mental health after a determination by the court that such persons may meet the definition of a sexually violent predator, persons ordered to the department of mental health after a finding of probable cause under section 632.489, and persons committed for control, care, and treatment by the department of mental health under sections 632.480 to 632.513;

(3) "Secure facility", a facility operated by the department of mental health or an entity responsible for confining offenders as authorized by section 632.495.

3. The offense of endangering a department of mental health employee, a visitor or other person at a secure facility, or another offender is a class **[**D**]** E felony **[**unless the substance is unidentified, in which case it is a class A misdemeanor**]**. If an offender is knowingly infected with the human immunodeficiency virus (HIV), hepatitis B, or hepatitis C and exposes another individual to HIV or hepatitis B or hepatitis C by committing the **[**crime**]** offense of endangering a department of mental health employee, a visitor or other person at a mental health facility, or another offender, **[**it**]** the offense is a class **[**C**]** D felony.

575.159. 1. A person commits the **[**crime**]** offense of aiding a sexual offender if **[**such person**]** he or she knows that another person is a convicted sexual offender who is required to register as a sexual offender and has reason to believe that such sexual offender is not complying, or has not complied with the requirements of sections 589.400 to 589.425, and who, with the

intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the offender about, or to arrest the offender for, his or her noncompliance with the requirements of sections 589.400 to 589.425:

(1) Withholds information from or does not notify the law enforcement agency about the sexual offender's noncompliance with the requirements of sections 589.400 to 589.425, and, if known, the whereabouts of the sexual offender;

(2) Harbors or attempts to harbor or assists another person in harboring or attempting to harbor the sexual offender;

(3) Conceals or attempts to conceal or assists another person in concealing or attempting to conceal the sexual offender; or

(4) Provides information to the law enforcement agency regarding the sexual offender which **[**the person**]** he or she knows to be false information.

2. **[**Aiding a sexual offender is a class D felony.

3.**]** The provisions of this section do not apply if the sexual offender is incarcerated in, or is in the custody of, a state correctional facility, a private correctional facility, a local jail, or a federal correctional facility.

3. The offense of aiding a sexual offender is a class E felony.

575.160. 1. A person commits the **[**crime**]** offense of interference with legal process if, knowing **[**any**]** another person is authorized by law to serve process, he or she interferes with or obstructs such person for the purpose of preventing such

person from effecting the service of any process**[**, he interferes with or obstructs such person**]**.

2. "Process" includes any writ, summons, subpoena, warrant other than an arrest warrant, or other process or order of a court.

3. The offense of interference with legal process is a class B misdemeanor.

575.170. 1. **[**Any**]** An employer, or **[**any**]** agent who is in charge of a business establishment, commits the **[**crime**]** offense of refusing to make an employee available for service of process if he or she knowingly refuses to assist any officer authorized by law to serve process who calls at such business establishment during the working hours of an employee for the purpose of serving process on such employee, by failing or refusing to make such employee available for service of process.

2. The offense of refusing to make an employee available for service of process is a class C misdemeanor.

575.180. 1. A law enforcement officer commits the **[**crime**]** offense of failure to execute an arrest warrant if, with the purpose of allowing any person charged with or convicted of a crime to escape, he or she fails to execute any arrest warrant, capias, or other lawful process ordering apprehension or confinement of such person, which he or she is authorized and required by law to execute.

2. The offense of failure to execute an arrest warrant is a class **[**D felony if the offense involved is a felony; otherwise, failure to execute an arrest warrant is a class**]** A misdemeanor,

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unless the offense involved is a felony, in which case failure to execute an arrest warrant is a class E felony.

575.190. 1. A person commits the **[**crime**]** offense of refusal to identify as a witness if, knowing he or she has witnessed any portion of **[**a crime**]** an offense, or of any other incident resulting in physical injury or substantial property damage, **[**upon demand by a law enforcement officer engaged in the performance of his official duties,**]** he or she refuses to report or gives a false report of his or her name and present address to **[**such**]** a law enforcement officer engaged in the performance of his or her duties.

2. The offense of refusal to identify as a witness is a class C misdemeanor.

575.195. 1. A person commits the **[**crime**]** offense of escape from commitment, detention, or conditional release if he or she has been committed to a state mental hospital under the provisions of sections 552.010 to 552.080 or sections 632.480 to 632.513, or has been ordered to be taken into custody, detained, or held pursuant to sections 632.480 to 632.513, or as provided by section 632.475, has been committed to the department of mental health as a criminal sexual psychopath under statutes in effect before August 13, 1980, or has been granted a conditional release under the provisions of sections 552.010 to 552.080 or sections 632.480 to 632.513, and he or she escapes from such commitment, detention, or conditional release.

2. The offense of escape from commitment, detention, or conditional release is a class **[**D**]** E felony.

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575.200. 1. A person commits the [crime] offense of escape from custody or attempted escape from custody if, while being held in custody after arrest for any crime, he or she escapes or attempts to escape from custody.

2. The offense of escape or attempted escape from custody is a class A misdemeanor unless:

(1) [It is effected or attempted by means of a deadly weapon or dangerous instrument or by holding any person as hostage, in which case escape or attempted escape from custody is a class A felony;

(2)] The person escaping or attempting to escape is under arrest for a felony, in which case [escape from custody] it is a class [D] E felony; or

(2) The offense is committed by means of a deadly weapon or dangerous instrument or by holding any person as hostage, in which case it is a class A felony.

575.205. 1. A person commits the [crime] offense of tampering with electronic monitoring equipment if [the person] he or she intentionally removes, alters, tampers with, damages, or destroys electronic monitoring equipment which a court or the board of probation and parole has required such person to wear.

2. This section does not apply to the owner of the equipment or an agent of the owner who is performing ordinary maintenance or repairs on the equipment.

3. The [crime] offense of tampering with electronic monitoring equipment is a class [C] D felony.

575.206. 1. A person commits the [crime] offense of violating a condition of lifetime supervision if [the person] he

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or she knowingly violates a condition of probation, parole, or conditional release when such condition was imposed by an order of a court under section 559.106 or an order of the board of probation and parole under section 217.735.

2. The [crime] offense of violating a condition of lifetime supervision is a class [C] D felony.

575.210. 1. A person commits the [crime] offense of escape or attempted escape from confinement if, while being held in confinement after arrest for any [crime] offense, while serving a sentence after conviction for any [crime] offense, or while at an institutional treatment center operated by the department of corrections as a condition of probation or parole, [such person] he or she escapes or attempts to escape from confinement.

2. The offense of escape or attempted escape from confinement in the department of corrections is a class B felony.

3. The offense of escape or attempted escape from confinement in a county or private jail or city or county correctional facility is a class [D] E felony [except that it is] unless:

(1) [A class A felony if it is effected or attempted by means of a deadly weapon or dangerous instrument or by holding any person as hostage] The offense is facilitated by striking or beating any person, in which case it is a class D felony;

(2) [A class C felony if the escape or attempted escape is facilitated by striking or beating any person] The offense is committed by means of a deadly weapon or dangerous instrument or by holding any person as hostage, in which case it is a class A felony.

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575.220. 1. A person commits the [crime] offense of failure to return to confinement if, while serving a sentence for any [crime] offense under a work-release program, or while under sentence of any [crime] offense to serve a term of confinement which is not continuous, or while serving any other type of sentence for any [crime] offense wherein he or she is temporarily permitted to go at large without guard, he or she purposely fails to return to confinement when he or she is required to do so.

2. This section does not apply to persons who are free on bond, bail or recognizance, personal or otherwise, nor to persons who are on probation or parole, temporary or otherwise.

3. The offense of failure to return to confinement is a class C misdemeanor unless:

(1) The sentence being served is [to the Missouri department of corrections and human resources, in which case failure to return to confinement is a class D felony] one of confinement in a county or private jail on conviction of a felony, in which case it is a class A misdemeanor; or

(2) The sentence being served is [one of confinement in a county or private jail on conviction of a felony, in which case failure to return to confinement is a class A misdemeanor] to the Missouri department of corrections, in which case it is a class E felony.

575.230. 1. A person commits the [crime] offense of aiding escape of a prisoner if [the person] he or she:

(1) Introduces into any place of confinement any deadly weapon or dangerous instrument, or other thing adapted or designed for use in making an escape, with the purpose of

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facilitating the escape of any prisoner confined therein, or of facilitating the commission of any other **[**crime**]** offense; or

(2) Assists or attempts to assist any prisoner who is being held in custody or confinement for the purpose of effecting the prisoner's escape from custody or confinement.

2. **[**Aiding escape of a prisoner by introducing a deadly weapon or dangerous instrument into a place of confinement is a class B felony. Aiding escape of a prisoner being held in custody or confinement on the basis of a felony charge or conviction is a class B felony. Otherwise, aiding escape of a prisoner is a class A misdemeanor.**]** The offense of aiding escape of a prisoner is a class A misdemeanor, unless committed by introducing a deadly weapon or dangerous instrument into a place of confinement or aiding escape of a prisoner being held in custody or confinement on the basis of a felony charge or conviction, in which case it is a class B felony.

575.240. 1. A public servant, contract employee of a county or private jail, or employee of a private jail who is authorized and required by law to have charge of any person charged with or convicted of any **[**crime**]** offense commits the **[**crime**]** offense of permitting escape if he or she knowingly:

(1) Suffers, allows or permits any deadly weapon or dangerous instrument, or anything adapted or designed for use in making an escape, to be introduced into or allowed to remain in any place of confinement, in violation of law, regulations or rules governing the operation of the place of confinement; or

(2) Suffers, allows or permits a person in custody or confinement to escape.

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2. The offense of permitting escape [by suffering, allowing or permitting any deadly weapon or dangerous instrument to be introduced into a place of confinement is a class B felony; otherwise, permitting escape] is a class [D] E felony, unless committed by suffering, allowing, or permitting any deadly weapon or dangerous instrument to be introduced into a place of confinement, in which case it is a class B felony.

575.250. 1. A person commits the [crime] offense of disturbing a judicial proceeding if, with the purpose to intimidate a judge, attorney, juror, party or witness[,] and thereby [to] influence a judicial proceeding, he or she disrupts or disturbs a judicial proceeding by participating in an assembly and calling aloud, shouting, or holding or displaying a placard or sign containing written or printed matter, concerning the conduct of the judicial proceeding, or the character of a judge, attorney, juror, party or witness engaged in such proceeding, or calling for or demanding any specified action or determination by such judge, attorney, juror, party, or witness in connection with such proceeding.

2. The offense of disturbing a judicial proceeding is a class A misdemeanor.

575.260. 1. A person commits the [crime] offense of tampering with a judicial proceeding if, with the purpose to influence the official action of a judge, juror, special master, referee, arbitrator, state prosecuting or circuit attorney, state assistant prosecuting or circuit attorney, or attorney general in a judicial proceeding, he or she:

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

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(2) Engages in conduct reasonably calculated to harass or alarm such official or juror; or

(3) Offers, confers, or agrees to confer any benefit, direct or indirect, upon such official or juror.

2. The offense of tampering with a judicial proceeding is a class [C] D felony.

575.270. 1. A person commits the [crime] offense of tampering with a witness if, with the purpose to induce a witness or a prospective witness to disobey a subpoena or other legal process, [or to] absent himself or herself, avoid subpoena or other legal process, [or to] withhold evidence, information, or documents, or [to] testify falsely, he or she:

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

(2) Uses force, threats or deception; or

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

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

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

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

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

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

3. The offense of tampering with a witness [in a prosecution, tampering with a witness with purpose to induce the witness to testify falsely,] or victim [tampering] is a class [C felony if the original charge is a felony. Otherwise, tampering with a witness or victim tampering is a class] A misdemeanor, unless the original charge is a felony, in which case tampering with a witness or victim is a class D felony. Persons convicted under this section shall not be eligible for parole.

575.280. 1. A person commits the [crime] offense of acceding to corruption if he or she:

(1) [He] Is a judge, juror, special master, referee or arbitrator and knowingly solicits, accepts, or agrees to accept any benefit, direct or indirect, on the representation or understanding that it will influence his or her official action in a judicial proceeding pending in any court or before such official or juror;

(2) [He] Is a witness or prospective witness in any official proceeding and knowingly solicits, accepts, or agrees to accept any benefit, direct or indirect, on the representation or understanding that he or she will disobey a subpoena or other legal process, [or] absent himself or herself, avoid subpoena or other legal process, [or] withhold evidence, information or documents, or testify falsely.

2. The offense of acceding to corruption [under subdivision (1) of subsection 1 of this section is a class C felony.

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3. Acceding to corruption under subdivision (2) of subsection 1 of this section in a felony prosecution, or on the representation or understanding of testifying falsely is a class D felony. Otherwise, acceding to corruption**]** is a class A misdemeanor, unless committed pursuant to subdivision (1) of subsection 1 of this section, in which case it is a class C felony; or committed pursuant to subdivision (2) of subsection 1 of this section in a felony prosecution, or on the representation or understanding of testifying falsely, in which case it is a class E felony.

575.290. 1. A person commits the **[**crime**]** offense of improper communication if he or she communicates, directly or indirectly, with any juror, special master, referee, or arbitrator in a judicial proceeding, other than as part of the proceedings in a case, for the purpose of influencing the official action of such person.

2. The offense of improper communication is a class B misdemeanor.

575.300. 1. A **[**person**]** juror commits the **[**crime**]** offense of misconduct by a juror if**[**, being a juror,**]** he or she knowingly:

(1) Promises or agrees, prior to the submission of a cause to the jury for deliberation, to vote for or agree to a verdict for or against any party in a judicial proceeding; or

(2) Receives any paper, evidence or information from anyone in relation to any judicial proceeding for the trial of which he has been or may be sworn, without the authority of the court or

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officer before whom such proceeding is pending, and does not immediately disclose the same to such court or officer.

2. The offense of misconduct by a juror is a class A misdemeanor.

575.310. 1. A public servant authorized by law to select or summon any juror commits the **[**crime**]** offense of misconduct in selecting or summoning a juror if he or she knowingly acts unfairly, improperly or not impartially in selecting or summoning any person or persons to be a member or members of a jury.

2. The offense of misconduct in selecting or summoning a juror is a class B misdemeanor.

575.320. 1. A public servant, in his or her public capacity or under color of his or her office or employment, commits the **[**crime**]** offense of misconduct in administration of justice if he or she:

(1) **[**He**]** Is charged with the custody of any person accused or convicted of any **[**crime**]** offense or municipal ordinance violation and he or she coerces, threatens, abuses or strikes such person for the purpose of securing a confession from him or her;

(2) **[**He**]** Knowingly seizes or levies upon any property or dispossesses anyone of any lands or tenements without due and legal process, or other lawful authority; or

(3) **[**He**]** Is a judge and knowingly accepts a plea of guilty from any person charged with a violation of a statute or ordinance at any place other than at the place provided by law for holding court by such judge; or

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(4) **[**He**]** Is a jailer or keeper of a county jail and knowingly refuses to receive, in the jail under his or her charge, any person lawfully committed to such jail on any criminal charge or criminal conviction by any court of this state, or on any warrant and commitment or capias on any criminal charge issued by any court of this state; or

(5) **[**He**]** Is a law enforcement officer and violates the provisions of section 544.170 by knowingly:

(a) Refusing to release any person in custody who is entitled to such release; or

(b) Refusing to permit a person in custody to see and consult with counsel or other persons; or

(c) Transferring any person in custody to the custody or control of another, or to another place, for the purpose of avoiding the provisions of that section; or

(d) **[**Preferring**]** Proffering against any person in custody a false charge for the purpose of avoiding the provisions of that section;

(6) **[**He**]** Orders or suggests to an employee of a county of the first class having a charter form of government with a population over nine hundred thousand and not containing any part of a city of three hundred fifty thousand or more inhabitants that such employee shall issue a certain number of traffic citations on a daily, weekly, monthly, quarterly, yearly or other quota basis, except when such employee is assigned exclusively to traffic control and has no other responsibilities or duties.

2. The offense of misconduct in the administration of justice is a class A misdemeanor.

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575.353. 1. A person commits the **[**crime**]** offense of assault on a police animal **[**when such person**]** if he or she knowingly attempts to kill or disable or knowingly causes or attempts to cause serious physical injury to a police animal when that animal is involved in law enforcement investigation, apprehension, tracking, or search, or the animal is in the custody of or under the control of a law enforcement officer, department of corrections officer, municipal police department, fire department or a rescue unit or agency.

2. The offense of assault on a police animal is a class C misdemeanor, unless the assault results in the death of such animal or disables such animal to the extent it is unable to be utilized as a police animal, in which case it is a class E felony.

576.010. 1. A person commits the **[**crime**]** offense of bribery of a public servant if he or she knowingly offers, confers or agrees to confer upon any public servant any benefit, direct or indirect, in return for:

(1) The recipient's official vote, opinion, recommendation, judgment, decision, action or exercise of discretion as a public servant; or

(2) The recipient's violation of a known legal duty as a public servant.

2. It is no defense that the recipient was not qualified to act in the desired way because he or she had not yet assumed office, or lacked jurisdiction, or for any other reason.

3. The offense of bribery of a public servant is a class **[**D**]** E felony.

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576.020. 1. A public servant commits the [crime] offense of acceding to corruption if he or she knowingly solicits, accepts or agrees to accept any benefit, direct or indirect, in return for his or her:

(1) [His] Official vote, opinion, recommendation, judgment, decision, action or exercise of discretion as a public servant; or

(2) [His] Violation of a known legal duty as a public servant.

2. The offense of acceding to corruption by a public servant is a class [D] E felony.

576.030. 1. A person commits the [crime] offense of obstructing government operations if he or she purposely obstructs, impairs, hinders or perverts the performance of a governmental function by the use or threat of violence, force, or other physical interference or obstacle.

2. The offense of obstructing government operations is a class B misdemeanor.

576.040. 1. A public servant, in [his] such person's public capacity or under color of [his] such person's office or employment, commits the [crime] offense of official misconduct if he or she:

(1) [He] Knowingly discriminates against any employee or any applicant for employment on account of race, creed, color, sex or national origin, provided such employee or applicant possesses adequate training and educational qualifications; or

(2) [He] Knowingly demands or receives any fee or reward for the execution of any official act or the performance of a

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duty imposed by law or by the terms of his or her employment, that is not due, or that is more than is due, or before it is due; or

(3) **[**He**]** Knowingly collects taxes when none are due, or exacts or demands more than is due; or

(4) **[**He**]** Is a city or county treasurer, city or county clerk, or other municipal or county officer**[**, or judge of a municipal or county commission,**]** and knowingly orders the payment of any money, or draws any warrant, or pays over any money for any purpose other than the specific purpose for which the same was assessed, levied and collected, unless it is or shall have become impossible to use such money for that specific purpose; or

(5) **[**He**]** Is an officer or employee of any court and knowingly charges, collects or receives less fee for his services than is provided by law;

(6) **[**He**]** Is an officer or employee of any court and knowingly, directly or indirectly, buys, purchases or trades for any fee taxed or to be taxed as costs in any court of this state, or any county warrant, at less than par value which may be by law due or to become due to any person by or through any such court;

(7) **[**He**]** Is a county officer, deputy or employee and knowingly traffics for or purchases at less than the par value or speculates in any **[**court**]** county warrant issued by order of the county commission of his or her county, or in any claim or demand held against such county.

2. The offense of official misconduct is a class A misdemeanor.

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

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

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

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

2. A person commits the [crime] offense of misuse of official information if he or she [knowingly or] recklessly obtains or discloses information from the Missouri uniform law enforcement system (MULES) or the National Crime Information Center System (NCIC), or any other criminal justice information sharing system that contains individually identifiable information for private or personal use, or for a purpose other than in connection with their official duties and performance of their job.

3. The offense of misuse of official information is a class A misdemeanor.

576.060. 1. A person commits the [crime] violation of failure to give a tax list if, when requested by a government assessor, he or she knowingly fails to give a true list of all

his or her taxable property, or to take and subscribe an oath or affirmation to such list as required by law.

2. Failure to give a tax list is an infraction.

576.070. 1. A person owing allegiance to the state commits the offense of treason if he or she purposely levies war against the state, or adheres to its enemies by giving them aid and comfort.

2. No person shall be convicted of treason unless one or more overt acts are alleged in the indictment or information.

3. In a trial on a charge of treason, no evidence shall be given of any overt act that is not specifically alleged in the indictment or information.

4. No person shall be convicted of treason except upon the direct evidence of two or more witnesses to the same overt act, or upon his or her confession under oath in open court.

5. The offense of treason is a class A felony.

576.080. 1. A person commits the **[**crime**]** offense of supporting terrorism if such person knowingly provides material support to any organization designated as a foreign terrorist organization pursuant to 8 U.S.C. 1189, as amended and acts recklessly with regard to whether such organization had been designated as a foreign terrorist organization pursuant to 8 U.S.C. 1189.

2. For the purpose of this section, "material support" includes currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons,

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lethal substances, explosives, personnel, transportation and other physical assets, except medicine or religious materials.

3. The offense of supporting terrorism is a class [C] D felony.

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

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

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

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

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

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any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations based upon such assessment shall be subject to judicial review as provided in subsection 7 of section 577.041**]** the following terms mean:

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

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

(b) Two 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;

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

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

(b) Has been found guilty of one or more intoxication-related boating 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 vessel while intoxicated and another person was injured or killed;

(3) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is

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fifty inches or less in width, with an unladen dry weight of one thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control;

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

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

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

(b) Three 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) Two or more intoxication-related traffic offenses committed on separate occasions where both 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;

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

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(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 offense 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) "Drug", any natural or synthetic substance other than food, intended to affect the structure or any function of the body of humans or animals;

(10) "Flight crew member", the pilot in command, copilots, flight engineers, and flight navigators;

(11) "Habitual offender", a person who has been found guilty of:

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

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(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;

(12) "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 offense 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

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federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

(13) "Intoxicated" or "intoxicated condition", when a person is under the influence of alcohol, a controlled substance, or drug, or any combination thereof;

(14) "Intoxication-related boating offense", operating a vessel while intoxicated; boating while intoxicated; operating a vessel with excessive blood alcohol 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;

(15) "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;

(16) "Law enforcement officer" or "arresting officer", includes the definition of law enforcement officer in subdivision (17) of section 556.061 and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state of Missouri

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

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

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

(20) "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;

(21) "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

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(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

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(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**]**:

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(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 as a first offense shall be ordered to participate in and successfully complete a substance abuse traffic offender program pursuant to the provisions governing substance abuse traffic offender programs in chapter 302.

6. 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 two hundred forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

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

(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 four hundred eighty hours 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;

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

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

577.012. 1. A person commits the **[**crime**]** offense of **["]**driving with excessive blood alcohol content**["]** if such person operates:

(1) A **[**motor**]** vehicle **[**in this state with**]** while having eight-hundredths of one percent or more by weight of alcohol in **[**such person's**]** his or her blood; or

(2) A commercial motor vehicle while having four one-hundredths of a percent or more by weight of alcohol in his or her blood.

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2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of sections **[**577.020 to 577.041**]** 302.550 to 302.574.

3. **[**For the first offense,**]** The offense of driving with excessive blood alcohol content is **[**a class B misdemeanor**]**:

(1) A class B misdemeanor;

(2) A class A misdemeanor if the defendant is alleged and proved to be a prior offender;

(3) A class E felony if the defendant is alleged and proved to be a persistent offender;

(4) A class D felony if the defendant is alleged and proved to be an aggravated offender;

(5) A class C felony if the defendant is alleged and proved to be a chronic offender;

(6) A class B felony if the defendant is alleged and proved to be a habitual offender.

4. **[**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

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court-ordered treatment program**]** A person found guilty of the offense of driving with an excessive blood alcohol content 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 in and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

5. If a person is not granted a suspended imposition of sentence for the reasons described in subsection 4 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.

A person found guilty of the offense of driving with excessive blood alcohol content as a first offense shall be ordered to participate in and successfully complete a substance abuse

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traffic offender program pursuant to the provisions governing substance abuse traffic offender programs in chapter 302.

6. A person found guilty of driving with excessive blood alcohol content:

(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 two hundred forty hours 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;

(3) As a persistent offender shall not be granted 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 four hundred eighty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

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

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

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

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

2. The offense of boating while intoxicated is:

(1) A class B misdemeanor;

(2) A class A misdemeanor if:

(a) The defendant is a prior boating offender; or

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

(3) A class E felony if:

(a) The defendant is a persistent boating offender; or

(b) While boating 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 boating offender;

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

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(c) While boating 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 boating offender;

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

(c) While boating 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 boating offender;

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

(c) While boating 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, a person found guilty of the offense of boating 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-

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hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual participates in 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:

(1) If the individual operated the vessel 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 vessel 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 boating while intoxicated:

(1) As a prior boating offender, persistent boating offender, aggravated boating offender, chronic boating offender or habitual boating 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 boating 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 two hundred forty hours of community

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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;

(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 four hundred eighty hours 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;

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

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

577.014. 1. A person commits the offense of boating with excessive blood alcohol content if he or she operates a vessel while having eight-hundredths of one percent or more by weight of alcohol in his or her blood.

2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may

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be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of sections 302.550 to 302.574.

3. The offense of boating with excessive blood alcohol content is:

(1) A class B misdemeanor;

(2) A class A misdemeanor if the defendant is alleged and proved to be a prior boating offender;

(3) A class E felony if the defendant is alleged and proved to be a persistent boating offender;

(4) A class D felony if the defendant is alleged and proved to be an aggravated boating offender;

(5) A class C felony if the defendant is alleged and proved to be a chronic boating offender;

(6) A class B felony if the defendant is alleged and proved to be a habitual boating offender.

4. A person found guilty of the offense of boating with excessive blood alcohol content 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 in and

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successfully completes a program under such DWI court or docket or other court-ordered treatment program.

5. When a person is not granted a suspended imposition of sentence for the reasons described in subsection 3 of this section:

(1) If the individual operated the vessel 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 vessel 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.

6. A person found guilty of the offense of boating with excessive blood alcohol content:

(1) As a prior boating offender, persistent boating offender, aggravated boating offender, chronic boating offender or habitual boating 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 boating 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 two hundred forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service; or

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

(3) As a persistent boating offender shall not be granted 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 four hundred eighty hours 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;

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

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

[577.203.**]** 577.015. 1. **[**It is unlawful for any**]** A person **[**to operate, or act as a flight crew member of, any aircraft in this state:

(1) While under the influence of alcohol or a controlled substance, or any combination thereof;

(2) With four one-hundredths of one percent or more by weight of alcohol in his blood; or

(3) Within eight hours after the consumption of any alcoholic beverage.

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2. Any person found guilty of violating this section and section 577.201 shall have committed a class C misdemeanor.

3. Any person found guilty a second or subsequent time of violating this section and section 577.201 shall have committed a class A misdemeanor**]** commits the offense of operating an aircraft while intoxicated if he or she, while in an intoxicated condition, knowingly operates any aircraft or knowingly acts as a copilot, flight engineer or flight navigator for an aircraft while in operation.

2. The offense of operating an aircraft while intoxicated is:

(1) A class C misdemeanor;

(2) A class A misdemeanor if the person has previously been found guilty of the offense of operating an aircraft while intoxicated or with an excessive blood alcohol content, or any offense committed in another jurisdiction which, if committed in this state, would be the offense of operating an aircraft with excessive blood alcohol content or while intoxicated.

577.016. 1. A person commits the offense of operating an aircraft with excessive blood alcohol content if he or she knowingly operates any aircraft or knowingly acts as a copilot, flight engineer or flight navigator for an aircraft while in operation:

(1) With four one-hundredths of one percent or more by weight of alcohol in his or her blood; or

(2) Within eight hours after the consumption of any alcoholic beverage.

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2. The offense of operating an aircraft with excessive blood alcohol content is:

(1) A class C misdemeanor;

(2) A class A misdemeanor if the defendant has been found guilty of operating an aircraft with excessive blood alcohol content or operating an aircraft while intoxicated or any offense committed in any jurisdiction which, if committed in this state, would be the offense of operating an aircraft with excessive blood alcohol content or operating an aircraft while intoxicated.

577.017. 1. **[**No**]** A person **[**shall consume any**]** commits the offense of consumption of an alcoholic beverage while **[**operating**]** driving if he or she operates a moving motor vehicle upon **[**the highways, as defined in section 301.010**]** any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality while consuming any alcoholic beverage.

2. **[**Any person found guilty of violating the provisions of this section is guilty of an infraction.

3. Any infraction under this section shall not reflect on any records with the department of revenue**]** The offense of consumption of an alcoholic beverage while driving is an infraction and shall not be reflected on any records maintained by the department of revenue.

577.019. Sections 577.019 to 577.021 shall be known as the Alan Woods Law.

577.020. 1. Any person who operates a **[**motor**]** vehicle upon the public highways of this state, a vessel, or any aircraft, or acts as a flight crew member of an aircraft shall be deemed to

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have given consent [to], subject to the provisions of sections 577.019 to 577.041, to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood pursuant to the following circumstances:

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

(2) Detained for any offense of operating an aircraft while intoxicated under section 577.015 or operating an aircraft with excessive blood alcohol content under section 577.016; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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crew member of an aircraft while in an intoxicated condition or with an excessive blood alcohol content.

2. Any state, county, or municipal law enforcement officer who has the power of arrest for violations of section 577.010 or 577.012 and who is certified under chapter 590 shall make all reasonable efforts to administer a chemical test to any person suspected of **[**driving a motor**]** operating a vehicle or vessel involved in a collision or accident which resulted in a fatality or serious physical injury as defined in section **[**565.002**]** 556.061.

3. A test administered pursuant to this section shall be admissible as evidence of probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence of blood alcohol content. The provisions of sections 577.019 and 577.020 shall not apply to a test administered prior to arrest pursuant to this section. **[**The provisions changing chapter 577 are severable from this legislation. The general assembly would have enacted the remainder of this legislation without the changes made to chapter 577, and the remainder of the legislation is not essentially and inseparably connected with or dependent upon the changes to chapter 577.**]**

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

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

(a) Has pleaded guilty to or has been found guilty of three or more intoxication-related traffic offenses; or

(b) Has pleaded guilty to or has been found guilty of one or more intoxication-related traffic offense and, in addition, any of

the following: involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense; or assault in the second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082;

(2) A "chronic offender" is:

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

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

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

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

(4) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, murder in the second degree under section 565.021, where the underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section 565.082, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance;

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

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

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

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(6) A "prior offender" is a person who has pleaded guilty to or 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.

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

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

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

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

6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding.

(1) No prior offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment:

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(a) Unless as a condition of such parole or probation such person performs at least thirty days involving at least two hundred forty hours 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 pursuant to section 478.007 or other court-ordered treatment program, if available.

(2) No persistent offender shall 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 involving at least four hundred eighty hours of community service under the supervision of the court; or

(b) The offender participates in and successfully completes a program established pursuant to section 478.007 or other court-ordered treatment program, if available.

(3) No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment.

(4) No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment. In addition to any other terms or conditions of probation, the court shall consider, as a condition of probation for any person who pleads guilty to or is found guilty of an intoxication-related traffic offense, requiring the offender to abstain from consuming or using alcohol or any products containing

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alcohol as demonstrated by continuous alcohol monitoring or by verifiable breath alcohol testing performed a minimum of four times per day as scheduled by the court for such duration as determined by the court, but not less than ninety days. The court may, in addition to imposing any other fine, costs, or assessments provided by law, require the offender to bear any costs associated with continuous alcohol monitoring or verifiable breath alcohol testing.

7. The state, county, or municipal**]** A court shall find the defendant to be a prior offender, prior boating offender, persistent offender, persistent boating offender, aggravated offender, **[**or**]** aggravated boating offender, chronic offender, chronic boating offender, habitual offender, or habitual boating offender if:

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

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender, prior boating offender, persistent offender, persistent boating offender, aggravated offender, **[**or**]** aggravated boating offender, chronic offender, chronic boating offender, habitual offender, or habitual boating offender; and

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(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, prior boating offender, persistent offender, persistent boating offender, aggravated offender, **[**or**]** aggravated boating offender, chronic offender, chronic boating offender, habitual offender, or habitual boating offender.

[8.**]** 2. In a jury trial, the **[**facts**]** defendant's status as a prior offender, prior boating offender, persistent offender, persistent boating offender, aggravated offender, aggravated boating offender, chronic offender, chronic boating offender, habitual offender, or habitual boating offender shall be **[**pleaded, established and**]** found prior to submission to the jury outside of its hearing.

[9.**]** 3. In a trial without a jury or upon a plea of guilty, **[**the court may defer the proof in findings of such facts to a later time, but**]** a determination of the defendant's status as a prior offender, prior boating offender, persistent offender, persistent boating offender, aggravated offender, aggravated boating offender, chronic offender, chronic boating offender, habitual offender, or habitual boating offender may be made by the court at any time prior to sentencing.

4. Evidence offered as proof of the defendant's status as a prior offender, prior boating offender, persistent offender, persistent boating offender, aggravated offender, aggravated boating offender, chronic offender, chronic boating offender, habitual offender or habitual boating offender shall include but not be limited to evidence of findings of guilt received by a search of the records of the Missouri uniform law enforcement

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system, including criminal history records from the central repository or records from the driving while intoxicated tracking system (DWITS) maintained by the Missouri state highway patrol, or the certified driving record maintained by the Missouri department of revenue. Any findings of guilt used to establish defendant's status as a prior offender, prior boating offender, persistent offender, persistent boating offender, aggravated offender, aggravated boating offender, chronic offender, chronic boating offender, habitual offender or habitual boating offender shall be prior to the date of commission of the present offense.

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

[11.**]** 6. The defendant may waive proof of the facts **[**alleged**]** used to prove his or her status as a prior offender, prior boating offender, persistent offender, persistent boating offender, aggravated offender, aggravated boating offender, chronic offender, chronic boating offender, habitual offender, or habitual boating offender.

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

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

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

15.**]** 7. If a court finds the defendant to be a prior offender, prior boating offender, persistent offender, persistent

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boating offender, aggravated offender, aggravated boating offender, chronic offender, chronic boating offender, habitual offender, or habitual boating offender, the court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilt, to assess and declare the punishment as part of its verdict **[**in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders**]**.

[16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an intoxication-related traffic offense shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence received by a search of the records of the Missouri uniform law enforcement system, including criminal history records from the central repository or records from the driving while intoxicated tracking system (DWITS) maintained by the Missouri state highway patrol, or the certified driving record maintained by the Missouri department of revenue. After hearing the evidence, the court shall enter its findings thereon. A plea of guilty or a finding of guilt followed by incarceration, a fine, a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in any intoxication-related traffic offense in a state, county or municipal court or any combination thereof, shall be treated as a prior plea of guilty or finding of guilt for purposes of this section.**]**

8. At sentencing, all parties shall be permitted to present additional information bearing on the issue of the sentence.

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Nothing in this section shall prevent the use of presentence investigations, sentencing advisory reports or commitments.

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

577.031. No person who administers any test pursuant to the provisions of sections 577.020 to 577.041 upon the request of a law enforcement officer, no hospital in or with which such person is employed or is otherwise associated or in which such test is administered, and no other person, firm, or corporation by whom or with which such person is employed or is in any way associated, shall be civilly liable in damages to the person tested unless for gross negligence [or by], willful or wanton act, or omission.

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 this 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

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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

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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) 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 from 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 shall inform the person that evidence

of refusal to take the test may be used against such person [and that the person's]. If such person was operating a vehicle prior to such detention, stop, or arrest, he or she shall further be informed that his or her license shall be immediately revoked upon refusal to take the test.

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

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

(1) That the officer has:

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

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(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 has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

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

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

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

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

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

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for 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

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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

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(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 (23) 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

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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

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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 more than once for violation of the provisions of this section shall be required to file proof with the director of revenue that any motor vehicle operated by the person is equipped

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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 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.**]**

577.060. 1. A person commits the **[**crime**]** offense of leaving the scene of **[**a motor vehicle**]** an accident when:

(1) Being the operator **[**or driver**]** of a vehicle **[**on the highway or on any publicly or privately owned parking lot or parking facility generally open for use by the public and knowing that an injury has been caused to a person or damage has been caused to property, due to his culpability or to accident,**]** or a

vessel involved in an accident resulting in injury or death or damage to property of another person; and

(2) Having knowledge of such accident he or she leaves the place of the injury, damage or accident without stopping and giving [his name, residence, including city and street number, motor vehicle number and driver's license number, if any,] the following information to the [injured] other party or to a [police] law enforcement officer, or if no [police] law enforcement officer is in the vicinity, then to the nearest [police station or judicial officer] law enforcement agency:

(a) His or her name; and

(b) His or her residence, including city and street number; and

(c) The registration or license number for his or her vehicle or vessel; and

(d) His or her operator's license number, if any.

2. For the purposes of this section, all [peace] law enforcement officers shall have jurisdiction, when invited by an injured person, to enter the premises of any privately owned [parking lot or parking facility] property for the purpose of investigating an accident and performing all necessary duties regarding such accident.

3. The offense of leaving the scene of [a motor vehicle] an accident is [a class A misdemeanor, except that it shall be a class D felony if the accident resulted in:

(1) Physical injury to another party; or

(2) Property damage in excess of one thousand dollars; or

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(3) If the defendant has previously pled guilty to or been found guilty of a violation of this section**]**:

(1) A class A misdemeanor;

(2) A class E felony if:

(a) Physical injury was caused to another party; or

(b) Damage in excess of one thousand dollars was caused to the property of another person; or

(c) The defendant has previously been found guilty of a violation of any offense committed in another jurisdiction which, if committed in this state, would be a violation of an offense in this section.

4. A law enforcement officer who investigates or receives information of an accident involving an all-terrain vehicle and also involving the loss of life or serious physical injury shall make a written report of the investigation or information received and such additional facts relating to the accident as may come to his or her knowledge, mail the information to the department of public safety, and keep a record thereof in his or her office.

5. The provisions of this section shall not apply to the operation of all-terrain vehicles when property damage is sustained in sanctioned all-terrain vehicle races, derbies and rallies.

577.068. 1. A person commits the **[**crime**]** offense of **[**leaving the scene of**]** failure to report a shooting when**[**,**]**:

(1) Being in possession of a firearm or projectile weapon as defined in section 571.010, **[**such person**]** he or she discharges such firearm or projectile weapon and causes injury or death to another person **[**and such person,**]**; and

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(2) Knowing that he or she has caused such injury or death, [leaves the place of the shooting without giving his name, address, and driver's license number, if applicable,] fails to report such shooting to a law enforcement officer. If no such officer is in the vicinity where the shooting occurs, the person must provide such information to the nearest [police station or] law enforcement [officer. A person is not in violation of this section if he leaves the scene of a shooting in order to obtain medical assistance or contact law enforcement authorities to notify them of the shooting, so long as such person returns to the scene of the shooting or otherwise provides the information required by this section to a law enforcement officer within a reasonable time after the shooting] agency.

2. Failure to report a shooting is:

(1) A class A misdemeanor;

(2) A class E felony if the person has previously been found guilty of a violation of this section or any offense committed in another jurisdiction which, if committed in this state, would be a violation of an offense described in this section.

3. A person is not in violation of this section if he or she fails to report a shooting in order to obtain medical assistance or contact law enforcement authorities to notify them of the shooting, so long as such person returns to the scene of the shooting or otherwise reports the shooting as provided herein within a reasonable time after the shooting.

[2.] 4. All [peace] law enforcement officers and reserve [peace] law enforcement officers [certified under the provisions of chapter 590] shall have authority to investigate shootings and

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arrest a person who violates subsection 1 of this section, except that conservation agents may enforce such provisions as to hunting related shootings. For the purpose of this section, a "hunting-related shooting" shall be defined as any shooting in which a person is injured as a result of hunting activity that involves the discharge of a hunting weapon.

[3. Leaving the scene of a shooting is a class A misdemeanor, except that it is a class D felony if the person has previously pled guilty to or been found guilty of a violation of this section.**]**

577.070. 1. A person commits the **[**crime**]** offense of littering if he **[**throws or**]** or she places, deposits, or causes to be **[**thrown or**]** placed or deposited, any glass, glass bottles, wire, nails, tacks, hedge, cans, garbage, trash, refuse, or rubbish of any kind, nature or description on the right-of-way of any public road or state highway or on or in any of the waters in this state or on the banks of any stream, or on any land or water owned, operated or leased by the state, any board, department, agency or commission thereof or on any land or water owned, operated or leased by the federal government or on any private real property owned by another without **[**his**]** the owner's consent.

2. The offense of littering is a class **[**A**]** C misdemeanor unless:

(1) Such littering creates a substantial risk of physical injury or property damage to another; or

(2) The person has been found guilty of a violation of this section or an offense committed in another jurisdiction which, if

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committed in this state, would be a violation under this section, in which case it is a class A misdemeanor.

577.073. 1. **[**It is unlawful for any**]** A person **[**to throw waste paper, tin cans, bottles, rubbish of any kind, or contaminate in any manner, any spring, pool or stream within a state park, nor shall any person other than authorized personnel of the department of natural resources cut, prune, pick or deface or injure in any manner the flowers, trees, shrub or any other flora growing on the land or in the water of any state park**]** commits the offense of damaging state park property if he or she:

(1) Knowingly places or deposits waste paper, tin cans, bottles, or rubbish of any kind within a state park;

(2) Contaminates, in any manner, any spring, pool, or stream within a state park;

(3) Cuts, prunes, picks, defaces, or injures, in any manner, the flowers, trees, shrub, or any other flora growing on the land or in the water of any state park except as performed or directed by authorized personnel of the department of natural resources;

(4) Removes, injures, disfigures, defaces, or destroys an object of archaeological or historical value or interest within a state park except as performed or directed by authorized personnel of the department of natural resources.

2. **[**No person shall be permitted to offer or advertise merchandise or other goods for sale or hire, or to maintain any concession, or use any park facilities, buildings, trails, roads or other state park property for commercial use except by written permission or concession contract with the department of natural resources.

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3. No object of archaeological or historical value or interest within a state park may be removed, injured, disfigured, defaced or destroyed except by authorized personnel.

4. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor**]** The offense of damaging state park property is a class C misdemeanor, unless:

(1) Such damage creates a substantial risk of physical injury or property damage to another; or

(2) The defendant has previously been found guilty of a violation of this section or an offense committed in another jurisdiction which, if committed in this state, would be a violation under this section, in which case it is a class A misdemeanor.

577.075. 1. **[**It shall be unlawful for any**]** A person commits the offense of unlawful release of anhydrous ammonia if he or she is not the owner or not in lawful control of an approved container of anhydrous ammonia **[**to release or allow**]** and knowingly releases or allows the escape of anhydrous ammonia into the atmosphere.

2. The offense of unlawful release of anhydrous ammonia is a class B felony, unless such release causes serious physical injury or death **[**of a human being or causes serious physical injury**]** to any person in which case it is a class A felony.

577.076. 1. **[**If any**]** A person **[**or persons shall put any dead animal, carcass or part thereof, the offal or any other filth**]** commits the offense of unlawful disposition of a dead animal if he or she knowingly places or causes to be placed the carcass or offal of any dead animal:

(1) Into any well, spring, brook, branch, creek, pond, or lake**[**, every person so offending shall, on conviction thereof, be fined not less than twenty-five nor more than five hundred dollars.

2. If any person shall remove, or cause to be removed and placed in or near any**]**; or

(2) On any public road or highway, river, stream, or watercourse or upon premises not his or her own**[**, or in any river, stream or watercourse any dead animal, carcass or part thereof, or other nuisance, to the annoyance of the citizens of this state, or any of them, every person so offending shall, upon conviction thereof, be fined for every offense not less than twenty-five dollars nor more than five hundred dollars, and if such nuisance be not removed within three days thereafter, it shall be deemed a second offense against the provisions of this section**]** for the purpose of annoying another or others.

2. The offense of unlawful disposition of a dead animal is a class C misdemeanor.

[569.072.**]** 577.078. 1. A person commits the **[**crime**]** offense of criminal water contamination if such person knowingly introduces any dangerous radiological, chemical or biological agent or substance into any public or private waters of the state or any water supply with the purpose of causing death or serious physical injury to another person.

2. The offense of criminal water contamination is a class B felony.

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577.080. 1. A person commits the [crime] offense of abandoning a [motor] vehicle, vessel, or trailer if he or she knowingly abandons any motor vehicle, vessel, or trailer on:

(1) The right-of-way of any public road or state highway [or];

(2) On or in any of the waters in this state [or];

(3) On the banks of any stream[, or];

(4) On any land or water owned, operated or leased by the state, any board, department, agency or commission thereof, or any political subdivision thereof [or];

(5) On any land or water owned, operated or leased by the federal government; or

(6) On any private real property owned by another without his or her consent.

2. For purposes of this section, the last owner of record of a [motor] vehicle, vessel, or trailer found abandoned and not shown to be transferred pursuant to sections 301.196 and 301.197 shall be deemed prima facie [to have been the owner] evidence of ownership of such [motor] vehicle, vessel, or trailer at the time it was abandoned and [to have been] the person who abandoned the [motor] vehicle, vessel, or trailer or caused or procured its abandonment. The registered owner of the abandoned [motor] vehicle, vessel, or trailer shall not be subject to the penalties provided by this section if the [motor] vehicle, vessel, or trailer was in the care, custody, or control of another person at the time of the violation. In such instance, the owner shall submit such evidence in an affidavit permitted by the court setting forth the name, address, and other pertinent information

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of the person who leased, rented, or otherwise had care, custody, or control of the **[**motor**]** vehicle, vessel, or trailer at the time of the alleged violation. The affidavit submitted pursuant to this subsection shall be admissible in a court proceeding adjudicating the alleged violation and shall raise a rebuttable presumption that the person identified in the affidavit was in actual control of the **[**motor**]** vehicle, vessel, or trailer. In such case, the court has the authority to terminate the prosecution of the summons issued to the owner and issue a summons to the person identified in the affidavit as the operator. If the **[**motor**]** vehicle, vessel, or trailer is alleged to have been stolen, the owner of the **[**motor**]** vehicle, vessel, or trailer shall submit proof that a police report was filed in a timely manner indicating that the vehicle or vessel was stolen at the time of the alleged violation.

3. <u>The offense of</u> abandoning a **[**motor**]** vehicle, vessel, or trailer is a class A misdemeanor.

4. Any person convicted pursuant to this section shall be civilly liable for all reasonable towing, storage, and administrative costs associated with the abandonment of the **[**motor**]** vehicle, vessel, or trailer. Any reasonable towing, storage, and administrative costs in excess of the value of the abandoned **[**motor**]** vehicle, vessel, or trailer that exist at the time the **[**motor vehicle or vessel**]** <u>property</u> is transferred pursuant to section 304.156 shall remain the liability of the person convicted pursuant to this section so long as the towing company, as defined in chapter 304, provided the title owner and lienholders, as ascertained by the department of revenue records,

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a notice within the time frame and in the form as described in subsection 1 of section 304.156.

577.100. 1. A person commits the **[**crime**]** offense of abandonment of an airtight **[**icebox**]** or semiairtight container if he or she knowingly abandons, discards, or **[**knowingly**]** permits to remain on premises under his or her control, in a place accessible to children, any abandoned or discarded icebox, refrigerator, or other airtight or semiairtight container which has a capacity of one and one-half cubic feet or more and an opening of fifty square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein.

2. Subsection 1 of this section does not apply to an icebox, refrigerator or other airtight or semiairtight container located in that part of a building occupied by a dealer, **[**warehouseman or repairman**]** warehouse operator or repair person.

3. The defendant shall have the burden of injecting the issue under subsection 2 of this section.

4. The offense of abandonment of an airtight **[**icebox**]** or semiairtight container is a class B misdemeanor.

577.150. **[**Whoever willfully or maliciously**]** 1. A person commits the offense of tampering with a water supply if he or she purposely:

(1) Poisons, defiles or in any way corrupts the water of a well, spring, brook or reservoir used for domestic or municipal purposes**[**, or whoever willfully or maliciously**]**; or

(2) Diverts, dams up and holds back from its natural course and flow any spring, brook or other water supply for domestic or municipal purposes, after said water supply shall have once been taken for use by any person or persons, corporation, town or city for their use**[**, shall be adjudged guilty of a misdemeanor, and punished by a fine not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment, and shall be liable to the party injured for three times the actual damage sustained, to be recovered by suit at law**]**.

2. The offense of tampering with a water supply is a class A misdemeanor.

577.155. 1. **[**No**]** A person, firm, corporation or political subdivision **[**shall construct or use any waste disposal well located in this state**]** commits the offense of construction or use of a waste disposal well if such person, firm, corporation, or political subdivision knowingly constructs or uses a waste disposal well.

2. As used in this section,"waste disposal well" **[**shall mean**]** means any subsurface void porous formation or cavity, natural or artificial, used for the disposal of liquid or semi-aqueous waste except as excluded in subsection 3 of this section.

3. "Waste disposal well" shall not include:

(1) Sanitary landfills or surface mining pits used for the disposal of nonputrescible solid wastes as defined in section 64.460;

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(2) Cesspools used solely for disposal of waste from private residences; or

(3) Septic tanks used solely for disposal of waste.

4. It shall not be a violation of this section to:

(1) Inject or return fluids into subsurface formations in connection with oil or gas operations regulated by the state oil and gas council pursuant to chapter 259;

(2) Inject or return water into subsurface formations pursuant to chapter 644 and section 192.020 in connection with the following instances:

(a) Any groundwater heat pump injection/withdrawal well that is limited to a single family residence;

(b) Any groundwater heat pump injection/withdrawal well that is limited to eight or less single family residences as long as the combined injection/withdrawal rate is less than six hundred thousand British Thermal Units per hour;

(c) All other uses of groundwater heat pump injection/withdrawal wells shall be subject to a permitting procedure as established and regulated by the clean water commission; or

(3) Backfill cavities as an integral part of the mining operation with aggregate or other material obtained from that operation to either reduce accumulation of waste on the surface or to provide additional ground support in the mined-out areas or to inundate such cavities with water devoid of toxic liquid wastes, but the person, firm, or corporation who so backfills may not do so without the consent of the owner of the property to be backfilled.

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5. [Any person, firm, or corporation who violates any provision of this section is guilty of a misdemeanor and, upon conviction, shall be punished as provided by law] The offense of construction or use of a waste disposal well is a class A misdemeanor. Each day of violation constitutes a separate offense.

577.161. 1. [No] A person [shall prohibit] commits the offense of prohibiting the use of a life jacket if he or she knowingly disallows the use of a life jacket in a swimming pool by any individual who, as evidenced by a statement signed by a licensed physician, suffers from a physical disability or condition which necessitates the use of such life jacket.

2. [Any person violating subsection 1 of this section shall be guilty of] As used in this section the following terms mean:

(1) "Swimming pool", any artificial basin of water which is modified, improved, constructed or installed for the purpose of public swimming, and includes: pools for community use, pools at apartments, condominiums, and other groups of associations having five or more living units, clubs, churches, camps, schools, institutions, Y.M.C.A. and Y.W.C.A. parks, recreational areas, motels, hotels and other commercial establishments. It does not include pools at private residences intended only for the use of the owner or guests;

(2) "Person", any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, county, municipality, the state of Missouri, or any political subdivision or department thereof, or any other entity;

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(3) "Life jacket", a life jacket, life vest or any other flotation device designed to be worn about the body to assist in maintaining buoyancy in water.

3. The offense of prohibiting the use of a life jacket is a class C misdemeanor.

[568.052.**]** 577.300. 1. As used in this section, the following terms mean:

(1) "Collision", the act of a motor vehicle coming into contact with an object or a person;

(2) **[**"Injury",**]** "Injures", to cause physical harm to the body of a person;

(3) "Motor vehicle", any automobile, truck, truck-tractor, or any motor bus or motor-propelled vehicle not exclusively operated or driven on fixed rails or tracks;

(4) "Unattended", not accompanied by an individual fourteen years **[**of age**]** old or older.

2. A person commits the **[**crime**]** offense of leaving a child unattended in a motor vehicle in the first degree if such person knowingly leaves a child **[**ten years of age or**]** less than eleven years of age unattended in a motor vehicle and such child fatally injures another person by causing a motor vehicle collision or by causing the motor vehicle to fatally injure a pedestrian. **[**Such person shall be guilty of**]**.

3. Leaving a child unattended in a motor vehicle in the first degree is a class C felony.

[3.**]** 4. A person commits the **[**crime**]** offense of leaving a child unattended in a motor vehicle in the second degree if such person knowingly leaves a child **[**ten years of age or**]** less than

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eleven years old unattended in a motor vehicle and such child injures another person by causing a motor vehicle collision or by causing the motor vehicle to injure a pedestrian. [Such person shall be guilty of].

5. The offense of leaving a child unattended in a motor vehicle in the second degree is a class A misdemeanor.

577.599. 1. A person commits the offense of failure to comply with ignition interlock device requirements if he or she knowingly operates a motor vehicle that is not equipped with a functioning certified ignition interlock device in violation of a court order to use such a device.

2. The offense of failure to comply with ignition interlock device requirements is a class A misdemeanor.

577.600. 1. [In addition to any other provisions of law, a court may require that any person who is found guilty of or pleads guilty to a first intoxication-related traffic offense, as defined in section 577.023, and a court shall require that any person who is found guilty of or pleads guilty to a second or subsequent intoxication-related traffic offense, as defined in section 577.023, shall not operate any motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device for a period of not less than six months from the date of reinstatement of the person's driver's license. In addition, any court authorized to grant a limited driving privilege under section 302.309 to any person who is found guilty of or pleads guilty to a second or subsequent intoxication-related traffic offense shall require the use of an ignition interlock device on all vehicles operated by the person as a required condition of the

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limited driving privilege. These requirements shall be in addition to any other provisions of this chapter or chapter 302 requiring installation and maintenance of an ignition interlock device. Any person required to use an ignition interlock device, either under the provisions of this chapter or chapter 302, shall comply with such requirement subject to the penalties provided by this section.

2. No] A person [shall knowingly rent, lease or lend a motor] commits the offense of renting, leasing, or lending a vehicle to a person [known to have had that person's driving privilege restricted as provided in subsection 1 of this section,] with a limited driving privilege if he or she knowingly rents, leases, or lends a vehicle to a person subject to a limited driving privilege under section 302.309 requiring that person to use an ignition interlock device on all vehicles operated by the person unless the vehicle [is equipped with a functioning, certified ignition interlock device. Any person whose driving privilege is restricted as provided in subsection 1 of this section shall notify any other person who rents, leases or loans a motor vehicle to that person of the driving restriction imposed pursuant to this section.

3. Any person convicted of a violation of this section shall be guilty of] being rented, leased, or loaned is equipped with a functioning, certified ignition interlock device.

2. The offense of renting, leasing, or lending a vehicle to a person with a restricted driving privilege is a class A misdemeanor.

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577.605. 1. A person commits the offense of failure to notify another of driving restrictions if he or she is subject to a limited driving privilege under section 302.309, requiring him or her to use of an ignition interlock device on all vehicles he or she operates and he or she knowingly fails to notify any other person who rents, leases or loans a vehicle to that person of such driving restriction.

2. The offense of failing to notify another of driving restrictions is a class A misdemeanor.

577.612. 1. **[**It is unlawful for any**]** A person **[**whose driving privilege is restricted pursuant to the provisions of this chapter or chapter 302 to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.**]** commits the offense of tampering with or circumventing the operation of an ignition interlock device if:

(1) His or her driving privilege is restricted by a prohibition on the operation of any vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device, and he or she knowingly requests or solicits any other person to blow into an ignition interlock device or to start a vehicle equipped with the device for the purpose of providing the person so restricted with an operable vehicle; or

[2. It is unlawful to blow**]**

(2) He or she blows into an ignition interlock device or **[**to start a motor**]** starts a vehicle equipped with the device for the purpose of providing an operable **[**motor**]** vehicle to a person whose

driving privilege is restricted pursuant to the provisions of this chapter or chapter 302**[.]** by a prohibition on the operation of any vehicle unless that vehicle is equipped with a functioning, certified ignition interlock device; or

[3. It is unlawful to tamper**]**

(3) He or she tampers with, or **[**circumvent**]** circumvents the operation of, an ignition interlock device.

[4. Any person who violates any provision of this section is guilty of**]**

2. The offense of tampering with or circumventing the operation of an ignition interlock device is a class A misdemeanor.

577.675. 1. **[**It shall be unlawful for any person to knowingly transport, move, or attempt to transport in the state of Missouri**]** A person commits the offense of transportation of an illegal alien if he or she knowingly transports, moves, or attempts to transport or move any illegal alien who is not lawfully present in the United States, according to the terms of 8 U.S.C. Section 1101, et seq., for the purposes of trafficking in violation of sections 566.200 to 566.215, drug trafficking in violation of sections **[**195.222 and 195.223**]** 579.065 and 579.068, prostitution in violation of chapter 567, or employment.

2. **[**Any person violating the provisions of subsection 1 of this section shall be guilty of a felony for which the authorized term of imprisonment is a term of years not less than one year, or by a fine in an amount not less than one thousand dollars, or by both such fine and imprisonment**]** The offense of transportation of an illegal alien is a class D felony.

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3. Nothing in this section shall be construed to deny any victim of an offense under sections 566.200 to 566.215 of rights afforded by the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended.

[578.300.**]** 577.700. As used in sections **[**578.300 to 578.330**]** 577.700 to 577.718 and section 307.176 unless the context clearly requires otherwise, the following terms shall mean:

(1) "Bus", any passenger bus or coach or other motor vehicle having a seating capacity of not less than fifteen passengers operated by a bus transportation company for the purpose of carrying passengers or cargo for hire, but not to include a bus or coach utilized exclusively to transport children to and from schools;

(2) "Bus transportation company" or "company", any person, groups of persons or corporation providing for-hire transport to passengers or cargo by bus upon the highways of this state, whether in interstate or intrastate travel, but not to include a company utilizing buses transporting children to and from school. This term shall also include bus transportation facilities owned or operated by local public bodies, municipalities, public corporations, boards and commissions except school districts established under the laws of this state;

(3) "Charter", a group of persons who, pursuant to a common purpose and under a single contract, and at a fixed charge for the vehicle in accordance with a bus transportation company's tariff, have acquired the exclusive use of a bus to travel together as a group to a specified destination;

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(4) "Passenger", any person served by the transportation company and, in addition to the ordinary meaning of passenger, this term shall also include persons accompanying or meeting another who is transported by a company, any person shipping or receiving cargo;

(5) "Terminal", a bus station or depot or any facility operated or leased by or operated on behalf of a bus transportation company, including a reasonable area immediately adjacent to any designated stop along the route traveled by any coach operated by a bus transportation company, and parking lots or parking areas adjacent to a terminal.

[578.305.**]** 577.703. 1. A person commits the offense of **["]**bus hijacking**["** is defined as the seizure or exercise of**]** if he or she seizes or exercises control, by force or violence or threat of force or violence, of any bus **[**within the jurisdiction of this state**]**. The offense of bus hijacking **[**shall be**]** is a class B felony.

2. The offense of "assault with the intent to commit bus hijacking" is defined as an intimidation, threat, assault or battery toward any driver, attendant or guard of a bus so as to interfere with the performance of duties by such person. Assault to commit bus hijacking **[**shall be**]** is a class **[**C**]** D felony.

3. Any person, who, in the commission of such intimidation, threat, assault or battery with the intent to commit bus hijacking, employs a dangerous or deadly weapon or other means capable of inflicting serious bodily injury shall, upon conviction, be guilty of a class A felony.

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4. Any passenger who boards a bus with a dangerous or deadly weapon or other means capable of inflicting serious bodily injury concealed upon his or her person or effects is guilty of the felony of "possession and concealment of a dangerous or deadly weapon" upon a bus. Possession and concealment of a dangerous and deadly weapon by a passenger upon a bus [shall be] is a class [C] D felony. The provisions of this subsection shall not apply to duly elected or appointed law enforcement officers or commercial security personnel who are in possession of weapons used within the course and scope of their employment; nor shall the provisions of this subsection apply to persons who are in possession of weapons or other means of inflicting serious bodily injury with the consent of the owner of such bus, [or] his or her agent, or the lessee or bailee of such bus.

[578.310.] 577.706. 1. [It is unlawful for any person at any time to bomb or to plant or place] A person commits the offense of planting a bomb or explosive in or near a bus or terminal if he or she bombs, plants, or places any bomb or other explosive matter or thing in, upon, or near any terminal or bus, wherein a person or persons are located or being transported, or where there is being stored, [or] shipped or prepared for shipment, any goods, wares, merchandise or anything of value. [Any person who violates the provisions of this subsection shall be guilty of] The offense of planting a bomb or explosive in or near a bus or terminal is a class A felony.

2. [It is unlawful for any person to threaten to commit the offense defined in subsection 1 of this section.] Any person [convicted of threatening] who threatens to commit the offense

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[defined in subsection 1] of planting a bomb or explosive in or near a bus or terminal shall be guilty of a class [C] D felony.

3. [It is unlawful to discharge] Any person who discharges any firearm or [hurl] hurls any missile at, [or] into [and/or], or upon any bus, terminal, or other transportation facility[. Any person who violates the provisions of this subsection] shall be guilty of a class B felony.

[578.315.] 577.709. 1. It is unlawful, while on a bus, in the terminal, or on property contiguous thereto for any person:

(1) To threaten a breach of the peace or use any obscene, profane, or vulgar language;

(2) To be under the influence of alcohol [or], unlawfully under the influence of a controlled substance [or], to ingest or have in his possession any controlled substance unless properly prescribed by a physician or medical facility, or to drink intoxicating liquor of any kind in or upon any passenger bus except a chartered bus;

(3) To fail to obey a reasonable request or order of a bus driver or any duly authorized company representative.

2. If any person shall violate any provision of [subsection 1] this section, the driver of the bus, or person in charge thereof, may stop it at the place where the offense is committed, or at the next regular or convenient stopping place of the bus and require the person to leave the bus.

3. [Any person violating any provision of subsection 1 is deemed guilty of] Violation of this section is a class C misdemeanor.

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[578.320.**]** 577.712. 1. In order to provide for the safety, comfort, and well-being of passengers and others having a bona fide business interest in any terminal, a bus transportation company may refuse admission to terminals to any person not having bona fide business within the terminal. Any such refusal shall not be inconsistent or contrary to state or federal laws, regulations pursuant thereto, or to any ordinance of the political subdivision in which such terminal is located. A duly authorized company representative may ask any person in a terminal or on the premises of a terminal to identify himself or herself and state his or her business. Failure to comply with such request or failure to state an acceptable business purpose shall be grounds for the company representative to request that such person leave the terminal. Refusal to comply with such request shall constitute disorderly conduct. Disorderly conduct shall be a class C misdemeanor.

2. It is unlawful for any person to carry a deadly or dangerous weapon or any explosives or hazardous material into a terminal or aboard a bus. Possession of a deadly or dangerous weapon, explosive or hazardous material shall be a class **[**C**]** D felony. Upon the discovery of any such item or material, the company may obtain possession and retain custody of such item or material until it is transferred to the custody of law enforcement officers.

[578.325.**]** 577.715. A duly authorized security guard may detain within the terminal any person committing an act declared unlawful by any provision of sections **[**578.300 to 578.330**]** 577.700 to 577.718 and section 307.176 until law enforcement authorities

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arrive. Such detention shall not constitute unlawful imprisonment and neither the company nor such company representative personally shall be civilly or criminally liable upon grounds of unlawful imprisonment or assault providing that only reasonable force is exercised against any person so detained.

[578.330.**]** 577.718. **[**1. It is unlawful to remove**]** A person commits the offense of removal of baggage or cargo without the owner's permission if he or she removes any baggage, cargo or other item transported upon a bus or stored in a terminal without the consent of the owner of such property or the company, or its duly authorized representative. **[**Any person violating the provisions of this subsection shall be guilty of a class D felony.**]** The actual value of an item removed is not material to the offense. The offense of removal of baggage or cargo without the owner's permission is a class E felony.

[2. The actual value of an item removed in violation of subsection 1 shall not be material to the crime herein defined.**]**

578.009. 1. A person **[**is guilty**]** commits the offense of animal neglect **[**when**]** if he or she:

(1) Has custody or ownership **[**or both**]** of an animal and fails to provide **[**adequate**]** care or adequate control, which results in substantial harm to the animal; or

(2) Knowingly abandons an animal in any place without making provisions for its adequate care.

2. **[**A person is guilty of abandonment he has knowingly abandoned an animal in any place without making provisions for its adequate care.

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3.] The offense of animal neglect [and abandonment] is a class C misdemeanor [upon first conviction and for each offense, punishable by imprisonment or a fine not to exceed five hundred dollars, or both, and a class B misdemeanor punishable by imprisonment or a fine not to exceed one thousand dollars, or both upon the second and all subsequent convictions] unless the person has previously been found guilty of an offense under this section, or an offense in another jurisdiction which would constitute an offense under this section, in which case it is a class B misdemeanor.

3. All fines and penalties for a first [conviction of animal neglect or abandonment] finding of guilt under this section may be waived by the court [provided that] if the person found guilty of animal neglect [or abandonment] shows that adequate, permanent remedies for the neglect [or abandonment] have been made. Reasonable costs incurred for the care and maintenance of neglected [or abandoned] animals may not be waived. This section shall not apply to the provisions of section 578.007.

4. In addition to any other penalty imposed by this section, the court may order a person found guilty of animal neglect [or abandonment] to pay all reasonable costs and expenses necessary for:

(1) The care and maintenance of neglected [or abandoned] animals within the person's custody or ownership;

(2) The disposal of any dead or diseased animals within the person's custody or ownership;

(3) The reduction of resulting organic debris affecting the immediate area of the neglect [or abandonment]; and

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(4) The avoidance or minimization of any public health risks created by the neglect [or abandonment] of the animals.

578.012. 1. A person [is guilty] commits the offense of animal abuse [when a person] if he or she:

(1) Intentionally or purposely kills an animal in any manner not allowed by or expressly exempted from the provisions of sections 578.005 to 578.023 and 273.030;

(2) Purposely or intentionally causes injury or suffering to an animal; or

(3) Having ownership or custody of an animal knowingly fails to provide adequate care or adequate control.

2. Animal abuse is a class A misdemeanor, unless the defendant has previously [plead guilty to or has] been found guilty of animal abuse or the suffering involved in subdivision (2) of subsection 1 of this section is the result of torture or mutilation[, or both,] consciously inflicted while the animal was alive, in which case it is a class [D] E felony.

578.018. 1. Any duly authorized public health official or law enforcement official may seek a warrant from the appropriate court to enable him or her to enter private property in order to inspect, care for, or impound neglected or abused animals. All requests for such warrants shall be accompanied by an affidavit stating the probable cause to believe a violation of sections 578.005 to 578.023 has occurred. A person acting under the authority of a warrant shall:

(1) Be given a disposition hearing before the court through which the warrant was issued, within thirty days of the filing of

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the request for the purpose of granting immediate disposition of the animals impounded;

(2) Place impounded animals in the care or custody of a veterinarian, the appropriate animal control authority, or an animal shelter. If no appropriate veterinarian, animal control authority, or animal shelter is available, the animal shall not be impounded unless it is diseased or disabled beyond recovery for any useful purpose;

(3) Humanely kill any animal impounded if it is determined by a licensed veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose;

(4) Not be liable for any necessary damage to property while acting under such warrant.

2. The owner or custodian or any person claiming an interest in any animal that has been impounded because of neglect or abuse may prevent disposition of the animal by posting bond or security in an amount sufficient to provide for the animal's care and keeping for at least thirty days, inclusive of the date on which the animal was taken into custody. Notwithstanding the fact that bond may be posted pursuant to this subsection, the authority having custody of the animal may humanely dispose of the animal at the end of the time for which expenses are covered by the bond or security, unless there is a court order prohibiting such disposition. Such order shall provide for a bond or other security in the amount necessary to protect the authority having custody of the animal from any cost of the care, keeping or disposal of the animal. The authority taking custody of an animal shall give notice of the provisions of this section by posting a

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copy of this section at the place where the animal was taken into custody or by delivering it to a person residing on the property.

3. The owner or custodian of any animal humanely killed pursuant to this section shall not be entitled to recover any damages related to nor the actual value of the animal if the animal was found by a licensed veterinarian to be diseased or disabled, or if the owner or custodian failed to post bond or security for the care, keeping and disposition of the animal after being notified of impoundment.

578.021. If a person is **[**adjudicated**]** found guilty of the **[**crime**]** offense of animal neglect or animal abuse and the court having jurisdiction is satisfied that an animal owned or controlled by such person would in the future be subject to such neglect or abuse, such animal shall not be returned to or allowed to remain with such person, but its disposition shall be determined by the court.

578.023. 1. **[**No person may keep**]** A person commits the offense of keeping a dangerous wild animal if he or she keeps any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, hyena, wolf, bear, nonhuman primate, coyote, any deadly, dangerous, or poisonous reptile, or any deadly or dangerous reptile over eight feet long, in any place other than a properly maintained zoological park, circus, scientific, or educational institution, research laboratory, veterinary hospital, or animal refuge, unless **[**such person**]** he or she has registered such animals with the local law enforcement agency in the county in which the animal is kept.

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2. [Any person violating the provisions of this section shall be guilty of] The offense of keeping a dangerous wild animal is a class C misdemeanor.

578.024. 1. [If a dog that has] A person commits the offense of keeping a dangerous dog if he or she owns or possesses a dog that has previously bitten a person or a domestic animal without provocation and that dog bites any person on a subsequent occasion[, the owner or possessor is guilty of a class B misdemeanor unless such attack].

2. The offense of keeping a dangerous dog is a class B misdemeanor, unless such attack:

(1) Results in serious injury to any person, in which case, [the owner or possessor is guilty of] it is a class A misdemeanor; or

(2) Results in serious injury to any person and any previous attack also resulted in serious injury to any person, in which case, [the owner or possessor is guilty of] it is a class [D] E felony; or

(3) Results in the death of any person, in which case, [the owner or possessor shall be guilty of] it is a class [C] D felony.

[2.] 3. In addition to the penalty included in subsection [1] 2 of this section, if any dog that has previously bitten a person or a domestic animal without provocation bites any person on a subsequent occasion or if a dog that has not previously bitten a person attacks and causes serious injury to or the death of any human, the dog shall be seized immediately by an animal control authority or by the county sheriff. The dog shall be

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impounded and held for ten business days after the owner or possessor is given written notification and thereafter destroyed.

[3.**]** 4. The owner or possessor of the dog that has been impounded may file a written appeal to the circuit court to contest the impoundment and destruction of such dog. The owner or possessor shall provide notice of the filing of the appeal to the animal control authority or county sheriff who seized the dog. If the owner or possessor files such an appeal and provides proper notice, the dog shall remain impounded and shall not be destroyed while such appeal is pending and until the court issues an order for the destruction of the dog. The court shall hold a disposition hearing within thirty days of the filing of the appeal to determine whether such dog shall be humanely destroyed. The court may order the owner or possessor of the dog to pay the costs associated with the animal's keeping and care during the pending appeal.

[4.**]** 5. Notwithstanding any provision of sections 273.033 and 273.036, section 578.022 and this section to the contrary, if a dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of the attack, the owner or possessor is not guilty of any crime specified under this section or section 273.036, and is not civilly liable under this section or section 273.036, nor shall such dog be destroyed as provided in subsection **[**2**]** 3. of this section, nor shall such person engaged in or attempting to engage in a criminal activity at the time of the attack be entitled to the defenses set forth in section 273.033. For purposes of this section "criminal activity" shall not include the act of trespass upon private property under

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section 569.150 as long as the trespasser does not otherwise engage in, attempt to engage in, or have intent to engage in other criminal activity nor shall it include any trespass upon private property by a person under the age of twelve under section 569.140.

578.025. 1. **[**Any person who**]** A person commits the offense of dogfighting if he or she:

(1) Owns, possesses, keeps, or trains any dog, with the intent that such dog shall be engaged in an exhibition of fighting with another dog;

(2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other; or

(3) Permits any act as described in subdivision (1) or (2) of this subsection to be done on any premises under his or her charge or control, or aids or abets any such act **[**is guilty of a class D felony**]**.

2. The offense of dogfighting is a class E felony.

3. **[**Any person who**]** A person commits the offense of spectating dogfighting if he or she is knowingly present, as a spectator, at any place, building, or structure where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at such preparations, or is knowingly present at such exhibition or at any other fighting or injuring as described in subdivision (2) of subsection 1 of this section, with the intent to be present at such exhibition, fighting, or injuring **[**is guilty of a class A misdemeanor**]**.

4. The offense of spectating dogfighting is a class A misdemeanor.

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[3.**]** 5. Nothing in this section shall be construed to prohibit:

(1) The use of dogs in the management of livestock by the owner of such livestock **[**or**]**, his or her employees or agents, or other persons in lawful custody of such livestock; or

(2) The use of dogs in hunting; or

(3) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

578.027. 1. **[**No person shall tie or attach or fasten**]** A person commits the offense of causing a dog to pursue a live animal propelled by a device if he or she ties or attaches or fastens any live animal to any machine or device propelled by any power for the purpose of causing such animal to be pursued by a dog or dogs.

2. **[**Any person violating this section is guilty of**]** The offense of causing a dog to pursue a live animal propelled by a device is a class A misdemeanor.

578.028. **[**Any**]** 1. A person **[**who**]** commits the offense of unlawful removal of an electronic dog collar or radio transmitting device if he or she removes an electronic or radio transmitting collar from a dog without the permission of the owner of the dog with the intent to prevent or hinder the owner from locating the dog **[**is guilty of a class A misdemeanor. Upon a plea or finding of guilt,**]**.

2. The offense of unlawful removal of an electronic dog collar or radio transmitting device is a class A misdemeanor. The court shall order **[**that the defendant**]** any person found guilty under this section to pay as restitution the actual value of any

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dog lost or killed as a result of such removal. The court may also order restitution to the owner for any lost breeding revenues.

578.029. 1. A person commits the **[**crime**]** offense of knowingly releasing an animal if **[**that person**]** he or she, acting without the consent of the owner or custodian of an animal, intentionally releases any animal that is lawfully confined for the purpose of companionship or protection of persons or property or for recreation, exhibition or educational purposes.

2. As used in this section "animal" means every living creature, domesticated or wild, but not including Homo sapiens.

3. The provisions of this section shall not apply to a public servant acting in the course of such servant's official duties.

4. The offense of intentionally releasing an animal is a class B misdemeanor **[**except that the second or any subsequent offense**]**, unless the defendant has previously been found guilty of a violation under this section, in which case it is a class **[**D**]** E felony.

578.030. 1. The provisions of section 43.200 notwithstanding, any member of the state highway patrol or other law enforcement officer may apply for and serve a search warrant, and shall have the power of search and seizure in order to enforce the provisions of sections 578.025 to 578.050.

2. Any member of the state highway patrol or other law enforcement officer making an arrest under section 578.025 shall lawfully take possession of all dogs or other animals and all paraphernalia, implements, or other property or things used or

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employed, or about to be employed, in the violation of any of the provisions of section 578.025. Such officer, after taking possession of such dogs, animals, paraphernalia, implements or other property or things, shall file with the court before whom the complaint is made against any person so arrested an affidavit stating therein the name of the person charged in such complaint, a description of the property so taken and the time and place of the taking thereof together with the name of the person from whom the same was taken and the name of the person who claims to own such property, if known, and that the affiant has reason to believe and does believe, stating the ground of such belief, that the property so taken was used or employed, or was about to be used or employed, in such violation of section 578.025. He or she shall thereupon deliver the property so taken to the court, which shall, by order in writing, place the same in the custody of an officer or other proper person named and designated in such order, to be kept by him or her until the conviction or final discharge of such person complained against, and shall send a copy of such order without delay to the prosecuting attorney of the county. The officer or person so named and designated in such order shall immediately thereupon assume the custody of such property and shall retain the same, subject to the order of the court before which such person so complained against may be required to appear for trial. Upon the conviction of the person so charged, all property so seized shall be adjudged by the court to be forfeited and shall thereupon be destroyed or otherwise disposed of as the court may order. In the event of the acquittal or final discharge without conviction of the person so charged, such court shall, on

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demand, direct the delivery of such property so held in custody to the owner thereof.

578.050. [Any person who shall keep or use] 1. A person commits the offense of bullbaiting or cockfighting if he or she:

(1) Keeps, uses, or in any way [be] is connected with or interested in the management of, or [shall receive] receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, cock, or other creature, except dogs[, and any person who shall encourage, aid or assist or be present thereat,];

(2) Encourages, aids, assists, or is present at any place kept or used for such purpose; or [who shall permit or suffer]

(3) Permits or suffers any place belonging to him or her, or under his or her control, to be so kept or used[, shall, on conviction thereof, be guilty of a class A misdemeanor].

2. The offense of bullbaiting or cockfighting is a class A misdemeanor.

578.095. 1. [Any person who] A person commits the offense of desecrating a flag if he or she purposefully and publicly mutilates, defaces, defiles, tramples upon or otherwise desecrates the national flag of the United States or the state flag of the state of Missouri [is guilty of the crime of flag desecration].

2. [National flag desecration] The offense of desecrating a flag is a class A misdemeanor.

578.100. 1. [Whoever] A person commits the offense of selling goods on a Sunday if he or she engages on Sunday in the business of selling or sells or offers for sale on such day, at retail, motor vehicles; clothing and wearing apparel; clothing

accessories; furniture; housewares; home, business or office furnishings; household, business or office appliances; hardware; tools; paints; building and lumber supply materials; jewelry; silverware; watches; clocks; luggage; musical instruments and recordings or toys; excluding novelties and souvenirs**[**; is guilty of a misdemeanor and shall upon conviction for the first offense be sentenced to pay a fine of not exceeding one hundred dollars, and for the second or any subsequent offense be sentenced to pay a fine of not exceeding two hundred dollars or undergo confinement not exceeding thirty days in the county jail in default thereof**]**.

2. The offense of selling goods on a Sunday is a misdemeanor and persons found guilty for the first offense shall be sentenced to pay a fine not exceeding on hundred dollars, and for the second or any subsequent offense be sentenced to pay a fine not exceeding two hundred dollars or undergo confinement not exceeding thirty days in the county jail.

3. Each separate sale or offer to sell shall constitute a separate offense.

[3.**]** 4. Information charging violations of this section shall be brought within five days after the commission of the alleged offense and not thereafter.

[4.**]** 5. The operation of any place of business where any goods, wares or merchandise are sold or exposed for sale in violation of this section is hereby declared to be a public and common nuisance.

[5. Any county of this state containing all or part of a city with a population of over four hundred thousand may exempt itself from the application of this section by submission of the

proposition to the voters of the county at a general election or a special election called for that purpose, and the proposition receiving a majority of the votes cast therein. The proposal to exempt the county from the provisions of this section shall be submitted to the voters of the county upon a majority vote of the governing body of the county or when a petition requesting the submission of the proposal to the voters and signed by a number of qualified voters residing in the county equal to eight percent of the votes cast in the county in the next preceding gubernatorial election is filed with the governing body of the county. The ballot of submission shall contain, but not be limited to, the following language:

☐ FOR the exemption of ..... County from the Sunday sales law

☐ AGAINST the exemption of ..... County from the Sunday sales law

If a majority of the votes cast on the proposal by the qualified voters voting thereon in the county are in favor of the proposal, then the provisions of this section shall no longer apply within that county. If a majority of the votes cast on the proposal by the qualified voters voting thereon in the county are opposed to the proposal, then the provisions of this section shall continue to apply and be enforced within that county. The exemption of any county from the provisions of this section shall not become effective in that county until the results of the vote exempting the county have been filed with the secretary of state and with the revisor of statutes and have been certified as received by

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those officers. The revisor of statutes shall note which counties are exempt from the provisions of this section in the Missouri revised statutes.**]**

6. This section shall not apply to any county in which the voters have elected to be exempted from the provision of this section as of August 28, 2012, nor shall it apply to any county that exempts itself pursuant to this section. In addition to any other method of exemption provided by law, the governing body of any county of this state may exempt itself from the application of this section by order or ordinance of the governing body of the county after public hearing upon the matter. Such public hearing shall be preceded by public notice which shall, at a minimum, be published at least three different times in the newspaper with the greatest circulation in the county. Upon such order or ordinance becoming effective, such county shall be exempt from the provisions of this section and no election or other method of exemption shall be required. The exemption of any county from the provisions of this section by order or ordinance shall not become effective in that county until the order or ordinance has been filed with the secretary of state and the revisor of statutes and has been certified as received by those officers. The revisor of statutes shall note which counties are exempt from the provisions of this section in the Missouri revised statutes.

7. Any other county may exempt itself from the application of this section by a vote of the qualified voters of the county. The county shall submit the proposition to the voters of the county at any election, and the proposition shall receive a majority of the votes cast. The proposition to exempt the county

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from the provisions of this section shall be submitted to the voters of the county upon a majority vote of the governing body of the county or when a petition requesting the submission of the proposition to the voters and signed by a number of registered voters residing in the county equal to eight percent of the votes cast in the county in the next preceding gubernatorial election is filed with the governing body of the county. The ballot of submission shall contain, but need not be limited to, the following language:

To exempt ..... County from the Sunday sales law.

☐ YES ☐ NO

If a majority of the votes cast on the proposal by the registered voters voting thereon in the county are in favor of the proposal, then the provisions of this section shall no longer apply within that county. If a majority of the votes cast on the proposal by the registered voters voting thereon in the county are opposed to the proposal, then the provisions of section 578.100 shall continue to apply and be enforced within that county. The exemption of the county from the provisions of section 578.100 shall not become effective in that county until the results of the vote exempting the county have been filed with the secretary of state and with the revisor of statutes and have been certified as received by those officers. The revisor of statutes shall note which counties are exempt from the provisions of this section in the Missouri revised statutes.

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8. (1) Notwithstanding any provision in this chapter to the contrary, no dealer, distributor or manufacturer licensed under section 301.559 may keep open, operate, or assist in keeping open or operating any established place of business for the purpose of buying, selling, bartering or exchanging, or offering for sale, barter or exchange, any motor vehicle, whether new or used, on Sunday. However, this section does not apply to the sale of manufactured housing; the sale of recreational motor vehicles; washing, towing, wrecking or repairing operations; the sale of petroleum products, tires, and repair parts and accessories; or new vehicle shows or displays participated in by five or more franchised dealers or in towns or cities with five or fewer dealers, a majority.

(2) No association consisting of motor vehicle dealers, distributors or manufacturers licensed under section 301.559 shall be in violation of antitrust or restraint of trade statutes under chapter 416 or regulation promulgated thereunder solely because it encourages its members not to open or operate on Sunday a place of business for the purpose of buying, selling, bartering or exchanging any motor vehicle.

(3) Violation of the provisions of this subsection is a class C misdemeanor.

578.151. 1. It is the intent of the general assembly of the state of Missouri to recognize that all persons shall have the right to hunt, fish and trap in this state in accordance with law and the rules and regulations made by the commission as established in article IV of the Constitution of Missouri.

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2. [Any person who] A person commits the offense of interference with hunting, fishing, or trapping in the first degree if he or she intentionally interferes with the lawful taking of wildlife by another [is guilty of the crime of interference with lawful hunting, fishing or trapping in the first degree].

3. It shall be considered a violation of this section to intentionally harass, drive, or disturb any game animal or fish for the purpose of disrupting lawful hunting, fishing or trapping.

4. The offense of interference with lawful hunting, fishing or trapping in the first degree is a class A misdemeanor.

578.152. 1. [Any person who] A person commits the offense of interference with hunting, fishing, or trapping in the second degree if he or she enters or remains in a hunting, fishing or trapping area where lawful hunting, fishing or trapping may occur with the intent to interfere with the lawful taking of wildlife [is guilty of the crime of interference with lawful hunting, fishing or trapping in the second degree].

2. The offense of interference with lawful hunting, fishing, or trapping in the second degree is a class B misdemeanor.

578.153. 1. A peace officer as defined by chapter 590 who reasonably believes that a person has violated section 578.151 or 578.152 may order the person to desist. The offense of failure to obey the order of a peace officer to desist from conduct in violation of sections 578.151 and 578.152 [shall be] is a class A misdemeanor.

2. Any law enforcement officer shall and any agent of the conservation commission may enforce the provisions of sections

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578.151, 578.152 and this section and arrest violators of such sections.

3. The conduct declared unlawful by sections 578.151 and 578.152 shall not include any lawful activity by the landowner or persons in lawful possession of the land.

578.173. **[**Baiting or fighting animals -- penalty.**]**

1. **[**Any person who commits any of the following acts is guilty of a class D felony**]** A person commits the offense of baiting or fighting animals if he or she:

(1) **[**Baiting or fighting**]** Baits or fights animals;

(2) **[**Permitting**]** Permits baiting or animal fighting to be done on any premises under his or her charge or control;

(3) **[**Promoting, conducting, or staging**]** Promotes, conducts, or stages a baiting or fight between two or more animals;

(4) **[**Advertising**]** Advertises a baiting or fight between two or more animals;

(5) **[**Collecting**]** Collects any admission fee for a baiting or fight between two or more animals**[**.

2. Any person who commits any of the following acts is guilty of a class A misdemeanor:

(1)**]**;

(6) Knowingly **[**attending**]** attends the baiting or fighting of animals;

[(2)**]** (7) Knowingly **[**selling, offering for sale, shipping, or transporting**]** sells, offers for sale, ships, or transports any animal which has been bred or trained to bait or fight another animal;

[(3) Owning or possessing**]**

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(8) Owns or possesses any of the cockfighting implements, commonly known as gaffs and slashers, or any other sharp implement designed to be attached to the leg of a gamecock; or

[(4) Manufacturing, selling, bartering or exchanging**]**

(9) Manufactures, sells, barters, or exchanges any of the cockfighting implements, commonly known as gaffs and slashers, or any other sharp implement designed to be attached to the leg of a gamecock.

2. The offense of baiting or fighting animals is a class E felony

578.176. **[**Bear wrestling -- penalty. Any person who commits any of the following acts is guilty of a class A misdemeanor**]**

1. A person commits the offense of bear wrestling if he or she:

(1) Wrestles a bear **[**wrestling**]**;

(2) **[**Permitting**]** Permits bear wrestling to be done on any premises under his or her charge or control;

(3) **[**Promoting, conducting, or staging**]** Promotes, conducts, or stages bear wrestling;

(4) **[**Advertising**]** Advertises bear wrestling;

(5) **[**Collecting**]** Collects any admission fee for bear wrestling;

(6) **[**Purchasing, selling, or possessing**]** Purchases, sells, or possesses a bear which he or she knows will be used for bear wrestling;

(7) **[**Training**]** Trains a bear for bear wrestling;

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(8) [Subjecting] Subjects a bear to surgical alteration for bear wrestling.

2. The offense of bear wrestling is a class A misdemeanor.

578.350. 1. [Any] A person licensed under chapter 334 or 335 who treats a person for a wound inflicted by gunshot [shall] commits the infraction of medical deception if he or she knowingly fails to immediately report to a local law enforcement official the name and address of the person, if known, and if unknown, a description of the person, together with an explanation of the nature of the wound and the circumstances under which the treatment was rendered.

2. [Any person licensed under chapter 334 or 335 who knowingly fails to report the injuries described in this section is guilty of the offense of medical deception.

3. Medical deception is an infraction.] A person licensed under chapter 334 or 335 who, in good faith, makes a report under this section shall have immunity from civil liability that otherwise might result from such report and shall have the same immunity with respect to any good faith participation in any judicial proceeding in which the reported gunshot wound is an issue. Notwithstanding the provisions of subdivision (5) of section 491.060, the existence of a physician-patient relationship shall not prevent a physician from submitting the report required in this section, or testifying regarding information acquired from a patient treated for a gunshot wound if such testimony is otherwise admissible.

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578.365. 1. A person commits the [crime] offense of hazing if he or she knowingly participates in or causes [hazing, as it is defined in section 578.360.

2. Hazing is a class A misdemeanor, unless the act creates a substantial risk to the life of the student or prospective member, in which case it is a class C felony]:

(1) A willful act, occurring on or off the campus of a public or private college or university, directed against a student or a prospective member of an organization operating under the sanction of a public or private college or university, that recklessly endangers the mental or physical health or safety of a student or prospective member for the purpose of initiation or admission into or continued membership in any such organization to the extent that such person is knowingly placed at probable risk of the loss of life or probable bodily or psychological harm. Acts of hazing include:

(a) Any activity which recklessly endangers the physical health or safety of the student or prospective member, including but not limited to physical brutality, whipping, beating, branding, exposure to the elements, forced consumption of any food, liquor, drug or other substance, or forced smoking or chewing of tobacco products; or

(b) Any activity which recklessly endangers the mental health of the student or prospective member, including but not limited to sleep deprivation, physical confinement, or other extreme stress-inducing activity; or

(c) Any activity that requires the student or prospective member to perform a duty or task which involves a violation of the

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criminal laws of this state or any political subdivision in this state.

2. Public or private colleges or universities in this state shall adopt a written policy prohibiting hazing by any organization operating under the sanction of the institution.

3. Nothing in **[**sections 578.360 to 578.365**]** this section shall be interpreted as creating a new private cause of action against any educational institution.

4. Consent is not a defense to hazing. Section 565.080 does not apply to hazing cases or to homicide cases arising out of hazing activity.

5. The offense of hazing is a class A misdemeanor, unless the act creates a substantial risk to the life of the student or prospective member, in which case it is a class D felony.

578.398. 1. A person commits the offense of sports bribery in the first degree if he or she gives, promises or offers any benefit to any participant or prospective participant in any sport or game with the purpose to influence him or her to lose or try to lose or cause to be lost or to limit the margin of victory in any sport or game in which the participant is taking part, or expects to take part, or has any duty or connection therewith.

2. The offense of sports bribery in the first degree is a class D felony.

578.399. 1. A person commits the offense of sports bribery in the second degree if he or she, being a participant or prospective participant in any sport or game, accepts, attempts to obtain, or solicits any benefit in exchange for losing or trying to lose or causing to be lost or limiting the margin of victory in

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any sport or game in which the participant is taking part, or expects to take part, or has any duty or connection therewith.

2. The offense of sports bribery in the second degree is a class A misdemeanor.

578.405. 1. [Sections 578.405 to 578.412] This section shall be known and may be cited as "The Animal Research and Production Facilities Protection Act".

2. As used in [sections 578.405 to 578.412] this section, the following terms mean:

(1) "Animal", every living creature, domestic or wild, but not including Homo sapiens;

(2) "Animal facility", any facility engaging in legal scientific research or agricultural production or involving the use of animals, including any organization with a primary purpose of representing livestock production or processing, any organization with a primary purpose of promoting or marketing livestock or livestock products, any person licensed to practice veterinary medicine, any organization involved in the production of pet food or pet food research, and any organization with a primary purpose of representing any such person, organization, or institution. The term shall include the owner, operator, and employees of any animal facility and the offices and vehicles of any such persons while engaged in duties related to the animal facility, and any premises where animals are located[;

(3) "Director", the director of the department of agriculture].

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[578.407. No person shall**]** 3. A person commits the offense of prohibited acts against animal research and production facilities if he or she:

(1) **[**Release, steal**]** Releases, steals, or otherwise intentionally **[**cause**]** causes the death, injury, or loss of any animal at or from an animal facility and not authorized by that facility;

(2) **[**Damage, vandalize, or steal**]** Damages, vandalizes, or steals any property in or on an animal facility;

(3) **[**Obtain**]** Obtains access to an animal facility by false pretenses for the purpose of performing acts not authorized by the facility;

(4) **[**Enter**]** Enters or otherwise **[**interfere**]** interferes with an animal facility with the intent to destroy, alter, duplicate or obtain unauthorized possession of records, data, material, equipment, or animals;

(5) Knowingly **[**obtain**]** obtains, by theft or deception, control over records, data, material, equipment, or animals of any animal facility for the purpose of depriving the rightful owner or animal facility of the records, material, data, equipment, or animals, or for the purpose of concealing, abandoning, or destroying such records, material, data, equipment, or animals; or

(6) **[**Enter or remain**]** Enters or remains on an animal facility with the intent to commit an act prohibited by this section.

4. The offense of prohibited acts against animal research and production facilities is a class A misdemeanor unless:

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(1) The loss or damage to the animal facility is fifty dollars or more, in which case it is a class E felony;

(2) The loss or damage to the animal facility is seven hundred fifty dollars or more, in which case it is a class D felony;

(3) The loss or damage to the animal facility is one thousand dollars or more, in which case it is a class C felony;

(4) The loss or damage to the animal facility is twenty-five thousand dollars or more, in which case it is a class B felony.

5. Any person who intentionally agrees with another person to violate this section and commits an act in furtherance of such violation shall be guilty of the same class of violation as provided in subsection 4 of this section.

6. In the determination of the value of the loss, theft, or damage to an animal facility, the court shall conduct a hearing to determine the reasonable cost of replacement of materials, data, equipment, animals, and records that were damaged, destroyed, lost, or cannot be returned, as well as the reasonable cost of lost production funds and repeating experimentation that may have been disrupted or invalidated as a result of the violation of this section.

7. Any persons found guilty of a violation of this section shall be ordered by the court to make restitution, jointly and severally, to the owner, operator, or both, of the animal facility, in the full amount of the reasonable cost as determined under subsection 6 of this section.

8. Any person who has been damaged by a violation of this section may recover all actual and consequential damages, punitive

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damages, and court costs, including reasonable attorneys' fees, from the person causing such damage.

9. Nothing in this section shall preclude any animal facility injured in its business or property by a violation of this section from seeking appropriate relief under any other provision of law or remedy including the issuance of an injunction against any person who violates this section. The owner or operator of the animal facility may petition the court to permanently enjoin such persons from violating this section and the court shall provide such relief.

10. The director of the department of agriculture may promulgate rules and regulations necessary for the enforcement of this section. The director shall have the authority to investigate any alleged violation of this section, along with any other law enforcement agency, and may take any action within the director's authority necessary for the enforcement of this section. The attorney general, the highway patrol, and other law enforcement officials shall provide assistance required in the conduct of an investigation. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking

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authority and any rule proposed or adopted after August 28, 2012, shall be invalid and void.

578.421. As used in sections 578.421 to 578.437, the following terms mean:

(1) "Criminal street gang", any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in subdivision (2) of this section, which has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity;

(2) "Pattern of criminal street gang activity", the commission, attempted commission, or solicitation of two or more of the following offenses, provided at least one of those offenses occurred after August 28, 1993, and the last of those offenses occurred within three years after a prior offense, and the offenses are committed on separate occasions, or by two or more persons:

(a) Assault with a deadly weapon or by means of force likely to cause serious physical injury, as provided in sections 565.050 and **[**565.060**]** 565.052;

(b) Robbery, arson and those offenses under chapter 569 which are related to robbery and arson;

(c) Murder or manslaughter, as provided in sections 565.020 to 565.024;

(d) Any violation of the provisions of chapter **[**195**]** 579 which involves the distribution, delivery or manufacture of a substance prohibited by chapter **[**195**]** 579;

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(e) [Unlawful use of a weapon which is a felony pursuant to section 571.030] Any felony offense of sections 571.031 to 571.044; or

(f) Tampering with witnesses and victims, as provided in section 575.270.

578.425. Any person who is convicted of a felony or a misdemeanor which is committed for the benefit of, at the direction of, or in association with, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished in the following manner:

(1) Any person who violates this section in the commission of a misdemeanor shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in a state correctional facility for one, two, or three years;

(2) Any person who violates this section in the commission of a felony shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony of which he or she has been convicted, be punished by an additional term of one, two, or three years at the court's discretion. If the underlying felony is committed on the grounds of, or within one thousand feet of a public or private elementary, vocational, junior high or high school, the additional term shall be two, three, or four years, at the court's discretion. The court shall order the imposition of the middle term of the sentence enhancement, unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its choice of sentence enhancements on the record at the time of sentencing;

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(3) Any person who violates this section in the commission of a felony punishable by death or imprisonment for life shall not be paroled until a minimum of fifteen calendar years have been served in the custody of the department of corrections.

578.430. 1. Any room, building, structure or inhabitable structure as defined in section **[**569.010**]** 556.061 which is used by a criminal street gang in a pattern of criminal street gang activity shall be deemed 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 criminal street gangs in a pattern of criminal street gang activity, 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, offenders 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. 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 of keeping or maintaining a public

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nuisance. Keeping or maintaining a public nuisance is a class D felony.

578.437. No weapon shall be declared a nuisance pursuant to section 578.435 and this section unless reasonable notice has been given to the lawful owner thereof, if his or her identity and address can be reasonably ascertained. The law enforcement agency shall inform the lawful owner at that person's last known address by registered mail that the owner of the weapon has thirty days from the date of receipt of the notice to respond to the clerk of the court to confirm his or her desire for a hearing, and that the failure to respond shall result in a default order and thereupon such weapon shall be declared a nuisance. If the person requests a hearing the court shall set a hearing no later than sixty days from the receipt of such request, and shall notify the person, the law enforcement agency involved, and the prosecuting attorney of the date, time, and place of the hearing. At such hearing the burden of proof shall be upon the state to show by a preponderance of the evidence that the seized item has been or will be used in criminal street gang activity, or that the return of the weapon would likely result in the endangering of the lives of others.

[566.221.**]** 578.475. 1. An international marriage broker shall provide notice to each recruit that the criminal history record information and marital history information of clients and basic rights information are available from the organization. The notice of the availability of such information must be in a conspicuous location, in the recruit's native language, in lettering that is at least one-quarter of an inch in height, and

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presented in a manner that separates the different types of information available.

2. An international marriage broker shall disseminate to a recruit the criminal history record information and marital history information of a client and basic rights information no later than thirty days after the date the international marriage broker receives the criminal history record information and the marital history information on the client. Such information must be provided in the recruit's native language and the organization shall pay the costs incurred to translate the information.

3. A client of an international marriage broker shall:

(1) Obtain a copy of his or her own criminal history record information;

(2) Provide the criminal history record information to the international marriage broker; and

(3) Provide to the international marriage broker his or her own marital history information.

4. An international marriage broker shall require the client to affirm that the marital history information is complete and accurate and includes information regarding marriages, annulments, and dissolutions that occurred in another state or foreign country.

5. An international marriage broker shall not provide any further services to the client or the recruit until the organization has obtained the required criminal history record information and marital history information and provided the information to the recruit.

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6. An international marriage broker shall be deemed to be doing business in Missouri if it contracts for matchmaking services with a Missouri resident or is considered to be doing business pursuant to other laws of the state.

7. A person who **[**pleads guilty to or**]** is found guilty of violating the provisions of this section shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, unless such person is otherwise required to register pursuant to the provisions of such section.

8. It shall be a class **[**D**]** E felony to willfully provide incomplete or false information pursuant to this section.

9. Failure to provide the information and notice required pursuant to this section shall be a class **[**D**]** E felony.

10. No provision of this section shall preempt any other right or remedy available under law to any party utilizing the services of an international marriage broker or other international marriage organization.

578.520. 1. **[**No person shall fish, hunt, or trap**]** A person commits the offense of unlawful fishing, hunting, or trapping on private land if he or she fishes, hunts, or traps upon or **[**retrieve**]** retrieves wildlife from any private land that is not owned or in the possession of such person without permission from the owner or lessee of such land.

2. **[**Any person who violates the provisions of this section is guilty of a class B misdemeanor.

3.**]** Any person who knowingly enters or remains on private property for the purpose of hunting, fishing, trapping, or retrieving wildlife in violation of subsection 1 of this section

may, in addition to the penalty in subsection **[**2**]** 4 of this section, be required by the court to surrender and deliver any license or permit issued by the department of conservation to hunt, fish, or trap. The court shall notify the conservation commission of any conviction under this section and request the commission take necessary action to revoke all privileges to hunt, fish, or trap for at least one year from the date of conviction.

3. It shall be an affirmative defense to prosecution for a violation of this section that the premises were at the time open to members of the public and the person complied with all lawful conditions imposed concerning access to or the privilege of remaining on the premises.

4. The offense of unlawful fishing, hunting, or trapping on private land is a class B misdemeanor.

578.525. 1. **[**No person shall**]** A person commits the offense of unlawful retrieval of large or small game if he or she, while engaged in the retrieval of wildlife from private land that is not owned or in the possession of such person with permission of the landowner or lessee of the land:

(1) Intentionally **[**drive or flush**]** drives or flushes any large or small game located on the land toward other hunters of the retriever's same hunting group located on other parcels of land or right-of-ways; or

(2) Intentionally **[**discharge**]** discharges a firearm at large or small game that originates from the private land during retrieval.

2. **[**Unlawful retrieval of large or small game is a class B misdemeanor.**]** It shall be an affirmative defense to prosecution

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for a violation of this section that the premises were at the time open to members of the public and the person complied with all lawful conditions imposed concerning access to or the privilege of remaining on the premises.

3. The offense of unlawful retrieval of large or small game is a class B misdemeanor.

578.614. 1. Subject to subsection 2 of this section, any person who violates sections 578.600 to 578.624 is guilty of a class A misdemeanor. Any person who fails to obtain a permit as required by sections 578.600 to 578.624 is guilty of a class A misdemeanor. Any person who intentionally releases a large carnivore except to the care, custody, and control of another person is guilty of a class **[**D**]** E felony. In addition, a person who violates sections 578.600 to 578.624 may be punished by one or more of the following:

(1) Community service work for not more than five hundred hours;

(2) The loss of privileges to own or possess any animal.

2. Subsection 1 of this section does not apply to a law enforcement officer, animal control officer, qualified veterinarian, or department of agriculture employee with respect to the performance of the duties of a law enforcement officer, animal control officer, qualified veterinarian, or department of agriculture employee under sections 578.600 to 578.624.

[195.202.**]** 579.015. 1. **[**Except as authorized by sections 195.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance**]** A person commits the offense of possession of a controlled substance if he or she

knowingly possesses a controlled substance, except as authorized by this chapter or chapter 195.

2. **[**Any person who violates this section with respect to**]** The offense of possession of any controlled substance except thirty-five grams or less of marijuana or any synthetic cannabinoid is **[**guilty of a class C**]** a class E felony.

3. **[**Any person who violates this section with respect to**]** The offense of possession of not more than thirty-five grams of marijuana or any synthetic cannabinoid is **[**guilty of**]** a class **[**A**]** D misdemeanor, unless the defendant has previously been found guilty of any offense of the laws related to controlled substances of this state, or of the United States, or any state, territory, or district, in which case, it shall be a class A misdemeanor. Prior findings of guilt shall be pleaded and proven in the same manner as required by section 558.021.

4. It shall be an affirmative defense to possession or control of a controlled substance if the defendant obtained the controlled substance directly from or pursuant to a valid prescription or practitioner's order issued in the course of a practitioner's professional practice or as otherwise authorized by this chapter or chapter 195.

5. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this chapter, it shall not be necessary to include any exception, excuse, proviso, or exemption contained in this chapter, and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant.

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[195.212.**]** 579.020. 1. A person commits the offense of **[**unlawful distribution of a controlled substance to a minor if he violates section 195.211 by distributing or delivering any controlled substance to a person under seventeen years of age who is at least two years that person's junior.

2. Unlawful distribution of a controlled substance to a minor is a class B felony.

3. It is not a defense to a violation of this section that the defendant did not know the age of the person to whom he was distributing or delivering.**]** delivery of a controlled substance if, except as authorized in this chapter, he or she:

(1) Knowingly distributes or delivers a controlled substance; or

(2) Attempts to distribute or deliver a controlled substance; or

(3) Knowingly possesses a controlled substance with the intent to distribute or deliver any amount of a controlled substance; or

(4) Knowingly permits a minor child to purchase or transport illegally obtained controlled substances.

2. The offense of delivery of a controlled substance, except when the controlled substance is thirty-five grams or less of marijuana or synthetic cannabinoid, is a class C felony.

3. The offense of delivery of thirty-five grams or less of marijuana or synthetic cannabinoid is a class E felony.

4. The offense of delivery of a controlled substance is a class B felony if:

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(1) The delivery or distribution is any amount of a controlled substance except thirty-five grams or less of marijuana or synthetic cannabinoid, to a person less than seventeen years of age who is at least two years younger than the defendant; or

(2) The person knowingly permits a minor child to purchase or transport illegally obtained controlled substances.

5. The offense of delivery of thirty-five grams or less of marijuana or thirty-five grams or less of synthetic cannabinoid to a person less than seventeen years of age who is at least two years younger than the defendant is a class C felony.

[195.218.**]** 579.030. 1. A person commits the offense of distribution of a controlled substance **[**near public housing or other governmental assisted housing if he violates section 195.211 by unlawfully distributing or delivering any controlled substance to a person in or on, or within one thousand feet of the real property comprising public housing or other governmental assisted housing.

2. Distribution of a controlled substance near public housing or other governmental assisted housing is a class A felony which term shall be served without probation or parole if the court finds the defendant is a persistent drug offender**]** in a restricted location if he or she knowingly distributes, sells, or delivers any controlled substance, except thirty-five grams or less of marijuana or synthetic cannabinoid, to a person with knowledge that that distribution, delivery or sale is:

(1) In, on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, public vocational school, or on any school bus; or

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(2) In or on, or within one thousand feet of, the real property comprising a public park, state park, county park, municipal park, or private park designed for public recreational purposes, as park is defined in section 253.010; or

(3) In or on the real property comprising public housing or other governmental assisted housing.

2. The offense of unlawful distribution of a controlled substance in a restricted location is a class A felony.

579.040. 1. A person commits the offense of unlawful distribution, delivery, or sale of drug paraphernalia if he or she unlawfully distributes, delivers, or sells, or possesses with intent to distribute, deliver, or sell drug paraphernalia knowing, or under circumstances in which one reasonably should know, that it will be used to plant, propogate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of this chapter.

2. The offense of unlawful delivery of drug paraphernalia is a class A misdemeanor, unless done for commercial purposes in which case it is a class E felony.

[195.204.**]** 579.045. 1. A person commits the offense of fraudulently attempting to obtain a controlled substance if he or she knowingly obtains or attempts to obtain a controlled substance, or knowingly procures or attempts to procure **[**the**]** an administration of the controlled substance by fraud**[**, deceit, misrepresentation, or subterfuge; or by the forgery or alteration

of a prescription or of any written order; or by the concealment of a material fact; or by the use of a false name or the giving of a false address**]**. The **[**crime**]** offense of fraudulently attempting to obtain a controlled substance shall include, but shall not be limited to nor be limited by, the following:

(1) Knowingly making a false statement in any prescription, order, report, or record, required by **[**sections 195.005 to 195.425**]** this chapter;

(2) For the purpose of obtaining a controlled substance, falsely assuming the title of, or representing oneself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, podiatrist, veterinarian, nurse, or other authorized person;

(3) Making or uttering any false or forged prescription or false or forged written order;

(4) Affixing any false or forged label to a package or receptacle containing controlled substances;

(5) Possess a false or forged prescription with intent to obtain a controlled substance.

2. The offense of fraudulently attempting to obtain a controlled substance is a class **[**D**]** E felony.

3. Information communicated to a physician in an effort unlawfully to procure a controlled substance or unlawfully to procure the administration of any such drug **[**shall not be**]** is not deemed a privileged communication; provided, however, that no physician or surgeon shall be competent to testify concerning any information which he or she may have acquired from any patient while attending him or her in a professional character and which information was necessary to enable him or her to prescribe for

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such patient as a physician, or to perform any act for him or her as a surgeon.

[4. The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of section 195.080, in the same way as they apply to transactions under all other sections.**]**

579.050. 1. A person commits the offense of manufacture of an imitation controlled substance if he or she knowingly manufactures with intent to deliver any imitation controlled substances.

2. The offense of manufacture of an imitation controlled substance is a class E felony.

[195.211.**]** 579.055. 1. **[**Except as authorized by sections 195.005 to 195.425 and except as provided in section 195.222, it is unlawful for any person to distribute, deliver, manufacture, produce or attempt to distribute, deliver, manufacture or produce a controlled substance or to possess with intent to distribute, deliver, manufacture, or produce a controlled substance**]** A person commits the offense of manufacture of a controlled substance if, except as authorized in this chapter, he or she:

(1) Knowingly manufactures, produces, or grows a controlled substance; or

(2) Attempts to manufacture, produce, or grow a controlled substance; or

(3) Knowingly possesses a controlled substance with the intent to manufacture, produce, or grow any amount of controlled substance.

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2. [Any person who violates or attempts to violate this section with respect to manufacturing or production of a controlled substance of any amount except for five grams or less of marijuana in a residence where a child resides or] The offense of manufacturing or attempting to manufacture any amount of controlled substance is a class B felony when committed within [two] one thousand feet of the real property comprising a public or private elementary or public or private elementary or secondary school, public vocational school or a public or private community college, or a college or university[, or any school bus is guilty of]. It is a class A felony if a person has suffered serious physical injury or has died as a result of a fire or explosion started in an attempt by the defendant to produce methamphetamine.

3. [Any person who violates or attempts to violate this section with respect to any] The offense of manufacturing or attempting to manufacture any amount of a controlled substance, except [five] thirty-five grams or less of marijuana or synthetic cannabinoid is [guilty of] a class [B] C felony.

4. [Any person who violates this section with respect to distributing or delivering not more than five grams of marijuana is guilty of a class C felony] The offense of manufacturing thirty-five grams or less of marijuana or synthetic cannabinoid is a class E felony.

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) Recklessly sells, distributes, dispenses, or otherwise provides any number of packages of any drug product containing

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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) Recklessly 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 isomers, without ensuring that such products are located behind a pharmacy counter where the public is not permitted and that such products are dispensed by a registered pharmacist or pharmacy technician pursuant to subsection 11 of section 195.017; or

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

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

(1) Recklessly 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 or optical isomers, or salts of optical isomers, in a total amount greater than three and six-tenth grams to the same individual within a twenty-four hour

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period, unless the amount is dispensed, sold, or distributed pursuant to a valid prescription; or

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

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

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

3. Any person who violates the packaging requirements of section 195.418 and is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale shall not be penalized if he or she documents that an employee training program was in place to provide the employee who made the unlawful retail

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sale with information on the state and federal regulations regarding ephedrine, pseudoephedrine, or phenylpropanolamine.

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

[195.222.**]** 579.065. 1. A person commits the **[**crime**]** offense of trafficking drugs in the first degree if, except as authorized by **[**sections 195.005 to 195.425**]** this chapter, he or she knowingly distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce **[**more than thirty grams of a mixture or substance containing a detectable amount of heroin. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is ninety grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

2. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than one hundred fifty grams of a mixture or substance containing a detectable amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers; ecgonine, its

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derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the foregoing substances. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than one hundred fifty grams but less than four hundred fifty grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is four hundred fifty grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

3. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than two grams of a mixture or substance described in subsection 2 of this section which contains cocaine base. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than two grams but less than six grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is six grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

4. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to

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195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than five hundred milligrams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD). Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than five hundred milligrams but less than one gram the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is one gram or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

5. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than thirty grams of a mixture or substance containing a detectable amount of phencyclidine (PCP). Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is ninety grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

6. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to

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195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than four grams of phencyclidine. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than four grams but less than twelve grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is twelve grams or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

7. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than thirty kilograms of a mixture or substance containing marijuana. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty kilograms but less than one hundred kilograms the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is one hundred kilograms or more the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

8. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than

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thirty grams of any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its salts, optical isomers and salts of its optical isomers; phenmetrazine and its salts; or methylphenidate. Violations of this subsection or attempts to violate this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is ninety grams or more, or if the quantity involved was thirty grams or more and the location of the offense was within two thousand feet of a school or public housing as defined in section 195.214 or section 195.218 or within a motor vehicle, or any structure or building which contains rooms furnished for the accommodation or lodging of guests, and kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are sought for pay or compensation to transient guests or permanent guests, the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.

9. A person commits the crime of trafficking drugs in the first degree if, except as authorized by sections 195.005 to 195.425, he or she distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce more than thirty grams of any material, compound, mixture or preparation which contains any quantity of

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3,4-methylenedioxymethamphetamine. Violations of this subsection or attempts to violate this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be sentenced to the authorized term of imprisonment for a class A felony;

(2) If the quantity involved is ninety grams or more, or if the quantity involved was thirty grams or more and the location of the offense was within two thousand feet of a school or public housing as defined in section 195.214 or section 195.218 or within a motor vehicle, or any structure or building which contains rooms furnished for the accommodation or lodging of guests, and kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are sought for pay or compensation to transient guests or permanent guests, the person shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole.**]**:

(1) More than thirty grams but less than ninety grams of a mixture or substance containing a detectable amount of heroin;

(2) More than one hundred fifty grams but less than four hundred fifty grams of a mixture or substance containing a detectable amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the foregoing substances;

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(3) More than eight grams but less than twenty-four grams of a mixture or substance described in subdivision (2) of this subsection which contains cocaine base;

(4) More than five hundred milligrams but less than one gram of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(5) More than thirty grams but less than ninety grams of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(6) More than four grams but less than twelve grams of phencyclidine;

(7) More than thirty kilograms but less than one hundred kilograms of a mixture or substance containing marijuana;

(8) More than thirty grams but less than ninety grams of any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its salts, optical isomers and salts of its optical isomers; phenmetrazine and its salts; or methylphenidate; or

(9) More than thirty grams but less than ninety grams of any material, compound, mixture, or preparation which contains any quantity of 3,4-methylenedioxymethamphetamine.

2. The offense of trafficking drugs in the first degree is a class B felony.

3. The offense of trafficking drugs in the first degree is a class A felony if the quantity involved is:

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(1) Ninety grams or more of a mixture or substance containing a detectable amount of heroin; or

(2) Four hundred fifty grams or more of a mixture or substance containing a detectable amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the foregoing substances; or

(3) More than twenty-four grams of a mixture or substance described in subdivision (2) of this subsection which contains cocaine base; or

(4) One gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD); or

(5) Ninety grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP); or

(6) Twelve grams or more of phencyclidine; or

(7) One hundred kilograms or more of a mixture or substance containing marijuana; or

(8) Ninety grams or more of any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its salts, optical isomers and salts of its optical isomers; phenmetrazine and its salts; or methylphenidate; or

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(9) More than thirty grams of any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers, and salts of its optical isomers; methamphetamine, its salts, optical isomers, and salts of its optical isomers; phenmetrazine and its salts; or methylphenidate, and the location of the offense was within one thousand feet of a school, in or on the real property comprising public housing or any other governmental assisted housing, or within a motor vehicle, or in any structure or building which contains rooms furnished for the accommodation or lodging of guests, and kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are sought for pay or compensation to transient guests or permanent guests; or

(10) Ninety grams or more of any material, compound, mixture or preparation which contains any quantity of 3,4-methylenedioxymethamphetamine; or

(11) More than thirty grams of any material, compound, mixture, or preparation which contains any quantity of 3,4-methylenedioxymethamphetamine and the location of the offense was within one thousand feet of a school, in or on the real property comprising public housing or any other governmental assisted housing, within a motor vehicle, or in any structure or building which contains rooms furnished for the accommodation or lodging of guests, and kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are sought for pay or compensation to transient guests or permanent guests.

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[195.223.**]** 579.068. 1. A person commits the **[**crime**]** offense of trafficking drugs in the second degree if, except as authorized by **[**sections 195.005 to 195.425**]** this chapter, he or she knowingly possesses or has under his or her control, purchases or attempts to purchase, or brings into this state **[**more than thirty grams of a mixture or substance containing a detectable amount of heroin. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be guilty of a class B felony;

(2) If the quantity involved is ninety grams or more the person shall be guilty of a class A felony.

2. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than one hundred fifty grams of a mixture or substance containing a detectable amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the foregoing substances. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than one hundred fifty grams but less than four hundred fifty grams the person shall be guilty of a class B felony;

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(2) If the quantity involved is four hundred fifty grams or more the person shall be guilty of a class A felony.

3. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than two grams of a mixture or substance described in subsection 2 of this section which contains cocaine base. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than two grams but less than six grams the person shall be guilty of a class B felony;

(2) If the quantity involved is six grams or more the person shall be guilty of a class A felony.

4. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than five hundred milligrams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD). Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than five hundred milligrams but less than one gram the person shall be guilty of a class B felony;

(2) If the quantity involved is one gram or more the person shall be guilty of a class A felony.

5. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or

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attempts to purchase, or brings into this state more than thirty grams of a mixture or substance containing a detectable amount of phencyclidine (PCP). Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be guilty of a class B felony;

(2) If the quantity involved is ninety grams or more the person shall be guilty of a class A felony.

6. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than four grams of phencyclidine. Violations of this subsection shall be punished as follows:

(1) If the quantity involved is more than four grams but less than twelve grams the person shall be guilty of a class B felony;

(2) If the quantity involved is twelve grams or more the person shall be guilty of a class A felony.

7. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than thirty kilograms or more of a mixture or substance containing marijuana. Violations of this subsection shall be punished as follows:

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(1) If the quantity involved is more than thirty kilograms but less than one hundred kilograms the person shall be guilty of a class B felony;

(2) If the quantity involved is one hundred kilograms or more the person shall be guilty of a class A felony.

8. A person commits the class A felony of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than five hundred marijuana plants.

9. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or attempts to purchase, or brings into this state more than thirty grams of any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its salts, isomers and salts of its isomers; phenmetrazine and its salts; or methylphenidate. Violations of this subsection or attempts to violate this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be guilty of a class B felony;

(2) If the quantity involved is ninety grams or more but less than four hundred fifty grams, the person shall be guilty of a class A felony;

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(3) If the quantity involved is four hundred fifty grams or more, the person shall be guilty of a class A felony and the term of imprisonment shall be served without probation or parole.

10. A person commits the crime of trafficking drugs in the second degree if, except as authorized by sections 195.005 to 195.425, he or she possesses or has under his or her control, purchases or attempts to purchase, or brings into this state more than thirty grams of any material, compound, mixture or preparation which contains any quantity of 3,4-methylenedioxymethamphetamine. Violations of this subsection or attempts to violate this subsection shall be punished as follows:

(1) If the quantity involved is more than thirty grams but less than ninety grams the person shall be guilty of a class B felony;

(2) If the quantity involved is ninety grams or more but less than four hundred fifty grams, the person shall be guilty of a class A felony;

(3) If the quantity involved is four hundred fifty grams or more, the person shall be guilty of a class A felony and the term of imprisonment shall be served without probation or parole.**]**:

(1) More than thirty grams but less than ninety grams of a mixture or substance containing a detectable amount of heroin;

(2) More than one hundred fifty grams but less than four hundred fifty grams of a mixture or substance containing a detectable amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their

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optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the foregoing substances;

(3) More than eight grams but less than twenty-four grams of a mixture or substance described in subdivision (2) of this subsection which contains cocaine base;

(4) More than five hundred milligrams but less than one gram of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(5) More than thirty grams but less than ninety grams of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(6) More than four grams but less than twelve grams of phencyclidine;

(7) More than thirty kilograms but less than one hundred kilograms of a mixture or substance containing marijuana;

(8) More than thirty grams but less than ninety grams of any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its salts, optical isomers and salts of its optical isomers; phenmetrazine and its salts; or methylphenidate; or

(9) More than thirty grams but less than ninety grams of any material, compound, mixture, or preparation which contains any quantity of 3,4-methylenedioxymethamphetamine.

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2. The offense of trafficking drugs in the second degree is a class C felony.

3. The offense of trafficking drugs in the second degree is a class B felony if the quantity involved if:

(1) Ninety grams or more of a mixture or substance containing a detectable amount of heroin; or

(2) Four hundred fifty grams or more of a mixture or substance containing a detectable amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the foregoing substances; or

(3) More than twenty-four grams of a mixture or substance described in subdivision (2) of this subsection which contains cocaine base; or

(4) One gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD); or

(5) Ninety grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP); or

(6) Twelve grams or more of phencyclidine; or

(7) One hundred kilograms or more of a mixture or substance containing marijuana; or

(8) More than five hundred marijuana plants; or

(9) Ninety grams or more but less than four hundred fifty grams of any material, compound, mixture, or preparation

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containing any quantity of the following substances having a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its salts, optical isomers and salts of its optical isomers; phenmetrazine and its salts; or methylphenidate; or

(10) Ninety grams or more but less than four hundred fifty grams of any material, compound, mixture, or preparation which contains any quantity of 3,4-methylenedioxymethamphetamine.

4. The offense of trafficking drugs in the second degree is a class A felony if the quantity involved is four hundred fifty grams or more of any material, compound, mixture or preparation which contains:

(1) Any quantity of the following substances having a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its salts, isomers and salts of its isomers; phenmetrazine and its salts; or methylphenidate; or

(2) Any quantity of 3,4-methylenedioxymethamphetamine.

[565.065.**]** 579.070. 1. A person commits the **[**crime**]** offense of **[**unlawful endangerment of another**]** creating a danger if, while **[**engaged in or as a part of the enterprise for the production of**]** producing, or attempting to produce, a controlled substance, he or she purposely protects or attempts to protect the production of the controlled substance by creating, setting up, building, erecting, or using any device or weapon which causes or is intended to cause physical injury to another person.

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2. [Unlawful endangerment of another] The offense of creating a danger is a class C felony.

[195.226.] 579.072. 1. [No] A person [shall provide] commits the offense of furnishing materials for the production of a controlled substance if he or she provides any reagents, solvents or precursor materials used in the production of a controlled substance as defined in section 195.010 to any other person knowing that the person to whom such materials are provided intends to use such materials for the illegal production of a controlled substance.

2. [Any person who violates the provisions of subsection 1 of this section is guilty of a class D felony] The offense of furnishing materials for the production of a controlled substance is a class E felony.

[195.233.] 579.074. 1. [It is unlawful for any person to use, or to possess] A person commits the offense of unlawful possession of drug paraphernalia if he or she knowingly uses, or possesses with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body, a controlled substance or an imitation controlled substance in violation of [sections 195.005 to 195.425] this chapter.

2. [A person who violates this section is guilty of a class A misdemeanor, unless the person uses, or possesses with intent to use, the paraphernalia in combination with each other to manufacture, compound, produce, prepare, test or analyze

amphetamine or methamphetamine or any of their analogues**]** The offense of unlawful possession of drug paraphernalia is a class D misdemeanor, unless the person has previously been found guilty of any offense of the laws of this state related to controlled substances or of the laws of another jurisdiction related to controlled substances, in which case the violation of this section is a class **[**D felony**]** A misdemeanor. Prior findings of guilt shall be pleaded and proven in the same manner as required by section 558.021.

3. The offense of unlawful possession of drug paraphernalia is a class E felony if the person uses, or possesses with intent to use, the paraphernalia in combination with each other to manufacture, compound, produce, prepare, test, or analyze amphetamine or methamphetamine or any of their analogues.

[195.235.**]** 579.076. 1. **[**It is unlawful for any person to deliver, possess with intent to deliver, or manufacture, with intent to deliver,**]** A person commits the offense of unlawful manufacture of drug paraphernalia if he or she unlawfully manufactures with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of **[**sections 195.005 to 195.425**]** this chapter.

2. **[**Possession of more than twenty-four grams of any methamphetamine precursor drug or combination of methamphetamine

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precursor drugs shall be prima facie evidence of intent to violate this section. This subsection shall not apply to any practitioner or to any product possessed in the course of a legitimate business.

3. A person who violates this section is guilty of a class D felony**]** The offense of unlawful manufacture of drug paraphernalia is a class A misdemeanor, unless done for commercial purposes, in which case it is a class E felony.

[195.241.**]** 579.078. 1. **[**It is unlawful for any person to possess an imitation controlled substance in violation of this chapter.**]** A person commits the offense of possession of an imitation controlled substance if he or she knowingly possesses an imitation controlled substance.

2. **[**A person who violates this section is guilty of**]** The offense of possession of an imitation controlled substance is a class A misdemeanor.

[195.242.**]** 579.080. 1. **[**It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or cause**]** A person commits the offense of delivery of an imitation controlled substance if he or she knowingly delivers, possesses with intent to deliver, or causes to be delivered any imitation controlled substance.

2. **[**A person who violates this section is guilty of a class D felony.**]** The offense of delivery of an imitation controlled substance is a class E felony.

[195.248.**]** 579.082. 1. **[**It is unlawful for any person to market, sell, distribute, advertise or label**]** A person commits the offense of unlawful marketing of ephedrine or pseudoephedrine if

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he or she knowingly markets, sells, distributes, advertises, or labels any drug product containing ephedrine, its salts, optical isomers and salts of optical isomers, or pseudoephedrine, its salts, optical isomers and salts of optical isomers, for indication of stimulation, mental alertness, weight loss, appetite control, energy or other indications not approved [pursuant to] under the pertinent federal over-the-counter drug Final Monograph or Tentative Final Monograph or approved new drug application.

2. [A person who violates this section is guilty of a class D] The offense of unlawful marketing of ephedrine or pseudoephedrine is a class E felony.

[195.252.] 579.084. 1. [It is unlawful for any] A person commits the offense of distribution of a controlled substance in violation of registration requirements if he or she:

(1) [Who] Is subject to the provisions of sections 195.005 to 195.198 [to distribute or dispense], and knowingly distributes or dispenses a controlled substance in violation of section 195.030;

(2) [Who] Is a registrant, [to manufacture a controlled substance not authorized by that person's registration, or to distribute or dispense] and knowingly distributes or dispenses a controlled substance not authorized by that person's registration to another registrant or other authorized person;

(3) [To refuse or fail] Knowingly refuses or fails to make, keep or furnish any record, notification, order form, statement, invoice or information required under section 195.050.

2. [Any person who violates subdivision (1) of subsection 1 of this section or subdivision (2) of subsection 1 of this section

is guilty of a class D felony.] The offense of distribution of a controlled substance in violation of registration requirements is a class E felony when the offense is a violation of subdivision (1) or (2) of subsection 1 of this section.

3. [Any person who violates subdivision (3) of subsection 1 of this section is guilty of a class A misdemeanor.] The offense of distribution of a controlled substance in violation of registration requirements is a class A misdemeanor when the offense is a violation of subdivision (3) of subsection 1 of this section.

[195.254.] 579.086. 1. [It is unlawful for any] A manufacturer or distributor [or agent], or an employee of a manufacturer or distributor, [having reasonable cause to believe that] commits the offense of unlawful delivery of a controlled substance when he or she knowingly delivers a controlled substance while acting recklessly as to whether the controlled substance will be used in violation of [sections 195.005 to 195.425 to deliver the controlled substance] this chapter.

2. [Any person who violates this section is guilty of a class D] The offense of unlawful delivery of a controlled substance by a manufacturer or distributor is a class E felony.

[565.350.] 579.090. 1. Any pharmacist licensed [pursuant to] under chapter 338 commits the [crime] offense of tampering with a prescription or a prescription drug order as defined in section 338.095 if such person knowingly:

(1) Causes the intentional adulteration of the concentration or chemical structure of a prescribed drug or drug therapy without the knowledge and consent of the prescribing practitioner; or

(2) Misrepresents a misbranded, altered, or diluted prescription drug or drug therapy with the purpose of misleading the recipient or the administering person of the prescription drug or drug therapy; or

(3) Sells a misbranded, altered, or diluted prescription drug therapy with the intention of misleading the purchaser.

2. The offense of tampering with a prescription drug order is a class A felony.

[578.154.**]** 579.095. 1. A person commits the **[**crime**]** offense of possession of anhydrous ammonia in a nonapproved container if he or she possesses any quantity of anhydrous ammonia in a cylinder or other portable container that was not designed, fabricated, tested, constructed, marked and placarded in accordance with the United States Department of Transportation Hazardous Materials regulations contained in CFR 49 Parts 100 to 185, revised as of October 1, 2002, **[**which are herein incorporated by reference,**]** and approved for the storage and transportation of anhydrous ammonia, or any container that is not a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator.

2. Cylinder and other portable container valves and other fittings, or hoses attached thereto, used in anhydrous ammonia service shall be constructed of material resistant to anhydrous ammonia and shall not be constructed of brass, copper, silver, zinc, or other material subject to attack by ammonia. Each cylinder utilized for the storage and transportation of anhydrous ammonia shall be labeled, in a conspicuous location, with the

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words "ANHYDROUS AMMONIA" or "CAUTION: ANHYDROUS AMMONIA" and the UN number 1005 (UN 1005).

3. **[**A violation of this section is a class D**]** The offense of possession of anhydrous ammonia in a nonapproved container is a class E felony.

[578.250.**]** 579.097. No person shall intentionally smell or inhale the fumes of any solvent, particularly toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite, and propyl nitrite and their iso-analogues or induce any other person to do so, for the purpose of causing a condition of, or inducing symptoms of, intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes; except that this section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

[578.255.**]** 579.099. 1. As used in this section, "alcohol beverage vaporizer" means any device which, by means of heat, a vibrating element, or any other method, is capable of producing a breathable mixture containing one or more alcoholic beverages to be dispensed for inhalation into the lungs via the nose or mouth or both.

2. No person shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses or nervous system,

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distortion of audio, visual or mental processes by the use or abuse of any of the following substances:

(1) Solvents, particularly toluol;

(2) Ethyl alcohol;

(3) Amyl nitrite and its iso-analogues;

(4) Butyl nitrite and its iso-analogues;

(5) Cyclohexyl nitrite and its iso-analogues;

(6) Ethyl nitrite and its iso-analogues;

(7) Pentyl nitrite and its iso-analogues; and

(8) Propyl nitrite and its iso-analogues.

3. This section shall not apply to substances that have been approved by the United States Food and Drug Administration as therapeutic drug products or are contained in approved over-the-counter drug products or administered lawfully pursuant to the order of an authorized medical practitioner.

4. No person shall intentionally possess any solvent, particularly toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite, and propyl nitrite and their iso-analogues for the purpose of using it in the manner prohibited by section **[**578.250**]** 579.097 and this section.

5. No person shall possess or use an alcoholic beverage vaporizer.

6. Nothing in this section shall be construed to prohibit the legal consumption of intoxicating liquor, as defined by section 311.020, or nonintoxicating beer**[**, as defined by section 312.010**]**.

[578.260.**]** 579.101. 1. No person shall intentionally possess or buy any solvent, particularly toluol, amyl nitrite,

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butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite, and propyl nitrite and their iso-analogues for the purpose of inducing or aiding any other person to violate the provisions of sections [578.250 and 578.255] 579.097 and 579.099.

2. Any person who violates any provision of sections [578.250 to 578.260] 579.097 to 579.101 is guilty of a class B misdemeanor for the first violation and a class [D] E felony for any subsequent violations.

[578.265.] 579.103. 1. [No person shall] A person commits the offense of selling or transferring solvents to cause certain symptoms if he or she knowingly and intentionally [sell] sells or otherwise [transfer] transfers possession of any solvent, particularly toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite, and propyl nitrite and their iso-analogues to any person for the purpose of causing a condition of, or inducing symptoms of, intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes.

2. No person who owns or operates any business which receives over fifty percent of its gross annual income from the sale of alcoholic beverages or beer, or which operates as a venue for live entertainment performance or receives fifty percent of its gross annual income from the sale of recorded video equipment, shall sell or offer for sale toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite, and propyl nitrite and their iso-analogues, or any toxic glue.

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3. [No person who owns or operates any business which operates as a venue for live entertainment performance or receives over fifty percent of its gross annual income from the sale of recorded video entertainment shall sell or offer for sale toluol, amyl nitrite, butyl nitrite, cyclohexyl nitrite, ethyl nitrite, pentyl nitrite, propyl nitrite or their iso-analogues.

4. Any person who violates the provisions] Violation of [subsection 1 or 2 of] this section is [guilty of] a class [C] D felony.

[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

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maintaining a public nuisance if he or she knowingly keeps or maintains:

(1) Any room, building, structure or inhabitable structure, as defined in section 569.010, 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 569.010, 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 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,

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or inhabitable structure is subject to the provisions of sections 513.600 to 513.645.

[195.180.**]** 579.107. 1. A person may lawfully possess or have under his or her control a controlled substance if **[**such person**]** he or she obtained the controlled substance directly from, or pursuant to, a valid prescription or **[**order of a practitioner while acting**]** practitioner's order issued in the course of a practitioner's professional practice or except as otherwise authorized by **[**sections 195.005 to 195.425**]** this chapter.

2. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of **[**sections 195.005 to 195.425**]** this chapter, it shall not be necessary to negative any exception, excuse, proviso, or exemption, contained in **[**sections 195.005 to 195.425**]** this chapter, and the burden of proof of any such exception, excuse, proviso or exemption, shall be upon the defendant.

[195.420.**]** 579.110. 1. **[**It is unlawful for any person to possess**]** A person commits the offense of possession of methamphetamine precursors if he or she knowingly possesses one or more chemicals listed in subsection 2 of section 195.400, **[**or**]** reagents, **[**or**]** solvents, or any other chemicals proven to be precursor ingredients of methamphetamine or amphetamine, as established by expert testimony **[**pursuant to subsection 3 of this section**]**, with the intent to manufacture, compound, convert, produce, process, prepare, test, or otherwise alter that chemical to create a controlled substance or a controlled substance analogue in violation of **[**sections 195.005 to 195.425**]** this chapter.

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2. [A person who violates this section is guilty of a class C felony.] Possession of more than twenty-four grams of ephedrine or pseudoephedrine shall be prima facie evidence of intent to violate this section. This subsection shall not apply to any practitioner or to any product possessed in the course of a legitimate business.

3. [The state may present expert testimony to provide a prima facie case that any chemical, whether or not listed in subsection 2 of section 195.400, is an immediate precursor ingredient for producing methamphetamine or amphetamine.] The offense of possession of methamphetamine precursors is a class E felony.

[195.515.] 579.115. 1. Any manufacturer or wholesaler who sells, transfers, or otherwise furnishes ephedrine, pseudoephedrine or phenylpropanolamine, or any of their salts, optical isomers and salts of optical isomers, alone or in a mixture, and is required by federal law to report any suspicious transaction to the United States attorney general, shall submit a copy of the report to the chief law enforcement official with jurisdiction before completion of the sale or as soon as practicable thereafter.

2. As used in this section, "suspicious transaction" means any sale or transfer required to be reported pursuant to 21 U.S.C. 830(b)(1).

3. [Any violation of this section shall be a class D felony.] The offense of failure to report suspicious transactions is a class E felony.

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[577.625.**]** 579.150. 1. **[**No person less than twenty-one years of age shall distribute**]** A person commits the offense of distribution of prescription medication on school property if he or she is less than twenty-one years of age and knowingly distributes upon the real property comprising a public or private elementary or secondary school or school bus a prescription medication to any individual who does not have a valid prescription for such medication. For purposes of this section, prescription medication shall not include medication containing a controlled substance, as defined in section 195.010.

2. The provisions of this section shall not apply to any person authorized to distribute a prescription medication by any school personnel who are responsible for storing, maintaining, or dispensing any prescription medication under chapter 338. This section shall not limit the use of any prescription medication by emergency personnel**[**, as defined in section 565.081,**]** during an emergency situation.

3. **[**Any person less than twenty-one years of age who violates this section is guilty of**]** The offense of distribution of prescription medication on school property is a class B misdemeanor for a first offense and a class A misdemeanor for any second or subsequent offense.

[577.628.**]** 579.155. 1. **[**No person less than twenty-one years of age shall possess**]** A person commits the offense of possession of prescription medication on school property if he or she is less than twenty-one years of age and knowingly possesses upon the real property comprising a public or private elementary or secondary school or school bus prescription medication without

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a valid prescription for such medication. For purposes of this section, prescription medication shall not include medication containing a controlled substance, as defined in section 195.010.

2. The provisions of this section shall not apply to any person authorized to possess a prescription medication by any school personnel who are responsible for storing, maintaining, or dispensing any prescription medication under chapter 338. This section shall not limit the use of any prescription medication by emergency personnel**[**, as defined in section 565.081,**]** during an emergency situation.

3. **[**Any person less than twenty-one years of age who violates the provisions of this section is guilty of**]** The offense of possession of prescription medication on school property is a class C misdemeanor for a first offense and a class B misdemeanor for any second or subsequent offense.

[195.275.**]** 579.170. 1. The following words or phrases as used in **[**sections 195.005 to 195.425**]** this chapter have the following meanings, unless the context otherwise requires:

(1) "Prior drug offender", one who **[**has previously pleaded guilty to or**]** has been found guilty of any felony offense of the laws of this state, or of the United States, or any other state, territory or district relating to controlled substances;

(2) "Persistent drug offender", one who **[**has previously pleaded guilty to or**]** has been found guilty of two or more felony offenses of the laws of this state or of the United States, or any other state, territory or district relating to controlled substances.

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2. Prior [pleas of guilty and prior] findings of [guilty] guilt shall be pleaded and proven in the same manner as required by section 558.021.

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

4. [The provisions of sections 195.285 to 195.296 shall not be construed to affect and may be used in addition to the sentencing provisions of sections 558.016 and 558.019.] The court shall sentence a person who has been found to be a prior drug offender and is found guilty of a class C, D, or E felony under this chapter to the authorized term of imprisonment for one class higher offense than the offense for which the person was found guilty.

5. The court shall sentence a person who has been found to be a persistent drug offender and is found guilty of a class B, C, D, or E felony under this chapter to the authorized term of imprisonment for two classes higher offense than the offense for which the person was found guilty. The court shall sentence a persistent drug offender who is found guilty of a class B felony under this chapter to the authorized term of imprisonment for a class A offense.

[195.280.] 579.175. Any peace officer of the state of Missouri, or of any political subdivision thereof, may, within the boundaries of the political entity from which he or she derives his or her authority, arrest without a warrant any person he or

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she sees violating or whom he or she has probable cause to believe has violated any provision of this chapter.

[195.367.**]** 579.180. 1. It is not necessary for the state to negate any exemption or exception in **[**sections 195.005 to 195.425**]** this chapter in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under **[**sections 195.005 to 195.425**]** this chapter. The burden of producing evidence of any exemption or exception is upon the person claiming it.

2. In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under chapter 195, the person is presumed not to be the holder of the registration or form. The burden of producing evidence with respect to the registration or order form is upon such person claiming to be the authorized holder of the registration or form.

[195.371.**]** 579.185. No criminal liability is imposed by **[**sections 195.005 to 195.425**]** this chapter upon any authorized state, county, or municipal officer, lawfully engaged in the enforcement of **[**sections 195.005 to 195.425**]** this chapter in good faith.

589.425. 1. A person commits the crime of failing to register as a sex offender when the person is required to register under sections 589.400 to 589.425 and fails to comply with any requirement of sections 589.400 to 589.425. Failing to register as a sex offender is a class **[**D**]** E felony unless the person is required to register based on having committed an offense in chapter 566 which was an unclassified felony, a class A or B

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felony, or a felony involving a child under the age of fourteen, in which case it is a class **[**C**]** D felony.

2. A person commits the crime of failing to register as a sex offender as a second offense by failing to comply with any requirement of sections 589.400 to 589.425 and he or she has previously pled guilty to or has previously been found guilty of failing to register as a sex offender. Failing to register as a sex offender as a second offense is a class **[**D**]** E felony unless the person is required to register based on having committed an offense in chapter 566, or an offense in any other state or foreign country, or under federal, tribal, or military jurisdiction, which if committed in this state would be an offense under chapter 566 which was an unclassified felony, a class A or B felony, or a felony involving a child under the age of fourteen, in which case it is a class **[**C**]** D felony.

3. (1) A person commits the crime of failing to register as a sex offender as a third offense by failing to meet the requirements of sections 589.400 to 589.425 and he or she has, on two or more occasions, previously pled guilty to or has previously been found guilty of failing to register as a sex offender. Failing to register as a sex offender as a third offense is a felony which shall be punished by a term of imprisonment of not less than ten years and not more than thirty years.

(2) No court may suspend the imposition or execution of sentence of a person who pleads guilty to or is found guilty of failing to register as a sex offender as a third offense. No court may sentence such person to pay a fine in lieu of a term of imprisonment.

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(3) A person sentenced under this subsection shall not be eligible for conditional release or parole until he or she has served at least two years of imprisonment.

(4) Upon release, an offender who has committed failing to register as a sex offender as a third offense shall be electronically monitored as a mandatory condition of supervision. Electronic monitoring may be based on a global positioning system or any other technology which identifies and records the offender's location at all times.

[566.224.**]** 595.223. No prosecuting or circuit attorney, peace officer, governmental official, or employee of a law enforcement agency shall request or require a victim of **[**sexual assault**]** an offense under **[**section 566.040 or forcible rape under section 566.030**]** chapter 566, or a victim of an offense of domestic assault or stalking to submit to any polygraph test or psychological stress evaluator exam as a condition for proceeding with a criminal investigation of such **[**crime**]** offense.

[566.226.**]** 595.226. 1. After August 28, 2007, any information contained in any court record, whether written or published on the Internet, that could be used to identify or locate any victim of **[**sexual assault,**]** an offense under chapter 566 or a victim of domestic assault, or stalking, **[**or forcible rape**]** shall be closed and redacted from such record prior to disclosure to the public. Identifying information shall include the name, home or temporary address, telephone number, Social Security number, place of employment or physical characteristics.

2. If the court determines that a person or entity who is requesting identifying information of a victim has a legitimate

interest in obtaining such information, the court may allow access to the information, but only if the court determines that disclosure to the person or entity would not compromise the welfare or safety of such victim, and only after providing reasonable notice to the victim and after allowing the victim right to respond to such request.

3. Notwithstanding the provisions of subsection 1 of this section, the judge presiding over a **[**sexual assault,**]** case under chapter 566, or a case of domestic assault**[**,**]** or stalking**[**, or forcible rape case**]** shall have the discretion to publicly disclose identifying information regarding the defendant which could be used to identify or locate the victim of the crime. The victim may provide a statement to the court regarding whether he or she desires such information to remain closed. When making the decision to disclose such information, the judge shall consider the welfare and safety of the victim and any statement to the court received from the victim regarding the disclosure.

[557.041.**]** 595.229. 1. Prior to the acceptance of a plea bargain by the court with respect to any person who has pled guilty to an offense after initially being charged with a felony, the court shall allow the victim of such offense to submit a written statement or appear before the court personally or by counsel for the purpose of making a statement. The statement shall relate solely to the facts of the case and any personal injuries or financial loss incurred by the victim. A member of the immediate family of the victim may appear personally or by counsel to make a statement if the victim has died or is otherwise

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unable to appear as a result of the offense committed by the defendant.

2. At the time of sentencing of any person who has pled guilty or been found guilty of a felony offense, the victim of such offense may appear before the court personally or by counsel for the purpose of making a statement or may submit a written statement. The statement shall relate solely to the facts of the case and any personal injuries or financial loss incurred by the victim. A member of the immediate family of the victim may appear personally or by counsel to make a statement if the victim has died or is otherwise unable to appear as a result of the offense committed by the defendant.

3. The prosecuting attorney shall inform the victim or shall inform a member of the immediate family of the victim if the victim is dead or otherwise is unable to make a statement as a result of the offense committed by the defendant of the right to make a statement pursuant to subsections 1 and 2 of this section. If the victim or member of the immediate family supplies a stamped, self-addressed envelope, the prosecutor shall send notice of the time and location that the court will hear the guilty plea or render sentence.

[570.222.**]** 595.232. 1. Notwithstanding that jurisdiction may lie elsewhere for investigation and prosecution of **[**a crime**]** an offense of identity theft, victims of identity theft have the right to contact the local law enforcement agency where the victim is domiciled and request that an incident report about the identity theft be prepared and filed. The victim may also request from the local law enforcement agency to receive a copy of the

incident report. The law enforcement agency may share the incident report with law enforcement agencies located in other jurisdictions.

2. As used in this section, "incident report" means a loss or other similar report prepared and filed by a local law enforcement agency.

3. Nothing in this section shall interfere with the discretion of a local law enforcement agency to allocate resources for investigations of crimes or to provide an incident report as permitted in this section. An incident report prepared and filed under this section shall not be an open case for purposes of compiling open case statistics.

610.125. 1. A person subject to an order of the court in subsection 4 of section 610.123 who knowingly fails to expunge or obliterate, or releases arrest information which has been ordered expunged pursuant to section 610.123 is guilty of a class B misdemeanor.

2. A person subject to an order of the court in subsection 4 of section 610.123 who, knowing the records have been ordered expunged, uses the arrest information for financial gain is guilty of a class **[**D**]** E felony.

[577.054.**]** 610.130. 1. After a period of not less than ten years, an individual who has pleaded guilty or has been convicted for a first **[**alcohol-related driving**]** intoxication-related traffic offense or intoxication-related boating offense which is a misdemeanor or a county or city ordinance violation and which is not a conviction for driving a commercial motor vehicle while under the influence of alcohol and who since such date has not

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been convicted of any [other alcohol-related driving] intoxication-related traffic offense or intoxication-related boating offense may apply to the court in which he or she pled guilty or was sentenced for an order to expunge from all official records all recordations of his or her arrest, plea, trial or conviction.

2. If the court determines, after hearing, that such person has not been convicted of any subsequent [alcohol-related driving] intoxication-related traffic offense or intoxication-related boating offense, has no other subsequent alcohol-related enforcement contacts as defined in section 302.525, and has no other [alcohol-related driving charges] intoxication-related traffic offense or intoxication-related boating offenses or alcohol-related enforcement actions pending at the time of the hearing on the application, the court shall enter an order of expungement.

3. Upon granting of the order of expungement, the records and files maintained in any administrative or court proceeding in an associate or circuit division of the circuit court under this section shall be confidential and only available to the parties or by order of the court for good cause shown. The effect of such order shall be to restore such person to the status he or she occupied prior to such arrest, plea or conviction and as if such event had never taken place. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any

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

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

630.155. 1. A person commits the crime of "patient, resident or client abuse or neglect" against any person admitted on a voluntary or involuntary basis to any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632, or any patient, resident or client of any residential facility, day program or specialized service operated, funded or licensed by the department if he knowingly does any of the following:

(1) Beats, strikes or injures any person, patient, resident or client;

(2) Mistreats or maltreats, handles or treats any such person, patient, resident or client in a brutal or inhuman manner;

(3) Uses any more force than is reasonably necessary for the proper control, treatment or management of such person, patient, resident or client;

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(4) Fails to provide services which are reasonable and necessary to maintain the physical and mental health of any person, patient, resident or client when such failure presents either an imminent danger to the health, safety or welfare of the person, patient, resident or client, or a substantial probability that death or serious physical harm will result.

2. Patient, resident or client abuse or neglect is a class A misdemeanor unless committed under subdivision (2) or (4) of subsection 1 of this section in which case such abuse or neglect shall be a class **[**D**]** E felony.

[565.216.**]** 630.161. The department of mental health shall investigate incidents and reports of vulnerable person abuse using the procedures established in sections 630.163 to 630.167 and, upon substantiation of the report of vulnerable person abuse, shall promptly report the incident to the appropriate law enforcement agency and prosecutor. If the department is unable to substantiate whether abuse occurred due to the failure of the operator or any of the operator's agents or employees to cooperate with the investigation, the incident shall be promptly reported to appropriate law enforcement agencies.

630.162. 1. When any physician, physician assistant, dentist, chiropractor, optometrist, podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social worker, licensed professional counselor, certified substance abuse counselor, psychologist, physical therapist, pharmacist, other health practitioner, minister, Christian Science practitioner, facility administrator, nurse's aide or orderly in a residential facility, day program or specialized service operated, funded or

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licensed by the department or in a mental health facility or mental health program in which people may be admitted on a voluntary basis or are civilly detained pursuant to chapter 632; or employee of the departments of social services, mental health, or health and senior services; or home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; mental health professional; peace officer; probation or parole officer; or other nonfamilial person with responsibility for the care of a vulnerable person, as defined by section 630.005, has reasonable cause to suspect that such a person has been subjected to abuse or neglect or observes such a person being subjected to conditions or circumstances that would reasonably result in abuse or neglect, he or she shall immediately report or cause a report to be made to the department in accordance with section 630.163. Any other person who becomes aware of circumstances which may reasonably be expected to be the result of or result in abuse or neglect may report to the department. Notwithstanding any other provision of this section, a duly ordained minister, clergy, religious worker, or Christian Science practitioner while functioning in his or her ministerial capacity shall not be required to report concerning a privileged communication made to him or her in his or her professional capacity.

2. Any residential facility, day program or specialized service operated, funded or licensed by the department that prevents or discourages a patient, resident or client, employee or

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other person from reporting that a patient, resident or client of a facility, program or service has been abused or neglected shall be subject to loss of their license issued pursuant to sections 630.705 to 630.760, and civil fines of up to five thousand dollars for each attempt to prevent or discourage reporting.

[565.220.**]** 630.164. Any person, official or institution complying with the provisions of section **[**565.218**]** 630.162, in the making of a report, or in cooperating with the department in any of its activities pursuant to sections **[**565.216 and 565.218**]** 630.161 to 630.167, except **[**any**]** the person, official, or institution **[**violating section 565.210, 565.212, or 565.214**]** accused of abusing or neglecting the vulnerable person shall be immune from any civil or criminal liability for making such a report, or in cooperating with the department, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

630.165. 1. When any physician, physician assistant, dentist, chiropractor, optometrist, podiatrist, intern, resident, nurse, nurse practitioner, medical examiner, social worker, licensed professional counselor, certified substance abuse counselor, psychologist, other health practitioner, minister, Christian Science practitioner, peace officer, pharmacist, physical therapist, facility administrator, nurse's aide, orderly or any other direct-care staff in a residential facility, day program, group home or developmental disability facility as defined in section 633.005, or specialized service operated, licensed, certified, or funded by the department or in a mental health facility or mental health program in which people may be

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admitted on a voluntary basis or are civilly detained pursuant to chapter 632, or employee of the departments of social services, mental health, or health and senior services; or home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer, long-term care facility administrator or employee; mental health professional, probation or parole officer, or other nonfamilial person with responsibility for the care of a patient, resident, or client of a facility, program, or service has reasonable cause to suspect that a patient, resident or client of a facility, program or service has been subjected to abuse or neglect or observes such person being subjected to conditions or circumstances that would reasonably result in abuse or neglect, he or she shall immediately report or cause a report to be made to the department in accordance with section 630.163.

2. Any person who knowingly fails to make a report as required in subsection 1 of this section is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this section shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

3. Every person who has been previously convicted of or pled guilty to failing to make a report as required in subsection 1 of this section and who is subsequently convicted of failing to make a report under subsection 2 of this section is guilty of a class

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[D**]** E felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violation of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

4. Any person who knowingly files a false report of vulnerable person abuse or neglect is guilty of a class A misdemeanor and shall be subject to a fine up to one thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

5. Every person who has been previously convicted of or pled guilty to making a false report to the department and who is subsequently convicted of making a false report under subsection 4 of this section is guilty of a class **[**D**]** E felony and shall be subject to a fine up to five thousand dollars. Penalties collected for violations of this subsection shall be transferred to the state school moneys fund as established in section 166.051 and distributed to the public schools of this state in the manner provided in section 163.031. Such penalties shall not considered charitable for tax purposes.

6. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

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7. Any residential facility, day program, or specialized service operated, funded, or licensed by the department that prevents or discourages a patient, resident, client, employee, or other person from reporting that a patient, resident, or client of a facility, program, or service has been abused or neglected shall be subject to loss of their license issued pursuant to sections 630.705 to 630.760 and civil fines of up to five thousand dollars for each attempt to prevent or discourage reporting.

[195.501.**]** 650.150. Sections **[**195.501 to 195.511**]** 650.150 to 650.165 shall be known and may be cited as the "Intergovernmental Drug Laws Enforcement Act".

[195.503.**]** 650.153. As used in sections **[**195.501 to 195.511**]** 650.150 to 650.165, the following terms mean:

(1) "Department", the department of public safety;

(2) "Director", the director of the department of public safety;

(3) "Drug laws", all laws regulating the production, sale, prescribing, manufacturing, administering, transporting, having in possession, dispensing, distributing, or use of controlled substances, as defined in section 195.010;

(4) "Multijurisdictional enforcement group", or "MEG", a combination of political subdivisions established under sections 573.500 and 573.503, section 178.653, and section 311.329 to investigate and enforce computer, Internet-based, narcotics, and drug violations.

[195.505.**]** 650.156. 1. Any two or more political subdivisions or the state highway patrol and any one or more political subdivisions may by order or ordinance agree to

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cooperate with one another in the formation of a multijurisdictional enforcement group for the purpose of intensive professional investigation of computer, Internet-based, narcotics and drug law violations.

2. The power of arrest of any peace officer who is duly authorized as a member of a MEG unit shall only be exercised during the time such peace officer is an active member of a MEG unit and only within the scope of the investigation on which the MEG unit is working. Notwithstanding other provisions of law to the contrary, such MEG officer shall have the power of arrest, as limited in this subsection, anywhere in the state and shall provide prior notification to the chief of police of the municipality in which the arrest is to take place or the sheriff of the county if the arrest is to be made in his venue. If exigent circumstances exist, such arrest may be made; however, notification shall be made to the chief of police or sheriff, as appropriate, as soon as practical. The chief of police or sheriff may elect to work with the MEG unit at his or her option when such MEG is operating within the jurisdiction of such chief of police or sheriff.

[195.507.**]** 650.159. 1. A county bordering another state may enter into agreement with the political subdivisions in such other state's contiguous county pursuant to section 70.220 to form a multijurisdictional enforcement group for the enforcement of drug and controlled substance laws and work in cooperation pursuant to sections **[**195.501 to 195.511**]** 650.150 to 650.165.

2. Such other state's law enforcement officers may be deputized as officers of the counties of this state participating

in an agreement pursuant to subsection 1 of this section, and shall be deemed to have met all requirements of peace officer training and certification pursuant to chapter 590 for the purposes of conducting investigations and making arrests in this state pursuant to the provisions of section 195.505, provided such officers have satisfied the applicable peace officer training and certification standards in force in such other state.

3. Such other state's law enforcement officers shall have the same powers and immunities when working under an agreement pursuant to subsection 1 of this section as if working under an agreement with another political subdivision in Missouri pursuant to section 70.815.

4. A multijurisdictional enforcement group formed pursuant to this section is eligible to receive state grants to help defray the costs of its operation pursuant to the terms of section 195.509.

5. The provisions of subsections 2, 3, and 4 of this section shall not be in force unless such other state has provided or shall provide legal authority for its political subdivisions to enter into such agreements and to extend reciprocal powers and privileges to the law enforcement officers of this state working pursuant to such agreements.

[195.509.**]** 650.161. 1. A multijurisdictional enforcement group which meets the minimum criteria established in this section is eligible to receive state grants to help defray the costs of operation.

2. To be eligible for state grants, a MEG shall:

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(1) Be established and operating pursuant to intergovernmental contracts written and executed in conformity by law, and involve two or more units of local government;

(2) Establish a MEG policy board composed of an elected official, or his designee, and the chief law enforcement officer from each participating unit of local government and a representative of a hazardous materials response team or, if such team is not formed, then a representative of the local fire response agency, to oversee the operations of the MEG and make such reports to the department of public safety as the department may require;

(3) Designate a single appropriate official of a participating unit of local government to act as the financial officer of the MEG for all participating units of the local government and to receive funds for the operation of the MEG;

(4) Limit its target operation to enforcement of drug laws;

(5) Cooperate with the department of public safety in order to assure compliance with sections **[**195.501 to 195.511**]** 650.150 to 650.165 and to enable the department to fulfill its duties under sections **[**195.501 to 195.511**]** 650.150 to 650.165 and supply the department with all information the department deems necessary therefor;

(6) Cooperate with the local hazardous material response team to establish a local emergency response strategy.

3. The department of public safety shall monitor the operations of all MEG units which receive state grants. From the moneys appropriated annually, if funds are made available by the general assembly for this purpose, the director shall determine

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and certify to the auditor the amount of the grant to be made to each designated MEG financial officer. No provision of this section shall prohibit funding of multijurisdictional enforcement groups by sources other than those provided by the general assembly, if such funding is in accordance with and in such a manner as provided by law.

[195.511.**]** 650.165. The director shall report annually, no later than January first of each year, to the governor and the general assembly on the operations of the multijurisdictional enforcement groups, including a breakdown of the appropriation for the current fiscal year indicating the amount of the state grant each MEG received or will receive.

701.320. 1. Except as otherwise provided, violation of the provisions of sections 701.308, 701.309, 701.310, 701.311 and 701.316 is a class A misdemeanor.

2. Any lead inspector, risk assessor, lead abatement supervisor, lead abatement worker, project designer, or lead abatement contractor who engages in a lead abatement project while such person's license, issued under section 701.312, is under suspension or revocation is guilty of a class **[**D**]** E felony.

[195.025. 1. No person shall:

(1) Transport, carry, and convey any controlled substance by means of any vessel, vehicle, or aircraft, except as authorized in sections 195.010 to 195.320;

(2) Conceal or possess any controlled substance in or upon any vessel, vehicle or aircraft; or

(3) Use any vessel, vehicle, or aircraft to facilitate the transportation, carriage, conveyance, concealment, receive possession, purchase, sell, barter, exchange or giving away of any controlled substance.

2. When used in this section the term:

(1) "Aircraft" includes every description of craft or carriage or other contrivance used or capable of being used as a means of transportation through air;

(2) "Vehicle" includes every description of carriage or other contrivance used or capable of being used as a means of transportation, on, below, or above the land, and shall include but not be limited to automobiles, trucks, station wagons, trailers and motorcycles, but does not include aircraft;

(3) "Vessel" includes every description of water craft or other contrivance used or capable of being used as a means of transportation in water, but does not include aircraft.**]**

[195.110. A person to whom or for whose use any controlled substance in Schedule II has been prescribed, sold, or dispensed by a physician, dentist, podiatrist, or pharmacist, or other person authorized under the provisions of section 195.050 and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.**]**

[195.135. 1. A search warrant may issue, and execution and seizure may be had, as provided in the rules of criminal procedure for the courts of Missouri, for any controlled substance or imitation controlled substance unlawfully in the possession or under the control of any person, or for any drug paraphernalia for the unauthorized administration or use of controlled substances or imitation controlled substances in the possession or under the control of any person.

2. Any peace officer of the state, upon making an arrest for a violation of this chapter, shall seize without warrant any controlled substance or imitation controlled substance or drug paraphernalia kept for the unauthorized administration or use of a controlled substance or imitation controlled substance in the possession or under the control of the person or persons arrested, providing such seizure shall be made incident to the arrest.**]**

[195.213. 1. A person commits the crime of unlawful purchase or transport of a controlled substance with a minor if he knowingly permits a minor child to purchase or transport illegally obtained controlled substances.

2. Unlawful purchase or transport of a controlled substance with a minor is a class B felony.**]**

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[195.214. 1. A person commits the offense of distribution of a controlled substance near schools if such person violates section 195.211 by unlawfully distributing or delivering any controlled substance to a person in or on, or within two thousand feet of, the real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college or university or on any school bus.

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

[195.217. 1. A person commits the offense of distribution of a controlled substance near a park if such person violates section 195.211 by unlawfully distributing or delivering heroin, cocaine, cocaine base, LSD, amphetamine, or methamphetamine to a person in or on, or within one thousand feet of, the real property comprising a public park, state park, county park, or municipal park or a public or private park designed for public recreational purposes, as park is defined in section 253.010.

2. Distribution of a controlled substance near a park is a class A felony.**]**

[195.219. 1. A person commits the crime of unlawful endangerment of property if, while engaged in or as a part of the enterprise for the production of a controlled substance, he protects or attempts to protect the production of the controlled substance by creating, setting up, building, erecting or using any device or weapon which causes or is intended to cause damage to the property of, or injury to, another person.

2. Unlawful endangerment of property is a class C felony, unless there is physical injury to a person whereby the offense is a class B felony, or there is serious physical injury to a person whereby the offense is a class A felony.**]**

[195.246. 1. It is unlawful for any person to possess any methamphetamine precursor drug with the intent to manufacture amphetamine, methamphetamine or any of their analogs.

2. Possession of more than twenty-four grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs shall be prima facie evidence of intent to violate this section. This subsection shall not apply to any practitioner or to any

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product possessed in the course of a legitimate business.

3. A person who violates this section is guilty of a class D felony.**]**

[195.256. 1. It is unlawful for any person to manufacture, deliver or possess with intent to manufacture or deliver, a controlled substance which, or the container or labeling of which, without authorization and with knowledge of the nature of his actions, bears the trademark, trade name, or other identifying mark, imprint, number or device or any likeness thereof, of a manufacturer, distributor, or dispenser, other than the person who in fact manufactured, distributed, or dispensed the substance.

2. A person who violates this section is guilty of a class D felony.**]**

[195.285. 1. Any person who has pleaded guilty to or been found guilty of a violation of subsection 2 of section 195.202 shall be sentenced to the authorized term of imprisonment for a class B felony if the court finds the defendant is a prior drug offender.

2. Any person who has pleaded guilty to or been found guilty of a violation of subsection 2 of section 195.202 shall be sentenced to the authorized term of imprisonment for a class A felony if it finds the defendant is a persistent drug offender.**]**

[195.291. 1. Any person who has pleaded guilty to or been found guilty of a violation of section 195.211, when punishable as a class B felony, shall be sentenced to the authorized term of imprisonment for a class A felony if the court finds the defendant is a prior drug offender.

2. Any person who has pleaded guilty to or been found guilty of a violation of section 195.211, when punishable as a class B felony, shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole if the court finds the defendant is a persistent drug offender.**]**

[195.292. Any person who has pleaded guilty to or been found guilty of a violation of section 195.212 or 195.213 shall be sentenced to the authorized term of imprisonment for a class A felony which term shall be served without probation or parole if the court finds the defendant is a prior drug offender.**]**

[195.295. 1. Any person who has pleaded guilty to or been found guilty of violation of subdivision (1) of subsection 1 of section 195.223, subdivision (1) of subsection 2 of section 195.223, subdivision (1) of subsection 3 of section 195.223, subdivision (1) of subsection 4 of section 195.223, subdivision (1) of subsection 5 of section 195.223, subdivision (1) of subsection 6 of section 195.223, or subdivision (1) of subsection 7 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony if the court finds the defendant is a prior drug offender.

2. Any person who has pleaded guilty to or been found guilty of a violation of subdivision (1) of subsection 1 of section 195.223, subdivision (1) of subsection 2 of section 195.223, subdivision (1) of subsection 3 of section 195.223, subdivision (1) of subsection 4 of section 195.223, subdivision (1) of subsection 5 of section 195.223, subdivision (1) of subsection 6 of section 195.223, or subdivision (1) of subsection 7 of section 195.223, or subdivision (1) of subsection 9 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony, which term shall be without probation or parole, if the court finds the defendant is a persistent drug offender.

3. Any person who has pleaded guilty to or been found guilty of a violation of subdivision (2) of subsection 1 of section 195.223, subdivision (2) of subsection 2 of section 195.223, subdivision (2) of subsection 3 of section 195.223, subdivision (2) of subsection 4 of section 195.223, subdivision (2) of subsection 5 of section 195.223, subdivision (2) of subsection 6 of section 195.223, or subdivision (2) of subsection 7 of section 195.223 or subsection 8 of section 195.223, or subdivision (2) of subsection 9 of section 195.223 shall be sentenced to the authorized term of imprisonment for a class A felony, which term shall be served without probation or parole, if the court finds the defendant is a prior drug offender.**]**

[195.296. Any person who has pleaded guilty to or been found guilty of violation of subdivision (1) of subsection 1 of section 195.222, subdivision (1) of subsection 2 of section 195.222, subdivision (1) of subsection 3 of section 195.222, subdivision (1) of subsection 4 of section 195.222, subdivision (1) of subsection 5 of section 195.222, subdivision (1) of subsection 6 of section 195.222, or subdivision (1) of subsection 7 of section 195.222, or subdivision (1) of subsection 8 of section 195.222 shall be sentenced to

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the authorized term of imprisonment for a class A felony which term shall be served without probation or parole if the court finds the defendant is a prior drug offender.**]**

[195.369. In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under sections 195.005 to 195.425, the person is presumed not to be the holder of the registration or form. The burden of producing evidence with respect to the registration or order form is upon that person.**]**

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

2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood and may be shown by chemical analysis of the person's blood, breath, urine, or saliva.

3. Operating a vessel with excessive blood alcohol content is a class B misdemeanor.**]**

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

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

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admissible as evidence of blood alcohol content. The provisions of section 306.116 shall not apply to a test administered prior to arrest pursuant to this section.

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

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

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

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

[306.116. 1. Any person who operates a vessel upon the Mississippi River, Missouri River or the lakes of this state shall be deemed to have given consent to,

subject to the provisions of sections 306.111 to 306.119, a chemical test or tests of such person's breath, blood, urine, or saliva for the purpose of determining the alcohol or drug content of such person's blood if arrested for any offense arising out of acts which the arresting law enforcement officer had reasonable grounds to believe were committed while the person was operating a vessel upon the Mississippi River, Missouri River or lakes of this state in violation of section 306.111 or 306.112. The test shall be administered at the direction of the arresting law enforcement officer whenever the person has been arrested for the offense.

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

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

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

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

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

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

(3) If there was 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. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood.

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

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

[306.118. 1. For purposes of this section, unless the context clearly indicates otherwise, the following terms mean:

(1) "Aggravated offender", a person who:

(a) Has pleaded guilty to or has been found guilty of three or more intoxication-related boating offenses; or

(b) Has pleaded guilty to or has been found guilty of one or more intoxication-related boating offenses and any of the following: involuntary manslaughter under subsection 3 of section 306.111; assault with a vessel in the second degree under subsection 4 of section 306.111, or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082;

(2) "Chronic offender":

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

(b) A person who has pleaded guilty to or has been found guilty of, on two or more separate occasions, any combination of the following: involuntary manslaughter under subsection 3 of section 306.111; assault with a vessel in the second degree under subsection 4 of section 306.111; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082; or

(c) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related boating offenses and any of the following: involuntary

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manslaughter under subsection 3 of section 306.111; assault with a vessel in the second degree under subsection 4 of section 306.111; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082;

(3) "Intoxication-related boating offense", operating a vessel while intoxicated under subsection 2 of section 306.111; operating a vessel with excessive blood alcohol content under section 306.112; involuntary manslaughter under subsection 3 of section 306.111; assault with a vessel in the second degree under subsection 4 of section 306.111; any violation of subsection 2 of section 306.110; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082;

(4) "Persistent offender", one of the following:

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

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter under subsection 3 of section 306.111, assault in the second degree under subsection 4 of section 306.111, assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082;

(5) "Prior offender", a person who has pleaded guilty to or 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.

2. Any person who pleads guilty to or is found guilty of a violation of subsection 2 of section 306.110, section 306.111, or section 306.112, who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of subsection 2 of section 306.110, section 306.111, or section 306.112, who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. Any person who pleads guilty to or is found guilty of a violation of subsection 2 of section 306.110, section 306.111, or section 306.112, who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.

5. Any person who pleads guilty to or is found guilty of a violation of subsection 2 of section 306.110, section 306.111, or section 306.112 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.

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6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this section, nor sentence such person to pay a fine in lieu of a term of imprisonment, notwithstanding the provisions of section 557.011 to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until he or she has served a minimum of five days imprisonment, 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. No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, 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. No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment.

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

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

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

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

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

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

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

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

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

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

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

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

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

2. If a person refuses to submit to a chemical test of such person's breath, blood, urine, or saliva and that person stands trial for the crimes provided in section 306.111 or 306.112, such refusal may be admissible into evidence at the trial.**]**

[306.141. 1. A person commits the crime of leaving the scene of a vessel accident if:

(1) The person is an operator of a vessel on a waterway;

(2) The person knows that an injury was caused to another person or to the property of another person, due to the person's action, whether purposefully, negligently or accidentally; and

(3) The person leaves the place of the injury, damage, or accident without stopping and giving the following information to the other party or to a water patrol officer or other law enforcement officer or, if no officer is in the vicinity, then without delay to the nearest police station or judicial officer:

(a) The operator's name;

(b) The operator's residence, including city and street number;

(c) The vessel registration number; and

(d) The operator's license number for any license issued under chapter 302.

2. Leaving the scene of a vessel accident is a class A misdemeanor, unless:

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(1) The defendant has previously pled guilty to, or been found guilty of, a violation of this section; or

(2) The accident resulted in physical injury to another person. In which cases, leaving the scene of a vessel accident is a class D felony.**]**

[556.016. 1. An offense defined by this code or by any other statute of this state, for which a sentence of death or imprisonment is authorized, constitutes a "crime". Crimes are classified as felonies and misdemeanors.

2. A crime is a "felony" if it is so designated or if persons convicted thereof may be sentenced to death or imprisonment for a term which is in excess of one year.

3. A crime is a "misdemeanor" if it is so designated or if persons convicted thereof may be sentenced to imprisonment for a term of which the maximum is one year or less.**]**

[556.022. It shall be the duty of the operator or driver of any vehicle or the rider of any animal traveling on the roads of this state to stop on signal of any law enforcement officer and to obey any other reasonable signal or direction of such law enforcement officer given in the course of enforcing any infraction. Any person who willfully fails or refuses to obey any signal or direction of a law enforcement officer given in the course of enforcing any infraction, or who willfully resists or opposes a law enforcement officer in the proper discharge of his or her duties in the course of enforcing any infraction, is guilty of a class A misdemeanor and on plea or finding of guilt thereof shall be punished as provided by law for such offenses.**]**

[556.051. When the phrase "The defendant shall have the burden of injecting the issue" is used in the code, it means

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

(2) 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.**]**

[556.056. When the phrase "affirmative defense" is used in the code, it means

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

(2) 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.**]**

[556.063. In all criminal statutes, unless the context requires a different definition, the following terms 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) "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;

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

(4) "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;

(5) "Computer network", a complex consisting of two or more interconnected computers or computer systems;

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

(7) "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. It commonly includes programs to run operating systems and applications, such as word processing, graphic, or spreadsheet programs, utilities, compilers, interpreters and communications programs;

(8) "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;

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

(10) "Damage", any alteration, deletion, or destruction of any part of a computer system or network;

(11) "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;

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

(13) "Property", anything of value as defined in subdivision (10) of section 570.010 and includes, but is not limited to, financial instruments, information, including electronically produced data and computer software and programs in either machine or human readable form, and any other tangible or intangible item of value;

(14) "Services", the use of a computer, computer system, or computer network and includes, but is not limited to, computer time, data processing, and storage or retrieval functions.**]**

[557.046. In all felony cases, the court shall give notice of the time and place of sentencing to the prosecuting attorney and the law enforcement agency within whose jurisdiction the prosecution was initiated.

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The prosecuting attorney and a representative of the law enforcement agency may appear at sentencing and provide relevant information to the court prior to the court's decision.**]**

[560.016. 1. Except as otherwise provided for an offense outside this code, a person who has been convicted of a misdemeanor or infraction may be sentenced to pay a fine which does not exceed:

(1) For a class A misdemeanor, one thousand dollars;

(2) For a class B misdemeanor, five hundred dollars;

(3) For a class C misdemeanor, three hundred dollars;

(4) For an infraction, two hundred dollars.

2. In lieu of a fine imposed under subsection 1, a person who has been convicted of a misdemeanor or infraction through which he derived "gain" as defined in section 560.011, may be sentenced to a fine which does not exceed double the amount of gain from the commission of the offense. An individual offender may be fined not more than twenty thousand dollars under this provision.**]**

[560.021. 1. A sentence to pay a fine, when imposed on a corporation for an offense defined in this code or for any offense defined outside this code for which no special corporate fine is specified, shall be a sentence to pay an amount, fixed by the court, not exceeding:

(1) Ten thousand dollars, when the conviction is of a felony;

(2) Five thousand dollars, when the conviction is of a class A misdemeanor;

(3) Two thousand dollars, when the conviction is of a class B misdemeanor;

(4) One thousand dollars, when the conviction is of a class C misdemeanor;

(5) Five hundred dollars, when the conviction is of an infraction;

(6) Any higher amount not exceeding double the amount of the corporation's gain from the commission of the offense, as determined under section 560.011.

2. In the case of an offense defined outside the code, if a special fine for a corporation is expressly specified in the statute that defines the offense, the fine fixed by the court shall be

(1) An amount within the limits specified in the statute that defines the offense; or

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(2) Any higher amount not exceeding double the amount of the corporation's gain from the commission of the offense, as determined under section 560.011.**]**

[565.075. 1. A person commits the crime of assault while on school property if the person:

(1) Knowingly causes physical injury to another person; or

(2) With criminal negligence, causes physical injury to another person by means of a deadly weapon; or

(3) Recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; and the act described under subdivision (1), (2) or (3) of this subsection occurred on school or school district property, or in a vehicle that at the time of the act was in the service of a school or school district, or arose as a result of a school or school district-sponsored activity.

2. Assault while on school property is a class D felony.**]**

[565.081. 1. A person commits the crime of assault of a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer in the first degree if such person attempts to kill or knowingly causes or attempts to cause serious physical injury to a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), (17), and (18) of section 190.100.

3. As used in this section the term "corrections officer" includes any jailer or corrections officer of the state or any political subdivision of the state.

4. When used in this section, the terms "highway worker", "construction zone", or "work zone" shall have the same meaning as such terms are defined in section 304.580.

5. Assault of a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer in the first degree is a class A felony.**]**

[565.082. 1. A person commits the crime of assault of a law enforcement officer, corrections

officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer in the second degree if such person:

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

(2) Knowingly causes or attempts to cause physical injury to a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer by means other than a deadly weapon or dangerous instrument;

(3) Recklessly causes serious physical injury to a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer; or

(4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle or vessel in this state and when so operating, acts with criminal negligence to cause physical injury to a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer;

(5) Acts with criminal negligence to cause physical injury to a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer by means of a deadly weapon or dangerous instrument;

(6) Purposely or recklessly places a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer in apprehension of immediate serious physical injury; or

(7) Acts with criminal negligence to create a substantial risk of death or serious physical injury to a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), (17), and (18) of section 190.100.

3. As used in this section the term "corrections officer" includes any jailer or corrections officer of the state or any political subdivision of the state.

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4. When used in this section, the terms "highway worker", "construction zone", or "work zone" shall have the same meaning as such terms are defined in section 304.580.

5. Assault of a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer in the second degree is a class B felony unless committed pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of this section in which case it is a class C felony. For any violation of subdivision (1), (3), or (4) of subsection 1 of this section, the defendant must serve mandatory jail time as part of his or her sentence.**]**

[565.083. 1. A person commits the crime of assault of a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer in the third degree if:

(1) Such person recklessly causes physical injury to a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer;

(2) Such person purposely places a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer in apprehension of immediate physical injury;

(3) Such person knowingly causes or attempts to cause physical contact with a law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer without the consent of the law enforcement officer, corrections officer, emergency personnel, highway worker in a construction zone or work zone, or probation and parole officer.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), (17), and (18) of section 190.100.

3. As used in this section the term "corrections officer" includes any jailer or corrections officer of the state or any political subdivision of the state.

4. When used in this section, the terms "highway worker", "construction zone", or "work zone" shall have the same meaning as such terms are defined in section 304.580.

5. Assault of a law enforcement officer, corrections officer, emergency personnel, highway worker

in a construction zone or work zone, or probation and parole officer in the third degree is a class A misdemeanor.**]**

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

2. For the purposes of this section, "patient" means any person who is a patient in a facility operated by the department of mental health. For purposes of this section, "respondent" means a juvenile in a secure facility operated and maintained by the division of youth services. For purposes of this section, "facility" means a hospital operated by the department of mental health or a secure facility operated by the division of youth services.

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

[565.149. As used in sections 565.149 to 565.169, the following words and phrases mean:

(1) "Child", a person under seventeen years of age;

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

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

(4) "Person having a right of custody", a parent or legal guardian of the child.**]**

[565.165. 1. A person commits the crime of assisting in child abduction or parental kidnapping if he:

(1) Before or during the commission of a child abduction or parental kidnapping as defined in section 565.153 or 565.156 and with the intent to promote or facilitate such offense, intentionally assists another in the planning or commission of child abduction or parental kidnapping, unless before the commission of the offense he makes proper efforts to prevent the commission of the offense; or

(2) With the intent to prevent the apprehension of a person known to have committed the offense of child

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abduction or parental kidnapping, or with the intent to obstruct or prevent efforts to locate the child victim of a child abduction, knowingly destroys, alters, conceals or disguises physical evidence or furnishes false information.

2. Assisting in child abduction or parental kidnapping is a class A misdemeanor.**]**

[565.169. Upon conviction or guilty plea of a person under section 565.150, or section 565.153 or 565.156, the court may, in addition to or in lieu of any sentence or fine imposed, assess as restitution against the defendant and in favor of the legal custodian or parent any reasonable expenses incurred by the legal custodian or parent in searching for or returning the child.**]**

[565.180. 1. A person commits the crime of elder abuse in the first degree if he attempts to kill, knowingly causes or attempts to cause serious physical injury, as defined in section 565.002, to any person sixty years of age or older or an eligible adult as defined in section 660.250.

2. Elder abuse in the first degree is a class A felony.**]**

[565.182. 1. A person commits the crime of elder abuse in the second degree if he:

(1) Knowingly causes, attempts to cause physical injury to any person sixty years of age or older or an eligible adult, as defined in section 660.250, by means of a deadly weapon or dangerous instrument; or

(2) Recklessly and purposely causes serious physical injury, as defined in section 565.002, to a person sixty years of age or older or an eligible adult as defined in section 660.250.

2. Elder abuse in the second degree is a class B felony.**]**

[565.210. 1. A person commits the crime of vulnerable person abuse in the first degree if he or she attempts to kill or knowingly causes or attempts to cause serious physical injury to a vulnerable person, as defined in section 630.005.

2. Vulnerable person abuse in the first degree is a class A felony.**]**

[565.212. 1. A person commits the crime of vulnerable person abuse in the second degree if he or she:

(1) Knowingly causes or attempts to cause physical injury to a vulnerable person, as defined in section 630.005, by means of a deadly weapon or dangerous instrument; or

(2) Recklessly causes serious physical injury to any vulnerable person, as defined in section 630.005.

2. Vulnerable person abuse in the second degree is a class B felony.**]**

[565.214. 1. A person commits the crime of vulnerable person abuse in the third degree if he or she:

(1) Knowingly causes or attempts to cause physical contact with any vulnerable person as defined in section 630.005, knowing the other person will regard the contact as harmful or offensive; or

(2) Purposely engages in conduct involving more than one incident that causes grave emotional distress to a vulnerable person, as defined in section 630.005. The result of the conduct shall be such as would cause a vulnerable person, as defined in section 630.005, to suffer substantial emotional distress; or

(3) Purposely or knowingly places a vulnerable person, as defined in section 630.005, in apprehension of immediate physical injury; or

(4) Intentionally fails to provide care, goods or services to a vulnerable person, as defined in section 630.005. The result of the conduct shall be such as would cause a vulnerable person, as defined in section 630.005, to suffer physical or emotional distress; or

(5) Knowingly acts or knowingly fails to act with malice in a manner that results in a grave risk to the life, body or health of a vulnerable person, as defined in section 630.005; or

(6) Is a person who is a vendor, provider, agent, or employee of a department operated, funded, licensed, or certified program and engages in sexual contact, as defined by subdivision (3) of section 566.010, or sexual intercourse, as defined by subdivision (4) of section 566.010, with a vulnerable person.

2. Vulnerable person abuse in the third degree is a class A misdemeanor.

3. Actions done in good faith and without gross negligence that are designed to protect the safety of the individual and the safety of others, or are provided within accepted standards of care and treatment, shall not be considered as abuse of a vulnerable person as defined in this section.

4. Nothing in this section shall be construed to mean that a vulnerable person is abused solely because such person chooses to rely on spiritual means through

prayer, in lieu of medical care, for his or her health care, as evidenced by the vulnerable person's explicit consent, advance directive for health care, or practice.**]**

[565.250. As used in sections 565.250 to 565.257, the following terms mean:

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

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

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

(4) "Prior invasion of privacy offender", a person who previously has pleaded or been found guilty of the crime of invasion of privacy;

(5) "Same course of conduct", more than one person has been filmed in full or partial nudity under the same or similar circumstances pursuant to one scheme or course of conduct, whether at the same or different times;

(6) "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.**]**

[565.253. 1. A person commits the crime of invasion of privacy in the second degree if:

(1) Such person knowingly views, photographs or films another person, without that person's knowledge and consent, while the person being viewed, photographed or filmed is in a state of full or partial nudity and is in a place where one would have a reasonable expectation of privacy; or

(2) Such person knowingly uses a concealed camcorder or photographic camera of any type to secretly videotape, photograph, or record by electronic means another person under or through the clothing worn by that other person for the purpose of viewing the body of or the undergarments worn by that other person without that person's consent.

2. Invasion of privacy in the second degree pursuant to subdivision (1) of subsection 1 of this section is a class A misdemeanor; unless more than one

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person is viewed, photographed or filmed in full or partial nudity in violation of sections 565.250 to 565.257 during the same course of conduct, in which case invasion of privacy is a class D felony; and unless committed by a person who has previously pled guilty to or been found guilty of invasion of privacy, in which case invasion of privacy is a class D felony. Invasion of privacy in the second degree pursuant to subdivision (2) of subsection 1 of this section is a class A misdemeanor; unless more than one person is secretly videotaped, photographed or recorded in violation of sections 565.250 to 565.257 during the same course of conduct, in which case invasion of privacy is a class D felony; and unless committed by a person who has previously pled guilty to or been found guilty of invasion of privacy, in which case invasion of privacy is a class C felony. Prior pleas or findings of guilt shall be pled and proven in the same manner required by the provisions of section 558.021.**]**

[566.025. In prosecutions pursuant to this chapter or chapter 568 of a sexual nature involving a victim under fourteen years of age, whether or not age is an element of the crime for which the defendant is on trial, evidence that the defendant has committed other charged or uncharged crimes of a sexual nature involving victims under fourteen years of age shall be admissible for the purpose of showing the propensity of the defendant to commit the crime or crimes with which he or she is charged unless the trial court finds that the probative value of such evidence is outweighed by the prejudicial effect.**]**

[566.140. 1. Any person who has pleaded guilty to or been found guilty of violating the provisions of this chapter and is granted a suspended imposition or execution of sentence or placed under the supervision of the board of probation and parole shall be required to participate in and successfully complete a program of treatment, education and rehabilitation designed for perpetrators of sexual offenses. Persons required to attend a program pursuant to this section may be charged a reasonable fee to cover the costs of such program.

2. No person who provides assessment services or who makes a report, finding, or recommendation for any probationer to attend any counseling or program of treatment, education or rehabilitation as a condition or requirement of probation, following the probationer's plea of guilty to or a finding of guilt of violating any provision of this chapter or chapter 565, may be related within the third degree of consanguinity or affinity to

any person who has a financial interest, whether direct or indirect, in the counseling or program of treatment, education or rehabilitation or any financial interest, whether direct or indirect, in any private entity which provides the counseling or program of treatment, education or rehabilitation. Any person who violates this subsection shall thereafter:

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

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

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

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

[566.141. Any person who is convicted of or pleads guilty or nolo contendere to any sexual offense involving a child shall be required as a condition of probation or parole to be involved in and successfully complete an appropriate treatment program. Any person involved in such a program shall be required to follow all directives of the treatment program provider.**]**

[567.040. In any prosecution for prostitution or patronizing a prostitute, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that

(1) Both persons were of the same sex; or

(2) The person who received, agreed to receive or solicited something of value was a male and the person who gave or agreed or offered to give something of value was a female.**]**

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[568.100. 1. When it becomes necessary for the purposes of section 568.060, 568.080 or 568.090 to determine whether a child who participated in a sexual performance was younger than seventeen years of age, the court or jury may make this determination by any of the following methods:

(1) Personal inspection of the child;

(2) Inspection of the photograph or motion picture that shows the child engaging in the sexual performance;

(3) Oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;

(4) Expert medical testimony based on the appearance of the child engaging in the sexual performance; or

(5) Any other method authorized by law or by the rules of evidence.

2. When it becomes necessary for the purposes of section 568.060, 568.080 or 568.090 to determine whether a child who participated in the sexual conduct consented to the conduct, the term "consent" shall have the meaning given it in section 556.061.

3. Upon request of the prosecuting attorney, the court may order that the child's testimony be videotaped pursuant to section 492.303 or as otherwise provided by law.**]**

[568.120. 1. Any person who has pleaded guilty to or been found guilty of violating the provisions of section 568.020, 568.060, 568.080 or 568.090, and who is granted a suspended imposition or execution of sentence, or placed under the supervision of the board of probation and parole, shall be required to participate in an appropriate program of treatment, education and rehabilitation. Persons required to attend a program pursuant to this section may be charged a reasonable fee to cover the costs of such program.

2. Notwithstanding other provisions of law to the contrary, any person who has previously pleaded guilty to or been found guilty of violating the provisions of sections 568.020, 568.060, 568.080 and 568.090, and who subsequently pleads guilty or is found guilty of violating any one of the foregoing sections, shall not be granted a suspended imposition of sentence, a suspended execution of sentence, nor probation by the circuit court for the subsequent offense.**]**

[569.025. 1. A person commits the crime of pharmacy robbery in the first degree when he forcibly steals any controlled substance from a pharmacy and in

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the course thereof he, or another participant in the crime:

(1) Causes serious physical injury to any person;

(2) Is armed with a deadly weapon;

(3) Uses or threatens the immediate use of a dangerous instrument against any person; or

(4) Displays or threatens the use of what appears to be a deadly weapon or dangerous instrument.

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

(1) "Controlled substance", a drug, substance or immediate precursor in schedules I through V as defined in sections 195.005 to 195.425;

(2) "Pharmacy", any building, warehouse, physician's office, hospital, pharmaceutical house or other structure used in whole or in part for the sale, storage or dispensing of any controlled substance as defined by sections 195.005 to 195.425.

3. Pharmacy robbery in the first degree is a class A felony, but, notwithstanding any other provision of law, a person convicted pursuant to this section shall not be eligible for suspended execution of sentence, parole or conditional release until having served a minimum of ten years of imprisonment.**]**

[569.035. 1. A person commits the crime of pharmacy robbery in the second degree when he forcibly steals any controlled substance from a pharmacy.

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

(1) "Controlled substance", a drug, substance or immediate precursor in schedules I through V as defined in sections 195.005 to 195.425;

(2) "Pharmacy", any building, warehouse, physician's office, hospital, pharmaceutical house or other structure used in whole or in part for the sale, storage or dispensing of any controlled substance as defined by sections 195.005 to 195.425.

3. Pharmacy robbery in the second degree is a class B felony, but, notwithstanding any other provision of law, a person convicted pursuant to this section shall not be eligible for suspended execution of sentence, parole or conditional release until having served a minimum of five years of imprisonment.**]**

[569.067. 1. A person commits the crime of negligently setting fire to a woodland, cropland, grassland, prairie or marsh when he with criminal negligence causes damage to a woodland, cropland, grassland, prairie or marsh of another by starting a fire.

2. A person commits the crime of negligently allowing a fire to escape when he with criminal negligence allows a fire burning on lands in his possession or control to escape onto property of another.

3. Negligently setting fire to a woodland, cropland, grassland, prairie or marsh or negligently allowing a fire to escape is a class B misdemeanor.**]**

[569.094. In a prosecution under sections 569.095 to 569.099, computer printouts shall be competent evidence of any computer software, program, or data contained in or taken from a computer, computer system, or computer network.**]**

[570.033. Any person who, without lawful authority, willfully takes another's animal with the intent to deprive him of his property is guilty of a class D felony.**]**

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

2. As used in this section, the term "stealing-related offense" shall include federal and state violations of criminal statutes against stealing, robbery, or buying or receiving stolen property and shall also include municipal ordinances against same if the defendant was either represented by counsel or knowingly waived counsel in writing and the judge accepting the plea or making the findings was a licensed attorney at the time of the court proceedings. 3. Evidence of prior guilty pleas or findings of guilt shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior guilty pleas or findings of guilt.**]**

[570.050. Amounts stolen pursuant to one scheme or course of conduct, whether from the same or several owners and whether at the same or different times,

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constitute a single criminal episode and may be aggregated in determining the grade of the offense.**]**

[570.055. Any person who steals or appropriates, without consent of the owner, any wire, electrical transformer, metallic wire associated with transmitting telecommunications, or any other device or pipe that is associated with conducting electricity or transporting natural gas or other combustible fuels shall be guilty of a class C felony.**]**

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

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

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

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

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

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

3. Except as otherwise provided in subsections 4 and 5 of this section, receiving stolen property is a class A misdemeanor.

4. Receiving stolen property is a class C felony if:

(1) The value of the property or services appropriated is five hundred dollars or more but less than twenty-five thousand dollars;

(2) The property has been physically taken from the person of the victim; or

(3) The property appropriated includes:

(a) Any motor vehicle, watercraft, or aircraft;

(b) Any will or unrecorded deed affecting real property;

(c) Any credit card or letter of credit;

(d) Any firearm;

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(e) Any explosive weapon as that term is defined in section 571.010;

(f) A United States national flag designed, intended, and used for display on buildings or stationary flagstaffs in the open;

(g) Any original copy of an act, bill, or resolution, introduced or acted upon by the legislature of the state of Missouri;

(h) Any pleading, notice, judgment, or any other record or entry of any court of this state, any other state, or of the United States;

(i) Any book of registration or list of voters required by chapter 115;

(j) Any animal considered livestock as that term is defined in section 144.010;

(k) Any live fish raised for commercial sale with a value of seventy-five dollars or more;

(l) Any captive wildlife held under permit issued by the conservation commission;

(m) Any controlled substance as that term is defined in section 195.010;

(n) Anhydrous ammonia;

(o) Ammonium nitrate; or

(p) Any document of historical significance which has a fair market value of five hundred dollars or more.

5. The receipt of any item of property or services pursuant to subsection 4 of this section which exceeds five hundred dollars may be considered a separate felony and may be charged in separate counts.

6. Any person who previously has been found guilty of, or pled guilty to, receiving stolen property, when the property is of the kind described under paragraph (j) or (l) of subdivision (3) of subsection 4 of this section and the value of the animal or animals received exceeds three thousand dollars, is guilty of a class B felony. Such person shall serve a minimum prison term of not less than eighty percent of his or her sentence before being eligible for probation, parole, conditional release, or other early release by the department of corrections.

7. Receiving stolen property is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.**]**

[570.155. 1. It shall be unlawful:

(1) For any person to give, promise or offer to any professional or amateur baseball, football, hockey, polo, tennis or basketball player or boxer or any player who participates or expects to participate in any professional or amateur game or sport or any jockey,

driver, groom or any person participating or expecting to participate in any horse race, including owners of race tracks and their employees, stewards, trainers, judges, starters or special policemen, or to any manager, coach or trainer of any team or participant or prospective participant in any such game, contest or sport, any valuable thing with intent to influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory in a baseball, football, hockey or basketball game, boxing, tennis or polo match or a horse race or any professional or amateur sport, or game, in which such player or participant or jockey or driver, is taking part or expects to take part, or has any duty or connection therewith;

(2) For any professional or amateur baseball, football, hockey, basketball, tennis or polo player, boxer, or jockey, driver, or groom or participant or prospective participant in any sport or game, or manager, coach or trainer of any team or individual participant or prospective participant in any such game, contest or sport to accept, attempt to obtain, or to solicit any valuable thing to influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory in a baseball, football, hockey or basketball game or boxing, tennis, or polo match, or horse race or any game or sport in which he is taking part, or expects to take part, or has any duty or connection therewith.

2. (1) Any person violating the provisions of subdivision (1) of subsection 1 shall be deemed guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the penitentiary for a term of not to exceed ten years or by imprisonment in the county jail for a period not to exceed one year, or by a fine not to exceed ten thousand dollars or by both such fine and imprisonment;

(2) Any person violating the provisions of subdivision (2) of subsection 1 shall be deemed guilty of a misdemeanor.**]**

[570.160. 1. A person commits the crime of false advertising if, in connection with the promotion of the sale of, or to increase the consumption of, property or services, he recklessly makes or causes to be made a false or misleading statement in any advertisement addressed to the public or to a substantial number of persons.

2. False advertising is a class A misdemeanor.**]**

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[570.170. 1. A person commits the crime of bait advertising if he advertises in any manner the sale of property or services with the purpose not to sell or provide the property or services:

(1) At the price which he offered them; or

(2) In a quantity sufficient to meet the reasonably expected public demand, unless the quantity is specifically stated in the advertisement; or

(3) At all.

2. Bait advertising is a class A misdemeanor.**]**

[570.190. 1. A person commits the crime of telephone service fraud if the person by deceit obtains or attempts to obtain telephone service without paying the lawful charge, except that it shall not be unlawful for a person to purchase, rent or use telephones or telephone receiving equipment acquired from a lawful source, other than the telephone utility certified to serve the area in which such person resides.

2. A person commits the crime of electronic telephone fraud if the person knowingly

(1) Uses, in connection with the making or receiving of a telephone call; or

(2) Has possession of; or

(3) Transfers possession or causes the transfer of possession to another; or

(4) Makes or assembles; an electronic or mechanical device which, when used in connection with a telephone call, will cause the billing system of a telephone company to record incorrectly, or omit to record correctly, any fact by which the person responsible for paying the charge for a telephone call is determined.

3. Venue for trial shall be as follows:

(1) An offense under subsection 1 and subdivision (1) of subsection 2 which involves the placing of telephone calls may be deemed to have been committed at either the place at which the telephone calls were made, or at the place where the telephone calls were received.

(2) An offense under subdivisions (2), (3) and (4) of subsection 2 may be deemed to have been committed where the device was found, or at the place where the device was transferred or fabricated.

4. (1) An offense under subsection 1 shall be punished by a fine not to exceed five hundred dollars or by confinement in jail for not more than six months, or both; except that if the telephone charges avoided or attempted to be avoided pursuant to one scheme or course of conduct exceed fifty dollars, the offense shall be punished by a fine of not more than one thousand

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dollars, or by confinement in jail for not more than one year, or both.

(2) An offense under subdivisions (1) through (5) of subsection 2 shall be punished by a fine of not more than one thousand dollars, confinement in jail for not more than one year, or both; except that if defendant received consideration from another as a consequence of the use, transfer, or fabrication of the device, the offense shall be punished as provided in subdivision (3) of subsection 4.

(3) If the defendant has been convicted previously of an offense under this section or of an offense under the laws of another state of the United States which would have been an offense under this section if committed in this state, then the offense shall be punished by a fine of not more than five thousand dollars or by imprisonment by the department of corrections and human resources for not less than two nor more than five years, or both.

5. A search warrant shall be issued by any court of competent jurisdiction upon a finding of probable cause to believe an instrument or device described in subsections 1 and 2 is housed in a particular structure, vehicle or upon the person.**]**

[570.200. As used in this act, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Library", any public library or any library of an educational, historical or eleemosynary institution, organization or society; any museum; any repository of public or institutional records; or any archive;

(2) "Library card", a card or other device utilized by a library for purposes of identifying a person authorized to borrow library material, subject to all limitations and conditions imposed on such borrowing by the library issuing or honoring such card;

(3) "Library material", any book, plate, picture, photograph, engraving, painting, sculpture, artifact, drawing, map, newspaper, microform, sound recording, audiovisual material, magnetic or other tape, electronic data processing record or other document, written or printed material, regardless of physical form or characteristic, which is a constituent element of a library's collection or any part thereof, belonging to, on loan to, or otherwise in the custody of a library;

(4) "Notice in writing", any notice deposited as certified or registered mail in the United States mail and addressed to the person at his address as it appears on the library card or to his last known address. The

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notice shall contain a statement that failure to return the library material within ten days of receipt of the notice may subject the user to criminal prosecution;

(5) "Premises of a library", a building structure or other enclosure in which a library is located or in which the library keeps, displays and makes available for inspection, borrowing or return of library materials.**]**

[570.210. 1. A person commits the crime of library theft if with the purpose to deprive, such person:

(1) Knowingly removes any library material from the premises of a library without authorization; or

(2) Borrows or attempts to borrow any library material from a library by use of a library card:

(a) Without the consent of the person to whom it was issued; or

(b) Knowing that the library card is revoked, canceled or expired; or

(c) Knowing that the library card is falsely made, counterfeit or materially altered; or

(3) Borrows library material from any library pursuant to an agreement or procedure established by the library which requires the return of such library material and, with the purpose to deprive the library of the library material, fails to return the library material to the library; or

(4) Knowingly writes on, injures, defaces, tears, cuts, mutilates, or destroys a book, document, or other library material belonging to, on loan to, or otherwise in the custody of a library.

2. It shall be prima facie evidence of the person's purpose to deprive the library of the library materials if, within ten days after notice in writing deposited as certified mail from the library demanding the return of such library material, such person without good cause shown fails to return the library material. A person is presumed to have received the notice required by this subsection if the library mails such notice to the last address provided to the library by such person. Payment to the library, in an amount equal to the fair market value of an item of no historical significance shall be considered returning the item for purposes of this subsection.

3. The crime of library theft is a class C misdemeanor if the value of the library materials is less than five hundred dollars. The crime of library theft is a class C felony if the value of the library material is between five hundred dollars and twenty-five thousand dollars. The crime of library theft is a class

B felony if the value of the library material is greater than twenty-five thousand dollars.**]**

[570.215. Any librarian, his agent or employee, who has reasonable grounds to believe that a person on the premises of the library has committed or is about to commit the crime of library theft, may detain such person in a reasonable manner and for a reasonable length of time for the purpose of investigating whether there has been or may be a wrongful taking of such library material. Any such reasonable detention shall not constitute an unlawful arrest or detention, nor shall it render the librarian, his agent or employee criminally or civilly liable to the person so detained.**]**

[570.226. No person shall, without the consent of the owner, transfer or cause to be transferred to any phonograph record, disc, wire, tape, film, videocassette, or other article or medium now known or later developed on which sounds or images are recorded or otherwise stored, any performance whether live before an audience or transmitted by wire or through the air by radio or television, with the intent to sell or cause to be sold for profit.**]**

[570.230. No person shall advertise, or offer for sale, resale, or sell or resell, or cause to be sold, resold or process for such purposes any article that has been produced in violation of the provisions of section 570.225 or 570.226, knowing, or having reasonable grounds to know, that the sounds thereon have been so transferred without the consent of the owner.**]**

[570.235. As used in sections 570.225 to 570.255, the following terms mean:

(1) "Audiovisual works", works that consist of a series of related images which are intrinsically intended to be shown by the use of machines, electronic equipment or other devices, now known or later developed, together with accompanying sounds, if any;

(2) "Manufacturer", the person who transfers or causes to be transferred any sounds or images to the particular article, medium, recording or other physical embodiment of such sounds or images then in issue;

(3) "Motion pictures", audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;

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(4) "Owner", the person who owns the sounds of any performance not yet fixed in a medium of expression, or the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film, master videocassette, or other device or medium now known or later developed, used for reproducing sounds on phonograph records, discs, tapes, films, videocassettes, or other articles or medium upon which sound is or may be recorded, and from which the transferred recorded sounds are directly or indirectly derived;

(5) "Person", any natural person, corporation or other business entity.**]**

[570.240. The label, cover, box or jacket on all phonograph records, discs, wires, tapes, films, videocassettes or other articles or medium now known or later developed on which sounds or images are recorded shall contain thereon in clearly readable print the name and address of the manufacturer.**]**

[570.241. No person shall advertise, or offer for rental, sale, resale, or rent, sell, resell, or cause to be sold, resold, or possess for such purposes any article that has been produced in violation of the provisions of section 570.240, knowing, or having reasonable grounds to know, that the article has been produced in violation of the provisions of section 570.240.**]**

[570.245. Sections 570.225 to 570.255 do not apply to:

(1) Any radio or television broadcaster who transfers any such sounds as part of or in connection with a radio or television broadcast transmission or for archival preservation;

(2) Any person transferring any such sounds at home for his personal use without any compensation being derived by such person or any other person from such transfer;

(3) Any cable television company that transfers any such sounds as part of its regular cable television service.**]**

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

(1) For the first offense of a violation of sections 570.225 to 570.241 which is not a felony under subdivision (2) of this subsection, such person is guilty of a misdemeanor, and upon conviction shall be

punished by a fine not exceeding five thousand dollars, or by confinement in the county jail not exceeding six months, or by both such fine and confinement.

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

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

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

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

[571.017. Nothing contained in any other provision of law, except as provided in subsection 4 of section 571.015, shall prevent imposition of sentences for both armed criminal action and the crime committed by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon.**]**

[571.030. 1. A person commits the crime of unlawful use of weapons if he or she knowingly:

(1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; or

(2) Sets a spring gun; or

(3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in section 302.010, or any building or structure used for the assembling of people; or

(4) Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or

(5) Has a firearm or projectile weapon readily capable of lethal use on his or her person, while he or she is intoxicated, and handles or otherwise uses such firearm or projectile weapon in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless acting in self-defense;

(6) Discharges a firearm within one hundred yards of any occupied schoolhouse, courthouse, or church building; or

(7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or

(8) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof; or

(9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section 301.010, discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or

(10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.

2. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to the persons described in this subsection, regardless of whether such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties except as otherwise provided in this subsection. Subdivisions (3), (4), (6), (7), and (9) of subsection 1 of this section shall not apply to or affect any of the following persons, when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties, except as otherwise provided in this subsection:

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(1) All state, county and municipal peace officers who have completed the training required by the police officer standards and training commission pursuant to sections 590.030 to 590.050 and who possess the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are on or off duty, and whether such officers are within or outside of the law enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection 11 of this section, and who carry the identification defined in subsection 12 of this section, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;

(3) Members of the armed forces or national guard while performing their official duty;

(4) Those persons vested by article V, section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;

(5) Any person whose bona fide duty is to execute process, civil or criminal;

(6) Any federal probation officer or federal flight deck officer as defined under the federal flight deck officer program, 49 U.S.C. Section 44921 regardless of whether such officers are on duty, or within the law enforcement agency's jurisdiction;

(7) Any state probation or parole officer, including supervisors and members of the board of probation and parole;

(8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under section 84.340;

(9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner;

(10) Any prosecuting attorney or assistant prosecuting attorney or any circuit attorney or assistant circuit attorney who has completed the firearms safety training course required under subsection 2 of section 571.111; and

(11) Any member of a fire department or fire protection district who is employed on a full-time basis as a fire investigator and who has a valid concealed

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carry endorsement under section 571.111 when such uses are reasonably associated with or are necessary to the fulfillment of such person's official duties.

3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of subsection 1 of this section does not apply to any person twenty-one years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subdivision (10) of subsection 1 of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event or club event.

4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to sections 571.101 to 571.121 or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.

5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this section shall not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031.

6. Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored or club-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.

7. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision (6), (7), or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or subdivision (5) or (10) of subsection 1 of this section, in which case it is a class A misdemeanor if the firearm is unloaded and a

class D felony if the firearm is loaded, or subdivision (9) of subsection 1 of this section, in which case it is a class B felony, except that if the violation of subdivision (9) of subsection 1 of this section results in injury or death to another person, it is a class A felony.

8. Violations of subdivision (9) of subsection 1 of this section shall be punished as follows:

(1) For the first violation a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony;

(2) For any violation by a prior offender as defined in section 558.016, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation or conditional release for a term of ten years;

(3) For any violation by a persistent offender as defined in section 558.016, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation, or conditional release;

(4) For any violation which results in injury or death to another person, a person shall be sentenced to an authorized disposition for a class A felony.

9. Any person knowingly aiding or abetting any other person in the violation of subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that prescribed by this section for violations by other persons.

10. Notwithstanding any other provision of law, no person who pleads guilty to or is found guilty of a felony violation of subsection 1 of this section shall receive a suspended imposition of sentence if such person has previously received a suspended imposition of sentence for any other firearms- or weapons-related felony offense.

11. As used in this section "qualified retired peace officer" means an individual who:

(1) Retired in good standing from service with a public agency as a peace officer, other than for reasons of mental instability;

(2) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

(3) Before such retirement, was regularly employed as a peace officer for an aggregate of fifteen years or more, or retired from service with such agency, after completing any applicable probationary period of such

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service, due to a service-connected disability, as determined by such agency;

(4) Has a nonforfeitable right to benefits under the retirement plan of the agency if such a plan is available;

(5) During the most recent twelve-month period, has met, at the expense of the individual, the standards for training and qualification for active peace officers to carry firearms;

(6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) Is not prohibited by federal law from receiving a firearm.

12. The identification required by subdivision (1) of subsection 2 of this section is:

(1) A photographic identification issued by the agency from which the individual retired from service as a peace officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm; or

(2) A photographic identification issued by the agency from which the individual retired from service as a peace officer; and

(3) A certification issued by the state in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm.**]**

[571.072. 1. A person commits the crime of unlawful possession of an explosive weapon if he or she has any explosive weapon in his or her possession and:

(1) He or she has pled guilty to or has been convicted of a dangerous felony, as defined in section 556.061, or of an attempt to commit a dangerous felony, or of a crime under the laws of any state or of the United States which, if committed within this state, would be a dangerous felony, or confined therefor in this state or elsewhere during the five-year period immediately preceding the date of such possession; or

(2) He or she is a fugitive from justice, is habitually in an intoxicated or drugged condition, or is currently adjudged mentally incompetent.

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2. Unlawful possession of an explosive weapon is a class C felony.**]**

[571.080. A person commits the crime of transfer of a concealable firearm if such person violates 18 U.S.C. Section 922(b) or 18 U.S.C. Section 922(x).**]**

[571.102. The repeal and reenactment of sections 302.181 and 571.101 shall become effective on the date the director of the department of revenue begins to issue nondriver licenses with conceal carry endorsements that expire three years from the dates the certificates of qualification were issued, or on January 1, 2013, whichever occurs first. If the director of revenue begins issuing nondriver licenses with conceal carry endorsements that expire three years from the dates the certificates of qualification were issued under the authority granted under sections 302.181 and 571.101 prior to January 1, 2013, the director of the department of revenue shall notify the revisor of statutes of such fact.**]**

[573.013. In the course of a criminal investigation under this chapter, when the venue of the alleged criminal conduct cannot be readily determined without further investigation, the attorney general may request the prosecuting attorney of Cole County to request a circuit or associate circuit judge of Cole County to issue a subpoena to any witness who may have information for the purpose of oral examination under oath or to require access to data or the production of books, papers, records, or other material of evidentiary nature at the office of the attorney general. If, upon review of the evidence produced pursuant to the subpoenas, it appears that a violation of this chapter may have been committed, the attorney general shall provide the evidence produced pursuant to subpoena to an appropriate county prosecuting attorney or circuit attorney having venue over the criminal offense.**]**

[573.500. As used in sections 573.500 to 573.507, the following terms mean:

(1) "Adult cabaret", a nightclub, bar, restaurant, or similar establishment in which persons appear in a state of nudity in the performance of their duties;

(2) "Nudity", the showing of either:

(a) The human male or female genitals or pubic area with less than a fully opaque covering; or

(b) The female breast with less than a fully opaque covering on any part of the nipple.**]**

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[573.528. For purposes of sections 573.525 to 573.537, the following terms shall mean:

(1) "Adult bookstore" or "adult video store", a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. A "principal business activity" exists where the commercial establishment:

(a) Has a substantial portion of its displayed merchandise which consists of such items; or

(b) Has a substantial portion of the wholesale value of its displayed merchandise which consists of such items; or

(c) Has a substantial portion of the retail value of its displayed merchandise which consists of such items; or

(d) Derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of such items; or

(e) Maintains a substantial section of its interior business space for the sale or rental of such items; or

(f) Maintains an adult arcade. "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas;

(2) "Adult cabaret", a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, regardless of whether alcoholic beverages are served, which regularly features persons who appear semi-nude;

(3) "Adult motion picture theater", a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions, which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five persons for any form of consideration;

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(4) "Characterized by", describing the essential character or dominant theme of an item;

(5) "Employ", "employee", or "employment", describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises;

(6) "Establish" or "establishment", any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(c) The addition of any sexually oriented business to any other existing sexually oriented business;

(7) "Influential interest", any of the following:

(a) The actual power to operate the sexually oriented business or control the operation, management, or policies of the sexually oriented business or legal entity which operates the sexually oriented business;

(b) Ownership of a financial interest of thirty percent or more of a business or of any class of voting securities of a business; or

(c) Holding an office, such as president, vice president, secretary, treasurer, managing member, or managing director, in a legal entity which operates the sexually oriented business;

(8) "Nudity" or "state of nudity", the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple or areola;

(9) "Operator", any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not such person is an owner, part owner, or licensee of the business;

(10) "Premises", the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including but not limited to the sexually oriented business, the

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grounds, private walkways, and parking lots or parking garages or both;

(11) "Regularly", the consistent and repeated doing of the act so described;

(12) "Semi-nude" or "state of semi-nudity", the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at such point, or the showing of the male or female buttocks. Such definition includes the lower portion of the human female breast, but shall not include any portion of the cleavage of the female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part;

(13) "Semi-nude model studio", a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. Such definition shall not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

(a) By a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

b. Where, in order to participate in a class, a student must enroll at least three days in advance of the class;

(14) "Sexual encounter center", a business or commercial enterprise that, as one of its principal purposes, purports to offer for any form of consideration physical contact in the form of wrestling or tumbling between two or more persons when one or more of the persons is semi-nude;

(15) "Sexually oriented business", an adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, a semi-nude model studio, or a sexual encounter center;

(16) "Specified anatomical areas":

(a) Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered;

(17) "Specified criminal act", any of the following specified offenses for which less than eight years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is later:

(a) Rape and sexual assault offenses;

(b) Sexual offenses involving minors;

(c) Offenses involving prostitution;

(d) Obscenity offenses;

(e) Offenses involving money laundering;

(f) Offenses involving tax evasion;

(g) Any attempt, solicitation, or conspiracy to commit one of the offenses listed in paragraphs (a) to (f) of this subdivision; or

(h) Any offense committed in another jurisdiction which if committed in this state would have constituted an offense listed in paragraphs (a) to (g) of this subdivision;

(18) "Specified sexual activity", any of the following:

(a) Intercourse, oral copulation, masturbation, or sodomy; or

(b) Excretory functions as a part of or in connection with any of the activities described in paragraph (a) of this subdivision;

(19) "Substantial", at least thirty percent of the item or items so modified;

(20) "Viewing room", the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, video cassette, digital video disc, or other video reproduction.**]**

[574.030. For the purposes of sections 574.010 and 574.020

(1) "Property of another" means any property in which the actor does not have a possessory interest;

(2) "Private property" means any place which at the time is not open to the public. It includes property which is owned publicly or privately;

(3) "Public place" means any place which at the time is open to the public. It includes property which is owned publicly or privately;

(4) If a building or structure is divided into separately occupied units, such units are separate premises.**]**

[575.350. 1. A person commits the crime of killing or disabling a police animal when such person

knowingly causes the death of a police animal, or knowingly disables a police animal to the extent it is unable to be utilized as a police animal, when that animal is involved in a law enforcement investigation, apprehension, tracking, or search and rescue, or the animal is in the custody of or under the control of a law enforcement officer, department of corrections officer, municipal police department, fire department and a rescue unit or agency.

2. Killing or disabling a police animal is a class D felony.**]**

[577.026. 1. Chemical tests of the person's breath, blood, saliva, or urine to be considered valid under the provisions of sections 577.020 to 577.041, shall be performed according to methods and devices approved by the state department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose.

2. The state department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to conduct tests required by sections 577.020 to 577.041, and shall establish standards as to the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the state department of health and senior services.**]**

[577.065. 1. Whenever any all-terrain vehicle is involved in an accident resulting in loss of life, personal injury or damage to property and the operator thereof has knowledge of such accident, he shall stop and give his name and address, the name and address of the owner thereof and the registration number of the all-terrain vehicle to the injured person or the person sustaining the damage or to a police officer. In case no police officer nor the person sustaining the damage is present at the place where the damage occurred, then the operator shall immediately report the accident, as soon as he is physically able, to the nearest law enforcement agency.

2. A law enforcement officer who investigates or receives information of an accident involving an all-terrain vehicle and also involving the loss of life or serious physical injury, as defined in section 556.061, shall make a written report of the investigation or information received, and such additional facts relating to the accident as may come to his knowledge, and mail the information to the

department of public safety and keep a record thereof in his office.

3. This section does not apply when property damage is sustained in sanctioned all-terrain vehicle races, derbies and rallies.

4. Any person leaving the scene of an accident involving an all-terrain vehicle which results in a serious personal injury shall be guilty of a class A misdemeanor, except that it shall be a class D felony if the accident resulted in death of another party or if defendant has previously pled guilty or been found guilty of a violation of this section.**]**

[577.071. The prosecutor of any county and the circuit attorney of any city not within a county shall investigate reports of violations of sections 260.211 and 260.212 and may, by information or indictment, institute a prosecution for any violation of sections 260.211 and 260.212.**]**

[577.090. Any law enforcement officer shall and any agent of the conservation commission or deputy or member of the highway patrol, water patrol division, may enforce the provisions of sections 577.070 and 577.080 and arrest violators thereof; except that conservation agents may enforce such provisions only upon the water, the banks thereof or upon public land.**]**

[577.105. 1. "Party line", as used in this section, means a subscriber's line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number. "Emergency", as used in this section, means a situation in which property or human life are in jeopardy and the prompt summoning of aid is essential.

2. Any person who willfully refuses to immediately relinquish a party line when informed that the line is needed for an emergency call to a fire department or law enforcement official or for medical aid or ambulance service, or any person who secures the use of a party line by falsely stating that the line is needed for an emergency call, is guilty of a misdemeanor.

3. Every telephone directory hereafter distributed to the members of the general public in this state or in any portion thereof which lists the calling numbers of telephones of any telephone exchange located in this state shall contain a notice which explains the offense provided for in this section, the notice to be preceded by the word "warning"; provided, that the provisions of

this section shall not apply to those directories distributed solely for business advertising purposes, commonly known as classified directories, nor to any telephone directory heretofore distributed to the general public. Any person, firm or corporation providing telephone service which distributes or causes to be distributed in the state copies of a telephone directory which is subject to the provisions of this section and which do not contain the notice herein provided for is guilty of a misdemeanor.**]**

[577.110. No person under the age of sixteen years shall operate a motor vehicle on the highways of this state. Any person who violates this section, upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than five hundred dollars.**]**

[577.160. 1. As used in sections 577.160 and 577.161, the following words mean:

(1) "Swimming pool", any artificial basin of water which is modified, improved, constructed or installed for the purpose of public swimming, and includes: pools for community use, pools at apartments, condominiums, and other groups of associations having five or more living units, clubs, churches, camps, schools, institutions, Y.M.C.A. and Y.W.C.A. parks, recreational areas, motels, hotels and other commercial establishments. It does not include pools at private residences intended only for the use of the owner or guests;

(2) "Person", any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, county, municipality, the state of Missouri, or any political subdivision or department thereof, or any other entity;

(3) "Life jacket", a life jacket, life vest or any other flotation device designed to be worn about the body to assist in maintaining buoyancy in water.**]**

[577.201. As used in this section and section 577.203, "flight crew member" shall include the pilot in command, copilots, flight engineers and flight navigators.**]**

[577.206. 1. Any person who operates, or acts as a flight crew member of, any aircraft in this state is deemed to have given his or her consent to chemical testing of his or her blood, breath, or urine for the

purpose of determining the alcohol or drug content of the blood. The consent shall be deemed only if the person is detained for any offense allegedly committed in violation of sections 577.201 and 577.203 or if any officer requests chemical testing as part of an investigation of a suspected violation of state or local law. The test shall be administered at the direction of the law enforcement officer.

2. The implied consent to submit to the chemical tests shall be limited to not more than two such tests arising from the same incident.**]**

[577.208. 1. Chemical tests of the person's breath, blood, or urine to be considered valid shall be performed according to methods and devices approved by the state department of health and senior services and shall be performed by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose. A blood test shall not be performed if the medical personnel, in good faith medical judgment, believe such procedure would endanger the health of the person in custody.

2. Upon request of the person tested, full information concerning the test shall be made available to him.

3. No person administering a chemical test under this section and sections 577.206, 577.211 and 577.214, or any other person, firm or corporation with whom he is associated, shall be civilly liable for damages to the person tested except for negligence or by willful or wanton act or omission.**]**

[577.211. Any person who is dead, unconscious, or otherwise incapable of refusing to take a test shall be deemed to not have withdrawn the consent, and the chemical test may be administered.**]**

[577.214. The provisions of section 491.060 shall not prevent the admissibility of evidence of any chemical analysis performed under this section and sections 577.206, 577.208 and 577.211. In any criminal prosecution for the violation of sections 577.201 and 577.203, the results of any properly performed chemical test of the defendant's blood, breath or urine shall be admissible as evidence.**]**

[578.105. If any county of the first class having a charter form of government containing the major portion of a city of over four hundred fifty thousand

inhabitants exempts itself from the application of section 578.100 by a vote of the voters of the county pursuant to provisions of law permitting such vote, then a county in the following classification may also exempt itself from the application of section 578.100: Any county of the second class as of 1977 that is adjacent to any county containing a portion of a city with a population of more than four hundred thousand inhabitants in the 1970 census. The county may exempt itself from the provisions of section 578.100 by submission of the proposition to the voters of the county at a general election or a primary election, and the proposition receiving a majority of the votes cast therein. The proposal to exempt the county from the provisions of section 578.100 shall be submitted to the voters of the county upon a majority vote of the governing body of the county or when a petition requesting the submission of the proposal to the voters and signed by a number of qualified voters residing in the county equal to eight percent of the votes cast in the county in the next preceding gubernatorial election is filed with the governing body of the county. The ballot of submission shall contain, but not be limited to, the following language: To exempt ..... County from the Sunday sales law.

[ ] YES [ ] NO If a majority of the votes cast on the proposal by the qualified voters voting thereon in the county are in favor of the proposal, then the provisions of section 578.100 shall no longer apply within that county. If a majority of the votes cast on the proposal by the qualified voters voting thereon in the county are opposed to the proposal, then the provisions of section 578.100 shall continue to apply and be enforced within that county. The exemption of any county from the provisions of section 578.100 shall not become effective in that county until the results of the vote exempting the county have been filed with the secretary of state and with the revisor of statutes and have been certified as received by those officers. The revisor of statutes shall note which counties are exempt from the provisions of section 578.100 in the Missouri revised statutes.**]**

[578.106. 1. The governing body of any city not within a county may, by ordinance, exempt areas of the city located within two thousand five hundred yards of a convention center owned by the city or within two thousand five hundred yards of a municipal auditorium owned by the city, or either of such areas, or parts of either or both of such areas, from the application of section 578.100. The ordinance of exemption shall

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specifically define the area or areas to be exempted and upon passage of such ordinance and filing with the secretary of state and the revisor of statutes, the provisions of section 578.100 shall no longer apply within the designated area or areas of the city but shall continue to apply and be enforced in all parts of the city not included within the designated area or areas. However, the sale of automobiles shall not be permitted within the exempted area or areas. The governing body of any city adopting an ordinance pursuant to this section shall file a copy of such ordinance with the secretary of state and with the revisor of statutes and such officer shall certify the receipt of the ordinance. The revisor of statutes shall note in the Missouri revised statutes that an area or areas of the named city are exempt from the provisions of section 578.100.

2. Following the effective date of any exemption adopted pursuant to subsection 1 of this section, no person who leases any structure, or portion thereof, within the area to which such exemption applies to any person engaged in selling merchandise at retail, may include in the lease, contract, or other document governing such lease any provision which would, directly or indirectly, require the lessee to open his business to the general public on Sundays.

3. Following the effective date of any exemption adopted pursuant to subsection 1 of this section, no lease, contract, or other document governing the lease of any structure, or portion thereof, to any person engaged in selling merchandise at retail, which was in effect prior to the date of such exemption shall be interpreted to require the lessee to open his business to the general public on Sundays if the lessee was not required to open his business to the general public at the time he signed such lease, contract, or other document.

4. If any portion of this section is found by a court of competent jurisdiction to be unconstitutional, all remaining portions of this section shall remain valid unless the court finds that the valid provisions of this section are so essentially and inseparably connected with the invalid provision that they cannot stand alone.**]**

[578.110. 1. As used in this section, the term "area" includes all cities not with in a county, all first class counties having a charter form of government and adjoining such cities not within a county and all first class counties which adjoin such first class counties having a charter form of government and

adjoining cities not within a county; and the term "county" means any county of this state not within an area.

2. In addition to the counties which may exempt themselves from the application of section 578.100, under the provisions of section 578.100 or section 578.105, any other county or area may also exempt itself from the application of section 578.100 by a vote of the qualified voters of the county or area; provided that, before any area may so exempt itself from the provisions of section 578.100, the qualified voters of each city not within a county and each county within such area shall vote on the proposal for exemption from the provisions of section 578.100 at the same election and a majority of the total votes cast in such area shall be in favor of the proposal before either such city or any of such counties may be exempted from the provisions of section 578.100.

3. In order to exempt itself from the provisions of section 578.100, the county or area shall submit the proposition to the voters of the county or area at any election, and the proposition shall receive a majority of the votes cast. The proposition to exempt the county from the provisions of section 578.100 shall be submitted to the voters of the county upon a majority vote of the governing body of the county or when a petition requesting the submission of the proposition to the voters and signed by a number of registered voters residing in the county equal to eight percent of the votes cast in the county in the next preceding gubernatorial election is filed with the governing body of the county. When a petition signed by a number of registered voters residing in the area equal to eight percent of the votes cast in the area in the next preceding gubernatorial election requesting the submission of a proposition to exempt the area from the provisions of section 578.100 is filed with each of the governing bodies of the area, the proposition shall be submitted to the voters of the area. The ballot of submission shall contain, but need not be limited to, the following language:

To exempt . . . . . County (or the area consisting

of . . . . . city and . . . . . .

. . . .

counties) from the Sunday sales law.

[ ] YES [ ] NO If a majority of the votes cast on the proposal by the registered voters voting thereon in the county or area are in favor of the proposal, then the provisions of section 578.100 shall no longer apply within that county or area. If a

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majority of the votes cast on the proposal by the registered voters voting thereon in the county or area are opposed to the proposal, then the provisions of section 578.100 shall continue to apply and be enforced within that county or area. The exemption of the county or area from the provisions of section 578.100 shall not become effective in that county or area until the results of the vote exempting the county or area have been filed with the secretary of state and with the revisor of statutes and have been certified as received by those officers. The revisor of statutes shall note which counties or areas are exempt from the provisions of section 578.100 in the Missouri revised statutes.**]**

[578.120. 1. Notwithstanding any provision in this chapter to the contrary, no dealer, distributor or manufacturer licensed under section 301.559 may keep open, operate, or assist in keeping open or operating any established place of business for the purpose of buying, selling, bartering or exchanging, or offering for sale, barter or exchange, any motor vehicle, whether new or used, on Sunday. However, this section does not apply to the sale of manufactured housing; the sale of recreational motor vehicles; washing, towing, wrecking or repairing operations; the sale of petroleum products, tires, and repair parts and accessories; or new vehicle shows or displays participated in by five or more franchised dealers or in towns or cities with five or fewer dealers, a majority.

2. No association consisting of motor vehicle dealers, distributors or manufacturers licensed under section 301.559 shall be in violation of antitrust or restraint of trade statutes under chapter 416 or regulation promulgated thereunder solely because it encourages its members not to open or operate on Sunday a place of business for the purpose of buying, selling, bartering or exchanging any motor vehicle.

3. Any person who violates the provisions of this section shall be guilty of a class C misdemeanor.**]**

[578.200. Sections 578.200 to 578.225 shall be known and may be cited as the "Cave Resources Act".**]**

[578.205. When used in sections 578.200 to 578.225, the following words and phrases shall have the meanings ascribed to them in this section unless the context clearly requires otherwise:

(1) "Cave or cavern", any naturally occurring subterranean cavity enterable by man including, without limitation, a pit, pothole, natural well, grotto and

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tunnel, whether or not the opening has a natural entrance;

(2) "Cave system", the caves in a given area related to each other hydrologically, whether continuous or discontinuous from a single opening;

(3) "Show cave", any cave or cavern wherein trails have been created and some type of lighting provided by the owner or operator for purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is generally collected for entry;

(4) "Sinkhole", a hollow place or depression in the ground in which drainage may collect with an opening therefrom into an underground channel or cave including any subsurface opening that might be bridged by a formation of silt, gravel, humus or any other material through which percolation into the channel or cave may occur.**]**

[578.220. Sections 578.200 to 578.225 shall not apply to vertical or horizontal underground mining operations.**]**

[578.225. Any person who violates any provision of sections 578.200 to 578.225 is guilty of a class A misdemeanor.**]**

[578.353. Any person licensed under chapter 334 or 335 who, in good faith, makes a report pursuant to section 578.350 shall have immunity from civil liability that otherwise might result from such report and shall have the same immunity with respect to any good faith participation in any judicial proceeding in which the reported gunshot wound is an issue. Notwithstanding the provisions of subdivision (5) of section 491.060, the existence of a physician-patient relationship shall not prevent a physician from submitting the report required in section 578.350, or testifying regarding information acquired from a patient treated for a gunshot wound if such testimony is otherwise admissible.**]**

[578.360. As used in sections 578.360 to 578.365, unless the context clearly requires otherwise, the following terms mean:

(1) "Educational institution", a public or private college or university;

(2) "Hazing", a willful act, occurring on or off the campus of an educational institution, directed against a student or a prospective member of an organization operating under the sanction of an educational institution, that recklessly endangers the

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mental or physical health or safety of a student or prospective member for the purpose of initiation or admission into or continued membership in any such organization to the extent that such person is knowingly placed at probable risk of the loss of life or probable bodily or psychological harm. Acts of hazing shall include:

(a) Any activity which recklessly endangers the physical health or safety of the student or prospective member, including but not limited to physical brutality, whipping, beating, branding, exposure to the elements, forced consumption of any food, liquor, drug or other substance or forced smoking or chewing of tobacco products; or

(b) Any activity which recklessly endangers the mental health of the student or prospective member, including but not limited to sleep deprivation, physical confinement, or other extreme stress-inducing activity; or

(c) Any activity that requires the student or prospective member to perform a duty or task which involves a violation of the criminal laws of this state or any political subdivision in this state.**]**

[578.363. Each educational institution in this state shall adopt a written policy prohibiting hazing by any organization operating under the sanction of the institution.**]**

[578.375. As used in sections 578.375 to 578.389, the following terms mean:

(1) "Authorization to participate" or "ATP card", a document which is issued by a state or federal agency to a certified household to show the food stamp allotment the household is authorized to receive on presentation of the document;

(2) "Department", the Missouri department of social services or any of its divisions;

(3) "Employment information", the following facts if reasonably available: complete name, beginning and ending dates of employment during the most recent five years, amount of money earned in any month or months during the most recent five years, last known address, date of birth, and Social Security account number;

(4) "Food stamp coupons" or "food stamp", any coupon, stamp or other type of document used or intended for use in the purchase of food pursuant to the Missouri food stamp program;

(5) "Public assistance", anything of value, including money, food, ATP cards, food stamp coupons, commodities, clothing, utilities, utilities payments,

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shelter, drugs and medicine, materials, goods, and any service including institutional care, medical care, dental care, child care, psychiatric and psychological service, rehabilitation instruction, training, or counseling, received by or paid on behalf of any person under chapters 198, 205, 207, 208, 209, and 660, or benefits, programs, and services provided or administered by the Missouri department of social services or any of its divisions.**]**

[578.389. 1. Every person who has been previously convicted of two violations in section 578.377, 578.379, 578.381, 578.383, 578.385, 578.387, or 578.389 or any two of them shall, upon a subsequent conviction of any of these offenses, be guilty of a class C felony and shall be punished accordingly.

2. Evidence of prior convictions shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.**]**

[578.409. 1. Any person who violates section 578.407:

(1) Shall be guilty of a misdemeanor for each such violation unless the loss, theft, or damage to the animal facility exceeds three hundred dollars in value;

(2) Shall be guilty of a class D felony if the loss, theft, or damage to the animal facility property exceeds three hundred dollars in value but does not exceed ten thousand dollars in value;

(3) Shall be guilty of a class C felony if the loss, theft, or damage to the animal facility property exceeds ten thousand dollars in value but does not exceed one hundred thousand dollars in value;

(4) Shall be guilty of a class B felony if the loss, theft, or damage to the animal facility exceeds one hundred thousand dollars in value.

2. Any person who intentionally agrees with another person to violate section 578.407 and commits an act in furtherance of such violation shall be guilty of the same class of violation as provided in subsection 1 of this section.

3. In the determination of the value of the loss, theft, or damage to an animal facility, the court shall conduct a hearing to determine the reasonable cost of replacement of materials, data, equipment, animals, and records that were damaged, destroyed, lost, or cannot be returned, as well as the reasonable cost of lost production funds and repeating experimentation that may have been disrupted or invalidated as a result of the violation of section 578.407.

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4. Any persons found guilty of a violation of section 578.407 shall be ordered by the court to make restitution, jointly and severally, to the owner, operator, or both, of the animal facility, in the full amount of the reasonable cost as determined under subsection 3 of this section.

5. Any person who has been damaged by a violation of section 578.407 may recover all actual and consequential damages, punitive damages, and court costs, including reasonable attorneys' fees, from the person causing such damage.

6. Nothing in sections 578.405 to 578.412 shall preclude any animal facility injured in its business or property by a violation of section 578.407 from seeking appropriate relief under any other provision of law or remedy including the issuance of an injunction against any person who violates section 578.407. The owner or operator of the animal facility may petition the court to permanently enjoin such persons from violating sections 578.405 to 578.412 and the court shall provide such relief.**]**

[578.412. 1. The director shall have the authority to investigate any alleged violation of sections 578.405 to 578.412, along with any other law enforcement agency, and may take any action within the director's authority necessary for the enforcement of sections 578.405 to 578.412. The attorney general, the highway patrol, and other law enforcement officials shall provide assistance required in the conduct of an investigation.

2. The director may promulgate rules and regulations necessary for the enforcement of sections 578.405 to 578.412. No rule or portion of a rule promulgated under the authority of sections 578.405 to 578.412 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.**]**

[578.414. Sections 578.414 to 578.420 shall be known and may be cited as "The Crop Protection Act". As used in sections 578.414 to 578.420, the term "director" shall mean the director of the department of agriculture.**]**

[578.418. 1. Any person who violates section 578.416:

(1) Shall be guilty of a misdemeanor for each such violation unless the loss or damage to the crop exceeds five hundred dollars in value;

(2) Shall be guilty of a class D felony if the loss or damage to the crop exceeds five hundred dollars in value but does not exceed one thousand dollars in value;

(3) Shall be guilty of a class C felony if the loss or damage to the crop exceeds one thousand dollars in value but does not exceed one hundred thousand dollars in value;

(4) Shall be guilty of a class B felony if the loss or damage to the crop exceeds one hundred thousand dollars in value.

2. Any person who has been damaged by a violation of section 578.416 may have a civil cause of action pursuant to section 537.353.

3. Nothing in sections 578.414 to 578.420 shall preclude any owner or operator injured in his or her business or property by a violation of section 578.416 from seeking appropriate relief under any other provision of law or remedy including the issuance of an injunction against any person who violates section 578.416. The owner or operator of the business may petition the court to permanently enjoin such persons from violating sections 578.414 to 578.420 and the court shall provide such relief.**]**

[578.420. 1. The director shall have the authority to investigate any alleged violation of sections 578.414 to 578.420, along with any other law enforcement agency, and may take any action within the director's authority necessary for the enforcement of sections 578.414 to 578.420. The attorney general, the highway patrol, and other law enforcement officials shall provide assistance required in the conduct of an investigation.

2. The director may promulgate rules and regulations necessary for the enforcement of sections 578.414 to 578.420. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in sections 578.414 to 578.420 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. Sections 578.414 to 578.420 and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**]**

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[578.433. It is unlawful for a person to keep or maintain such a public nuisance. 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 of keeping or maintaining a public nuisance. Keeping or maintaining a public nuisance is a class C felony.**]**

[578.530. It shall be an affirmative defense to prosecution for a violation of sections 578.520 and 578.525 that the premises were at the time open to members of the public and the person complied with all lawful conditions imposed concerning access to or the privilege of remaining on the premises.**]**

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