

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 215

AN ACT

To repeal sections 43.518, 160.261, 167.115, 167.171, 168.071, 188.023, 211.071, 211.447, 217.010, 217.345, 217.703, 339.100, 375.1312, 544.455, 556.036, 556.037, 556.061, 557.011, 558.018, 558.026, 559.036, 559.100, 559.105, 559.115, 559.117, 566.020, 566.030, 566.040, 566.060, 566.070, 566.090, 566.093, 566.095, 566.100, 566.224, 566.226, 570.120, 573.037, 589.015, 590.700, 595.220, 600.011, 600.040, 600.042, 600.048, 632.480, 632.498, and 632.505, RSMo, and to enact in lieu thereof fifty-two new sections relating to criminal procedures, with penalty provisions, and an emergency clause for certain sections.

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

1 Section A. Sections 43.518, 160.261, 167.115, 167.171,
2 168.071, 188.023, 211.071, 211.447, 217.010, 217.345, 217.703,
3 339.100, 375.1312, 544.455, 556.036, 556.037, 556.061, 557.011,
4 558.018, 558.026, 559.036, 559.100, 559.105, 559.115, 559.117,
5 566.020, 566.030, 566.040, 566.060, 566.070, 566.090, 566.093,
6 566.095, 566.100, 566.224, 566.226, 570.120, 573.037, 589.015,
7 590.700, 595.220, 600.011, 600.040, 600.042, 600.048, 632.480,
8 632.498, and 632.505, RSMo, are repealed and fifty-two new
9 sections enacted in lieu thereof, to be known as sections 43.518,

1 160.261, 167.115, 167.171, 168.071, 188.023, 211.071, 211.447,
2 217.010, 217.345, 217.703, 339.100, 375.1312, 544.455, 556.036,
3 556.037, 556.061, 557.011, 558.018, 558.026, 559.036, 559.100,
4 559.105, 559.115, 559.117, 566.020, 566.030, 566.031, 566.060,
5 566.061, 566.093, 566.095, 566.100, 566.101, 566.224, 566.226,
6 570.120, 573.037, 589.015, 590.700, 595.220, 600.011, 600.040,
7 600.042, 600.048, 600.062, 600.063, 600.064, 632.480, 632.498,
8 632.505, and 1, to read as follows:

9 43.518. 1. There is hereby established within the
10 department of public safety a "Criminal Records and Justice
11 Information Advisory Committee" whose purpose is to:

12 (1) Recommend general policies with respect to the
13 philosophy, concept and operational principles of the Missouri
14 criminal history record information system established by
15 sections 43.500 to 43.530, in regard to the collection,
16 processing, storage, dissemination and use of criminal history
17 record information maintained by the central repository;

18 (2) Assess the current state of electronic justice
19 information sharing; and

20 (3) Recommend policies and strategies, including standards
21 and technology, for promoting electronic justice information
22 sharing, and coordinating among the necessary agencies and
23 institutions; and

24 (4) Provide guidance regarding the use of any state or
25 federal funds appropriated for promoting electronic justice
26 information sharing.

27 2. The committee shall be composed of the following
28 officials or their designees: the director of the department of

1 public safety; the director of the department of corrections and
2 human resources; the attorney general; the director of the
3 Missouri office of prosecution services; the president of the
4 Missouri prosecutors association; the president of the Missouri
5 court clerks association; the chief clerk of the Missouri state
6 supreme court; the director of the state courts administrator;
7 the chairman of the state judicial record committee; the chairman
8 of the [circuit court budget] court automation committee; the
9 presidents of the Missouri peace officers association; the
10 Missouri sheriffs association; the Missouri police chiefs
11 association or their successor agency; the superintendent of the
12 Missouri highway patrol; the chiefs of police of agencies in
13 jurisdictions with over two hundred thousand population; except
14 that, in any county of the first class having a charter form of
15 government, the chief executive of the county may designate
16 another person in place of the police chief of any countywide
17 police force, to serve on the committee; and, at the discretion
18 of the director of public safety, as many as three other
19 representatives of other criminal justice records systems or law
20 enforcement agencies may be appointed by the director of public
21 safety. The director of the department of public safety will
22 serve as the permanent chairman of this committee.

23 3. The committee shall meet as determined by the director
24 but not less than semiannually to perform its duties. A majority
25 of the appointed members of the committee shall constitute a
26 quorum.

27 4. No member of the committee shall receive any state
28 compensation for the performance of duties associated with

1 membership on this committee.

2 5. Official minutes of all committee meetings will be
3 prepared by the director, promptly distributed to all committee
4 members, and filed by the director for a period of at least five
5 years.

6 160.261. 1. The local board of education of each school
7 district shall clearly establish a written policy of discipline,
8 including the district's determination on the use of corporal
9 punishment and the procedures in which punishment will be
10 applied. A written copy of the district's discipline policy and
11 corporal punishment procedures, if applicable, shall be provided
12 to the pupil and parent or legal guardian of every pupil enrolled
13 in the district at the beginning of each school year and also
14 made available in the office of the superintendent of such
15 district, during normal business hours, for public inspection.
16 All employees of the district shall annually receive instruction
17 related to the specific contents of the policy of discipline and
18 any interpretations necessary to implement the provisions of the
19 policy in the course of their duties, including but not limited
20 to approved methods of dealing with acts of school violence,
21 disciplining students with disabilities and instruction in the
22 necessity and requirements for confidentiality.

23 2. The policy shall require school administrators to report
24 acts of school violence to all teachers at the attendance center
25 and, in addition, to other school district employees with a need
26 to know. For the purposes of this chapter or chapter 167, "need
27 to know" is defined as school personnel who are directly
28 responsible for the student's education or who otherwise interact

1 with the student on a professional basis while acting within the
2 scope of their assigned duties. As used in this section, the
3 phrase "act of school violence" or "violent behavior" means the
4 exertion of physical force by a student with the intent to do
5 serious physical injury as defined in subdivision (6) of section
6 565.002 to another person while on school property, including a
7 school bus in service on behalf of the district, or while
8 involved in school activities. The policy shall at a minimum
9 require school administrators to report, as soon as reasonably
10 practical, to the appropriate law enforcement agency any of the
11 following crimes, or any act which if committed by an adult would
12 be one of the following crimes:

- 13 (1) First degree murder under section 565.020;
- 14 (2) Second degree murder under section 565.021;
- 15 (3) Kidnapping under section 565.110;
- 16 (4) First degree assault under section 565.050;
- 17 (5) **[Forcible]** Rape in the first degree under section
18 566.030;
- 19 (6) **[Forcible]** Sodomy in the first degree under section
20 566.060;
- 21 (7) Burglary in the first degree under section 569.160;
- 22 (8) Burglary in the second degree under section 569.170;
- 23 (9) Robbery in the first degree under section 569.020;
- 24 (10) Distribution of drugs under section 195.211;
- 25 (11) Distribution of drugs to a minor under section
26 195.212;
- 27 (12) Arson in the first degree under section 569.040;
- 28 (13) Voluntary manslaughter under section 565.023;

- 1 (14) Involuntary manslaughter under section 565.024;
- 2 (15) Second degree assault under section 565.060;
- 3 (16) ~~Sexual assault~~ Rape in the second degree under
4 section ~~566.040~~ 566.031;
- 5 (17) Felonious restraint under section 565.120;
- 6 (18) Property damage in the first degree under section
7 569.100;
- 8 (19) The possession of a weapon under chapter 571;
- 9 (20) Child molestation in the first degree pursuant to
10 section 566.067;
- 11 (21) ~~Deviate sexual assault~~ Sodomy in the second degree
12 pursuant to section ~~566.070~~ 566.061;
- 13 (22) Sexual misconduct involving a child pursuant to
14 section 566.083;
- 15 (23) Sexual abuse in the first degree pursuant to section
16 566.100;
- 17 (24) Harassment under section 565.090; or
- 18 (25) Stalking under section 565.225; committed on school
19 property, including but not limited to actions on any school bus
20 in service on behalf of the district or while involved in school
21 activities. The policy shall require that any portion of a
22 student's individualized education program that is related to
23 demonstrated or potentially violent behavior shall be provided to
24 any teacher and other school district employees who are directly
25 responsible for the student's education or who otherwise interact
26 with the student on an educational basis while acting within the
27 scope of their assigned duties. The policy shall also contain
28 the consequences of failure to obey standards of conduct set by

1 the local board of education, and the importance of the standards
2 to the maintenance of an atmosphere where orderly learning is
3 possible and encouraged.

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

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

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

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

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

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

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

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

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

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

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

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

20 7. All school district personnel responsible for the care
21 and supervision of students are authorized to hold every pupil
22 strictly accountable for any disorderly conduct in school or on
23 any property of the school, on any school bus going to or
24 returning from school, during school-sponsored activities, or
25 during intermission or recess periods.

26 8. Teachers and other authorized district personnel in
27 public schools responsible for the care, supervision, and
28 discipline of schoolchildren, including volunteers selected with

1 reasonable care by the school district, shall not be civilly
2 liable when acting in conformity with the established policies
3 developed by each board, including but not limited to policies of
4 student discipline or when reporting to his or her supervisor or
5 other person as mandated by state law acts of school violence or
6 threatened acts of school violence, within the course and scope
7 of the duties of the teacher, authorized district personnel or
8 volunteer, when such individual is acting in conformity with the
9 established policies developed by the board. Nothing in this
10 section shall be construed to create a new cause of action
11 against such school district, or to relieve the school district
12 from liability for the negligent acts of such persons.

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

28 10. Spanking, when administered by certificated personnel

1 and in the presence of a witness who is an employee of the school
2 district, or the use of reasonable force to protect persons or
3 property, when administered by personnel of a school district in
4 a reasonable manner in accordance with the local board of
5 education's written policy of discipline, is not abuse within the
6 meaning of chapter 210. The provisions of sections 210.110 to
7 210.165 notwithstanding, the children's division shall not have
8 jurisdiction over or investigate any report of alleged child
9 abuse arising out of or related to the use of reasonable force to
10 protect persons or property when administered by personnel of a
11 school district or any spanking administered in a reasonable
12 manner by any certificated school personnel in the presence of a
13 witness who is an employee of the school district pursuant to a
14 written policy of discipline established by the board of
15 education of the school district, as long as no allegation of
16 sexual misconduct arises from the spanking or use of force.

17 11. If a student reports alleged sexual misconduct on the
18 part of a teacher or other school employee to a person employed
19 in a school facility who is required to report such misconduct to
20 the children's division under section 210.115, such person and
21 the superintendent of the school district shall forward the
22 allegation to the children's division within twenty-four hours of
23 receiving the information. Reports made to the children's
24 division under this subsection shall be investigated by the
25 division in accordance with the provisions of sections 210.145 to
26 210.153 and shall not be investigated by the school district
27 under subsections 12 to 20 of this section for purposes of
28 determining whether the allegations should or should not be

1 substantiated. The district may investigate the allegations for
2 the purpose of making any decision regarding the employment of
3 the accused employee.

4 12. Upon receipt of any reports of child abuse by the
5 children's division other than reports provided under subsection
6 11 of this section, pursuant to sections 210.110 to 210.165 which
7 allegedly involve personnel of a school district, the children's
8 division shall notify the superintendent of schools of the
9 district or, if the person named in the alleged incident is the
10 superintendent of schools, the president of the school board of
11 the school district where the alleged incident occurred.

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

25 14. If the report pertains to an alleged incident which
26 arose out of or is related to a spanking administered by
27 certificated personnel or the use of reasonable force to protect
28 persons or property when administered by personnel of a school

1 district pursuant to a written policy of discipline or a report
2 made for the sole purpose of harassing a public school employee,
3 a notification of the reported child abuse shall be sent by the
4 superintendent of schools or the president of the school board to
5 the law enforcement in the county in which the alleged incident
6 occurred.

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

12 16. The investigation shall begin no later than forty-eight
13 hours after notification from the children's division is
14 received, and shall consist of, but need not be limited to,
15 interviewing and recording statements of the child and the
16 child's parents or guardian within two working days after the
17 start of the investigation, of the school district personnel
18 allegedly involved in the report, and of any witnesses to the
19 alleged incident.

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

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

28 19. The school board shall consider the separate reports

1 referred to in subsection 17 of this section and shall issue its
2 findings and conclusions and the action to be taken, if any,
3 within seven days after receiving the last of the two reports.
4 The findings and conclusions shall be made in substantially the
5 following form:

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

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

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

19 20. The findings and conclusions of the school board under
20 subsection 19 of this section shall be sent to the children's
21 division. If the findings and conclusions of the school board
22 are that the report of the alleged child abuse is
23 unsubstantiated, the investigation shall be terminated, the case
24 closed, and no record shall be entered in the children's division
25 central registry. If the findings and conclusions of the school
26 board are that the report of the alleged child abuse is
27 substantiated, the children's division shall report the incident
28 to the prosecuting attorney of the appropriate county along with

1 the findings and conclusions of the school district and shall
2 include the information in the division's central registry. If
3 the findings and conclusions of the school board are that the
4 issue involved in the alleged incident of child abuse is
5 unresolved, the children's division shall report the incident to
6 the prosecuting attorney of the appropriate county along with the
7 findings and conclusions of the school board, however, the
8 incident and the names of the parties allegedly involved shall
9 not be entered into the central registry of the children's
10 division unless and until the alleged child abuse is
11 substantiated by a court of competent jurisdiction.

12 21. Any superintendent of schools, president of a school
13 board or such person's designee or law enforcement officer who
14 knowingly falsifies any report of any matter pursuant to this
15 section or who knowingly withholds any information relative to
16 any investigation or report pursuant to this section is guilty of
17 a class A misdemeanor.

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

25 167.115. 1. Notwithstanding any provision of chapter 211
26 or chapter 610 to the contrary, the juvenile officer, sheriff,
27 chief of police or other appropriate law enforcement authority
28 shall, as soon as reasonably practical, notify the

1 superintendent, or the superintendent's designee, of the school
2 district in which the pupil is enrolled when a petition is filed
3 pursuant to subsection 1 of section 211.031 alleging that the
4 pupil has committed one of the following acts:

5 (1) First degree murder under section 565.020;

6 (2) Second degree murder under section 565.021;

7 (3) Kidnapping under section 565.110;

8 (4) First degree assault under section 565.050;

9 (5) Forcible rape under section 566.030 as it existed prior
10 to August 28, 2013, or rape in the first degree under section
11 566.030;

12 (6) Forcible sodomy under section 566.060 as it existed
13 prior to August 28, 2013, or sodomy in the first degree under
14 section 566.060;

15 (7) Burglary in the first degree under section 569.160;

16 (8) Robbery in the first degree under section 569.020;

17 (9) Distribution of drugs under section 195.211;

18 (10) Distribution of drugs to a minor under section
19 195.212;

20 (11) Arson in the first degree under section 569.040;

21 (12) Voluntary manslaughter under section 565.023;

22 (13) Involuntary manslaughter under section 565.024;

23 (14) Second degree assault under section 565.060;

24 (15) Sexual assault under section 566.040 as it existed
25 prior to August 28, 2013, or rape in the second degree under
26 section 566.031;

27 (16) Felonious restraint under section 565.120;

28 (17) Property damage in the first degree under section

1 569.100;

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

3 (19) Child molestation in the first degree pursuant to
4 section 566.067;

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

8 (21) Sexual misconduct involving a child pursuant to
9 section 566.083; or

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

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

25 3. The superintendent or the designee of the superintendent
26 shall report such information to teachers and other school
27 district employees with a need to know while acting within the
28 scope of their assigned duties. Any information received by

1 school district officials pursuant to this section shall be
2 received in confidence and used for the limited purpose of
3 assuring that good order and discipline is maintained in the
4 school. This information shall not be used as the sole basis for
5 not providing educational services to a public school pupil.

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

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

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

22 7. As used in this section, the terms "school" and "school
23 district" shall include any charter, private or parochial school
24 or school district, and the term "superintendent" shall include
25 the principal or equivalent chief school officer in the cases of
26 charter, private or parochial schools.

27 8. The superintendent or the designee of the superintendent
28 or other school employee who, in good faith, reports information

1 in accordance with the terms of this section and section 160.261
2 shall not be civilly liable for providing such information.

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

22 2. No pupil shall be suspended unless:

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

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

28 (3) The pupil shall be given an opportunity to present such

1 pupil's version of the incident; and

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

12 3. No school board shall readmit or enroll a pupil properly
13 suspended for more than ten consecutive school days for an act of
14 school violence as defined in subsection 2 of section 160.261
15 regardless of whether or not such act was committed at a public
16 school or at a private school in this state, provided that such
17 act shall have resulted in the suspension or expulsion of such
18 pupil in the case of a private school, or otherwise permit such
19 pupil to attend school without first holding a conference to
20 review the conduct that resulted in the expulsion or suspension
21 and any remedial actions needed to prevent any future occurrences
22 of such or related conduct. The conference shall include the
23 appropriate school officials including any teacher employed in
24 that school or district directly involved with the conduct that
25 resulted in the suspension or expulsion, the pupil, the parent or
26 guardian of the pupil or any agency having legal jurisdiction,
27 care, custody or control of the pupil. The school board shall
28 notify in writing the parents or guardians and all other parties

1 of the time, place, and agenda of any such conference. Failure
2 of any party to attend this conference shall not preclude holding
3 the conference. Notwithstanding any provision of this subsection
4 to the contrary, no pupil shall be readmitted or enrolled to a
5 regular program of instruction if:

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

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

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

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

17 (a) First degree murder under section 565.020;

18 (b) Second degree murder under section 565.021;

19 (c) First degree assault under section 565.050;

20 (d) Forcible rape under section 566.030 as it existed prior
21 to August 28, 2013, or rape in the first degree under section
22 566.030;

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

26 (f) Statutory rape under section 566.032;

27 (g) Statutory sodomy under section 566.062;

28 (h) Robbery in the first degree under section 569.020;

1 (i) Distribution of drugs to a minor under section 195.212;
2 (j) Arson in the first degree under section 569.040;
3 (k) Kidnapping, when classified as a class A felony under
4 section 565.110. Nothing in this subsection shall prohibit the
5 readmittance or enrollment of any pupil if a petition has been
6 dismissed, or when a pupil has been acquitted or adjudicated not
7 to have committed any of the above acts. This subsection shall
8 not apply to a student with a disability, as identified under
9 state eligibility criteria, who is convicted or adjudicated
10 guilty as a result of an action related to the student's
11 disability. Nothing in this subsection shall be construed to
12 prohibit a school district which provides an alternative
13 education program from enrolling a pupil in an alternative
14 education program if the district determines such enrollment is
15 appropriate.

16 4. If a pupil is attempting to enroll in a school district
17 during a suspension or expulsion from another in-state or
18 out-of-state school district including a private, charter or
19 parochial school or school district, a conference with the
20 superintendent or the superintendent's designee may be held at
21 the request of the parent, court-appointed legal guardian,
22 someone acting as a parent as defined by rule in the case of a
23 special education student, or the pupil to consider if the
24 conduct of the pupil would have resulted in a suspension or
25 expulsion in the district in which the pupil is enrolling. Upon
26 a determination by the superintendent or the superintendent's
27 designee that such conduct would have resulted in a suspension or
28 expulsion in the district in which the pupil is enrolling or

1 attempting to enroll, the school district may make such
2 suspension or expulsion from another school or district effective
3 in the district in which the pupil is enrolling or attempting to
4 enroll. Upon a determination by the superintendent or the
5 superintendent's designee that such conduct would not have
6 resulted in a suspension or expulsion in the district in which
7 the student is enrolling or attempting to enroll, the school
8 district shall not make such suspension or expulsion effective in
9 its district in which the student is enrolling or attempting to
10 enroll.

11 168.071. 1. The state board of education may refuse to
12 issue or renew a certificate, or may, upon hearing, discipline
13 the holder of a certificate of license to teach for the following
14 causes:

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (2) Any of the following sexual offenses: rape in the
18 first degree under section 566.030; forcible rape under section
19 566.030 as it existed prior to August 28, 2013; rape as it
20 existed prior to August 13, 1980; statutory rape in the first
21 degree under section 566.032; statutory rape in the second degree
22 under section 566.034; rape in the second degree under section
23 566.031; sexual assault under section 566.040 as it existed prior
24 to August 28, 2013; sodomy in the first degree under section
25 566.060; forcible sodomy under section 566.060 as it existed
26 prior to August 28, 2013; sodomy as it existed prior to January
27 1, 1995; statutory sodomy in the first degree under section
28 566.062; statutory sodomy in the second degree under section

1 566.064; child molestation in the first degree under section
2 566.067; child molestation in the second degree under section
3 566.068; sodomy in the second degree under section 566.061;
4 deviate sexual assault under section 566.070 as it existed prior
5 to August 28, 2013; sexual misconduct involving a child under
6 section 566.083; sexual contact with a student while on public
7 school property under section 566.086; sexual misconduct in the
8 first degree under section 566.093; sexual misconduct in the
9 first degree under section 566.090 as it existed prior to August
10 28, 2013; sexual misconduct in the second degree under section
11 566.095; sexual misconduct in the second degree under section
12 566.093 as it existed prior to August 28, 2013; sexual misconduct
13 in the third degree under section 566.095 as it existed prior to
14 August 28, 2013; sexual abuse in the first degree under section
15 566.100; sexual abuse under section 566.100 as it existed prior
16 to August 28, 2013; sexual abuse in the second degree under
17 section 566.101; enticement of a child under section 566.151; or
18 attempting to entice a child;

19 (3) Any of the following offenses against the family and
20 related offenses: incest under section 568.020; abandonment of
21 child in the first degree under section 568.030; abandonment of
22 child in the second degree under section 568.032; endangering the
23 welfare of a child in the first degree under section 568.045;
24 abuse of a child under section 568.060; child used in a sexual
25 performance under section 568.080; promoting sexual performance
26 by a child under section 568.090; or trafficking in children
27 under section 568.175; and

28 (4) Any of the following offenses involving child

1 pornography and related offenses: promoting obscenity in the
2 first degree under section 573.020; promoting obscenity in the
3 second degree when the penalty is enhanced to a class D felony
4 under section 573.030; promoting child pornography in the first
5 degree under section 573.025; promoting child pornography in the
6 second degree under section 573.035; possession of child
7 pornography under section 573.037; furnishing pornographic
8 materials to minors under section 573.040; or coercing acceptance
9 of obscene material under section 573.065.

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

17 8. The certificate holder whose certificate was revoked
18 pursuant to subsection 6 of this section may appeal such
19 revocation to the state board of education. Notice of this
20 appeal must be received by the commissioner of education within
21 ninety days of notice of revocation pursuant to this subsection.
22 Failure of the certificate holder to notify the commissioner of
23 the intent to appeal waives all rights to appeal the revocation.
24 Upon notice of the certificate holder's intent to appeal, an
25 appeal hearing shall be held by a hearing officer designated by
26 the commissioner of education, with the final decision made by
27 the state board of education, based upon the record of that
28 hearing. The certificate holder shall be given not less than

1 thirty days' notice of the hearing, and an opportunity to be
2 heard by the hearing officer, together with witnesses.

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

8 10. In those cases where the charges filed pursuant to this
9 section are based upon an allegation of misconduct involving a
10 minor child, the hearing officer may accept into the record the
11 sworn testimony of the minor child relating to the misconduct
12 received in any court or administrative hearing.

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

19 12. The final decision of the state board of education is
20 subject to judicial review pursuant to sections 536.100 to
21 536.140.

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

27 188.023. Any licensed health care professional who delivers
28 a baby or performs an abortion, who has prima facie evidence that

1 a patient has been the victim of statutory rape in the first
2 degree or statutory rape in the second degree, or if the patient
3 is under the age of eighteen, that he or she has been a victim of
4 sexual abuse, including [forcible rape, sexual assault] rape in
5 the first or second degree, or incest, shall be required to
6 report such offenses in the same manner as provided for by
7 section 210.115.

8 211.071. 1. If a petition alleges that a child between the
9 ages of twelve and seventeen has committed an offense which would
10 be considered a felony if committed by an adult, the court may,
11 upon its own motion or upon motion by the juvenile officer, the
12 child or the child's custodian, order a hearing and may, in its
13 discretion, dismiss the petition and such child may be
14 transferred to the court of general jurisdiction and prosecuted
15 under the general law; except that if a petition alleges that any
16 child has committed an offense which would be considered first
17 degree murder under section 565.020, second degree murder under
18 section 565.021, first degree assault under section 565.050,
19 forcible rape under section 566.030 as it existed prior to August
20 28, 2013, rape in the first degree under section 566.030,
21 forcible sodomy under section 566.060 as it existed prior to
22 August 28, 2013, sodomy in the first degree under section
23 566.060, first degree robbery under section 569.020, or
24 distribution of drugs under section 195.211, or has committed two
25 or more prior unrelated offenses which would be felonies if
26 committed by an adult, the court shall order a hearing, and may
27 in its discretion, dismiss the petition and transfer the child to
28 a court of general jurisdiction for prosecution under the general

1 law.

2 2. Upon apprehension and arrest, jurisdiction over the
3 criminal offense allegedly committed by any person between
4 seventeen and twenty-one years of age over whom the juvenile
5 court has retained continuing jurisdiction shall automatically
6 terminate and that offense shall be dealt with in the court of
7 general jurisdiction as provided in section 211.041.

8 3. Knowing and willful age misrepresentation by a juvenile
9 subject shall not affect any action or proceeding which occurs
10 based upon the misrepresentation. Any evidence obtained during
11 the period of time in which a child misrepresents his or her age
12 may be used against the child and will be subject only to rules
13 of evidence applicable in adult proceedings.

14 4. Written notification of a transfer hearing shall be
15 given to the juvenile and his or her custodian in the same manner
16 as provided in sections 211.101 and 211.111. Notice of the
17 hearing may be waived by the custodian. Notice shall contain a
18 statement that the purpose of the hearing is to determine whether
19 the child is a proper subject to be dealt with under the
20 provisions of this chapter, and that if the court finds that the
21 child is not a proper subject to be dealt with under the
22 provisions of this chapter, the petition will be dismissed to
23 allow for prosecution of the child under the general law.

24 5. The juvenile officer may consult with the office of
25 prosecuting attorney concerning any offense for which the child
26 could be certified as an adult under this section. The
27 prosecuting or circuit attorney shall have access to police
28 reports, reports of the juvenile or deputy juvenile officer,

1 statements of witnesses and all other records or reports relating
2 to the offense alleged to have been committed by the child. The
3 prosecuting or circuit attorney shall have access to the
4 disposition records of the child when the child has been
5 adjudicated pursuant to subdivision (3) of subsection 1 of
6 section 211.031. The prosecuting attorney shall not divulge any
7 information regarding the child and the offense until the
8 juvenile court at a judicial hearing has determined that the
9 child is not a proper subject to be dealt with under the
10 provisions of this chapter.

11 6. A written report shall be prepared in accordance with
12 this chapter developing fully all available information relevant
13 to the criteria which shall be considered by the court in
14 determining whether the child is a proper subject to be dealt
15 with under the provisions of this chapter and whether there are
16 reasonable prospects of rehabilitation within the juvenile
17 justice system. These criteria shall include but not be limited
18 to:

19 (1) The seriousness of the offense alleged and whether the
20 protection of the community requires transfer to the court of
21 general jurisdiction;

22 (2) Whether the offense alleged involved viciousness, force
23 and violence;

24 (3) Whether the offense alleged was against persons or
25 property with greater weight being given to the offense against
26 persons, especially if personal injury resulted;

27 (4) Whether the offense alleged is a part of a repetitive
28 pattern of offenses which indicates that the child may be beyond

1 rehabilitation under the juvenile code;

2 (5) The record and history of the child, including
3 experience with the juvenile justice system, other courts,
4 supervision, commitments to juvenile institutions and other
5 placements;

6 (6) The sophistication and maturity of the child as
7 determined by consideration of his home and environmental
8 situation, emotional condition and pattern of living;

9 (7) The age of the child;

10 (8) The program and facilities available to the juvenile
11 court in considering disposition;

12 (9) Whether or not the child can benefit from the treatment
13 or rehabilitative programs available to the juvenile court; and

14 (10) Racial disparity in certification.

15 7. If the court dismisses the petition to permit the child
16 to be prosecuted under the general law, the court shall enter a
17 dismissal order containing:

18 (1) Findings showing that the court had jurisdiction of the
19 cause and of the parties;

20 (2) Findings showing that the child was represented by
21 counsel;

22 (3) Findings showing that the hearing was held in the
23 presence of the child and his counsel; and

24 (4) Findings showing the reasons underlying the court's
25 decision to transfer jurisdiction.

26 8. A copy of the petition and order of the dismissal shall
27 be sent to the prosecuting attorney.

28 9. When a petition has been dismissed thereby permitting a

1 child to be prosecuted under the general law, the jurisdiction of
2 the juvenile court over that child is forever terminated, except
3 as provided in subsection 10 of this section, for an act that
4 would be a violation of a state law or municipal ordinance.

5 10. If a petition has been dismissed thereby permitting a
6 child to be prosecuted under the general law and the child is
7 found not guilty by a court of general jurisdiction, the juvenile
8 court shall have jurisdiction over any later offense committed by
9 that child which would be considered a misdemeanor or felony if
10 committed by an adult, subject to the certification provisions of
11 this section.

12 11. If the court does not dismiss the petition to permit
13 the child to be prosecuted under the general law, it shall set a
14 date for the hearing upon the petition as provided in section
15 211.171.

16 211.447. 1. Any information that could justify the filing
17 of a petition to terminate parental rights may be referred to the
18 juvenile officer by any person. The juvenile officer shall make
19 a preliminary inquiry and if it does not appear to the juvenile
20 officer that a petition should be filed, such officer shall so
21 notify the informant in writing within thirty days of the
22 referral. Such notification shall include the reasons that the
23 petition will not be filed. Thereupon, the informant may bring
24 the matter directly to the attention of the judge of the juvenile
25 court by presenting the information in writing, and if it appears
26 to the judge that the information could justify the filing of a
27 petition, the judge may order the juvenile officer to take
28 further action, including making a further preliminary inquiry or

1 filing a petition.

2 2. Except as provided for in subsection 4 of this section,
3 a petition to terminate the parental rights of the child's parent
4 or parents shall be filed by the juvenile officer or the
5 division, or if such a petition has been filed by another party,
6 the juvenile officer or the division shall seek to be joined as a
7 party to the petition, when:

8 (1) Information available to the juvenile officer or the
9 division establishes that the child has been in foster care for
10 at least fifteen of the most recent twenty-two months; or

11 (2) A court of competent jurisdiction has determined the
12 child to be an abandoned infant. For purposes of this
13 subdivision, an "infant" means any child one year of age or under
14 at the time of filing of the petition. The court may find that
15 an infant has been abandoned if:

16 (a) The parent has left the child under circumstances that
17 the identity of the child was unknown and could not be
18 ascertained, despite diligent searching, and the parent has not
19 come forward to claim the child; or

20 (b) The parent has, without good cause, left the child
21 without any provision for parental support and without making
22 arrangements to visit or communicate with the child, although
23 able to do so; or

24 (3) A court of competent jurisdiction has determined that
25 the parent has:

26 (a) Committed murder of another child of the parent; or

27 (b) Committed voluntary manslaughter of another child of
28 the parent; or

1 (c) Aided or abetted, attempted, conspired or solicited to
2 commit such a murder or voluntary manslaughter; or

3 (d) Committed a felony assault that resulted in serious
4 bodily injury to the child or to another child of the parent.

5 3. A termination of parental rights petition shall be filed
6 by the juvenile officer or the division, or if such a petition
7 has been filed by another party, the juvenile officer or the
8 division shall seek to be joined as a party to the petition,
9 within sixty days of the judicial determinations required in
10 subsection 2 of this section, except as provided in subsection 4
11 of this section. Failure to comply with this requirement shall
12 not deprive the court of jurisdiction to adjudicate a petition
13 for termination of parental rights which is filed outside of
14 sixty days.

15 4. If grounds exist for termination of parental rights
16 pursuant to subsection 2 of this section, the juvenile officer or
17 the division may, but is not required to, file a petition to
18 terminate the parental rights of the child's parent or parents
19 if:

20 (1) The child is being cared for by a relative; or

21 (2) There exists a compelling reason for determining that
22 filing such a petition would not be in the best interest of the
23 child, as documented in the permanency plan which shall be made
24 available for court review; or

25 (3) The family of the child has not been provided such
26 services as provided for in section 211.183.

27 5. The juvenile officer or the division may file a petition
28 to terminate the parental rights of the child's parent when it

1 appears that one or more of the following grounds for termination
2 exist:

3 (1) The child has been abandoned. For purposes of this
4 subdivision a "child" means any child over one year of age at the
5 time of filing of the petition. The court shall find that the
6 child has been abandoned if, for a period of six months or
7 longer:

8 (a) The parent has left the child under such circumstances
9 that the identity of the child was unknown and could not be
10 ascertained, despite diligent searching, and the parent has not
11 come forward to claim the child; or

12 (b) The parent has, without good cause, left the child
13 without any provision for parental support and without making
14 arrangements to visit or communicate with the child, although
15 able to do so;

16 (2) The child has been abused or neglected. In determining
17 whether to terminate parental rights pursuant to this
18 subdivision, the court shall consider and make findings on the
19 following conditions or acts of the parent:

20 (a) A mental condition which is shown by competent evidence
21 either to be permanent or such that there is no reasonable
22 likelihood that the condition can be reversed and which renders
23 the parent unable to knowingly provide the child the necessary
24 care, custody and control;

25 (b) Chemical dependency which prevents the parent from
26 consistently providing the necessary care, custody and control of
27 the child and which cannot be treated so as to enable the parent
28 to consistently provide such care, custody and control;

1 (c) A severe act or recurrent acts of physical, emotional
2 or sexual abuse toward the child or any child in the family by
3 the parent, including an act of incest, or by another under
4 circumstances that indicate that the parent knew or should have
5 known that such acts were being committed toward the child or any
6 child in the family; or

7 (d) Repeated or continuous failure by the parent, although
8 physically or financially able, to provide the child with
9 adequate food, clothing, shelter, or education as defined by law,
10 or other care and control necessary for the child's physical,
11 mental, or emotional health and development. Nothing in this
12 subdivision shall be construed to permit discrimination on the
13 basis of disability or disease;

14 (3) The child has been under the jurisdiction of the
15 juvenile court for a period of one year, and the court finds that
16 the conditions which led to the assumption of jurisdiction still
17 persist, or conditions of a potentially harmful nature continue
18 to exist, that there is little likelihood that those conditions
19 will be remedied at an early date so that the child can be
20 returned to the parent in the near future, or the continuation of
21 the parent-child relationship greatly diminishes the child's
22 prospects for early integration into a stable and permanent home.
23 In determining whether to terminate parental rights under this
24 subdivision, the court shall consider and make findings on the
25 following:

26 (a) The terms of a social service plan entered into by the
27 parent and the division and the extent to which the parties have
28 made progress in complying with those terms;

1 (b) The success or failure of the efforts of the juvenile
2 officer, the division or other agency to aid the parent on a
3 continuing basis in adjusting his circumstances or conduct to
4 provide a proper home for the child;

5 (c) A mental condition which is shown by competent evidence
6 either to be permanent or such that there is no reasonable
7 likelihood that the condition can be reversed and which renders
8 the parent unable to knowingly provide the child the necessary
9 care, custody and control;

10 (d) Chemical dependency which prevents the parent from
11 consistently providing the necessary care, custody and control
12 over the child and which cannot be treated so as to enable the
13 parent to consistently provide such care, custody and control; or

14 (4) The parent has been found guilty or pled guilty to a
15 felony violation of chapter 566 when the child or any child in
16 the family was a victim, or a violation of section 568.020 when
17 the child or any child in the family was a victim. As used in
18 this subdivision, a "child" means any person who was under
19 eighteen years of age at the time of the crime and who resided
20 with such parent or was related within the third degree of
21 consanguinity or affinity to such parent; or

22 (5) The child was conceived and born as a result of an act
23 of forcible rape or rape in the first degree. When the
24 biological father has pled guilty to, or is convicted of, the
25 forcible rape or rape in the first degree of the birth mother,
26 such a plea or conviction shall be conclusive evidence supporting
27 the termination of the biological father's parental rights; or

28 (6) The parent is unfit to be a party to the parent and

1 child relationship because of a consistent pattern of committing
2 a specific abuse, including but not limited to abuses as defined
3 in section 455.010, child abuse or drug abuse before the child or
4 of specific conditions directly relating to the parent and child
5 relationship either of which are determined by the court to be of
6 a duration or nature that renders the parent unable, for the
7 reasonably foreseeable future, to care appropriately for the
8 ongoing physical, mental or emotional needs of the child. It is
9 presumed that a parent is unfit to be a party to the parent-child
10 relationship upon a showing that within a three-year period
11 immediately prior to the termination adjudication, the parent's
12 parental rights to one or more other children were involuntarily
13 terminated pursuant to subsection 2 or 4 of this section or
14 subdivisions (1), (2), (3) or (4) of subsection 5 of this section
15 or similar laws of other states.

16 6. The juvenile court may terminate the rights of a parent
17 to a child upon a petition filed by the juvenile officer or the
18 division, or in adoption cases, by a prospective parent, if the
19 court finds that the termination is in the best interest of the
20 child and when it appears by clear, cogent and convincing
21 evidence that grounds exist for termination pursuant to
22 subsection 2, 4 or 5 of this section.

23 7. When considering whether to terminate the parent-child
24 relationship pursuant to subsection 2 or 4 of this section or
25 subdivision (1), (2), (3) or (4) of subsection 5 of this section,
26 the court shall evaluate and make findings on the following
27 factors, when appropriate and applicable to the case:

- 28 (1) The emotional ties to the birth parent;

1 (2) The extent to which the parent has maintained regular
2 visitation or other contact with the child;

3 (3) The extent of payment by the parent for the cost of
4 care and maintenance of the child when financially able to do so
5 including the time that the child is in the custody of the
6 division or other child-placing agency;

7 (4) Whether additional services would be likely to bring
8 about lasting parental adjustment enabling a return of the child
9 to the parent within an ascertainable period of time;

10 (5) The parent's disinterest in or lack of commitment to
11 the child;

12 (6) The conviction of the parent of a felony offense that
13 the court finds is of such a nature that the child will be
14 deprived of a stable home for a period of years; provided,
15 however, that incarceration in and of itself shall not be grounds
16 for termination of parental rights;

17 (7) Deliberate acts of the parent or acts of another of
18 which the parent knew or should have known that subjects the
19 child to a substantial risk of physical or mental harm.

20 8. The court may attach little or no weight to infrequent
21 visitations, communications, or contributions. It is irrelevant
22 in a termination proceeding that the maintenance of the
23 parent-child relationship may serve as an inducement for the
24 parent's rehabilitation.

25 9. In actions for adoption pursuant to chapter 453, the
26 court may hear and determine the issues raised in a petition for
27 adoption containing a prayer for termination of parental rights
28 filed with the same effect as a petition permitted pursuant to

1 subsection 2, 4, or 5 of this section.

2 10. The disability or disease of a parent shall not
3 constitute a basis for a determination that a child is a child in
4 need of care, for the removal of custody of a child from the
5 parent, or for the termination of parental rights without a
6 specific showing that there is a causal relation between the
7 disability or disease and harm to the child.

8 217.010. As used in this chapter and chapter 558, unless
9 the context clearly indicates otherwise, the following terms
10 shall mean:

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

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

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

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

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

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

25 (7) "Disciplinary segregation", a cell for the segregation
26 of offenders from the general population of a correctional center
27 because the offender has been found to have committed a violation
28 of a division or facility rule and other available means are

1 inadequate to regulate the offender's behavior;

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

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

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

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

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

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

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

25 217.345. 1. Correctional treatment programs for first
26 offenders in the department shall be established, subject to the
27 control and supervision of the director, and shall include such
28 programs deemed necessary and sufficient for the successful

1 rehabilitation of offenders.

2 2. Correctional treatment programs for offenders who are
3 younger than ~~seventeen~~ eighteen years of age shall be
4 established, subject to the control and supervision of the
5 director. By January 1, 1998, such programs shall include
6 physical separation of offenders who are younger than ~~seventeen~~
7 eighteen years of age from offenders who are ~~seventeen~~ eighteen
8 years of age or older.

9 3. The department shall have the authority to promulgate
10 rules pursuant to subsection 2 of section 217.378 to establish
11 correctional treatment programs for offenders under age
12 ~~seventeen~~ eighteen. Such rules may include:

13 (1) Establishing separate housing units for such offenders;
14 and

15 (2) Providing housing and program space in existing housing
16 units for such offenders that is not accessible to adult
17 offenders[; and

18 (3) Establishing a regimented training program for such
19 offenders.

20 4. Any regimented training program established pursuant to
21 subdivision (3) of subsection 3 of this section shall include the
22 following objectives:

23 (1) To provide a daily regimen for offenders including
24 physical training, self-discipline, educational programs and work
25 programs;

26 (2) To provide staff who have received appropriate training
27 in the treatment of offenders under age seventeen and who are
28 capable role models and mentors;

1 (3) To provide offenders with instruction on how to solve
2 problems and strategies to change offenders' predisposition to
3 commit crime;

4 (4) To provide offenders who have demonstrated positive
5 behavioral change with the opportunity to gradually reenter the
6 community; and

7 (5) To provide for parole supervision consisting of highly
8 structured surveillance and monitoring, educational and treatment
9 programs].

10 [5.] 4. The department shall have the authority to
11 determine the number of juvenile offenders participating in any
12 treatment program depending on available appropriations. The
13 department may contract with any private or public entity for the
14 provision of services and facilities for offenders under age
15 [seventeen] eighteen. The department shall apply for and accept
16 available federal, state and local public funds including project
17 demonstration funds as well as private moneys to fund such
18 services and facilities.

19 [6.] 5. The department shall develop and implement an
20 [ongoing] evaluation process for all juvenile offender programs.

21 [7. Any prosecuting attorney who prosecutes an offender
22 under the age of seventeen shall maintain records regarding the
23 sentencing of that offender, including any treatment programs to
24 which that offender is assigned.

25 8. The department shall submit an evaluation report to the
26 governor and the general assembly concerning offenders under age
27 seventeen and the programs available to them on or before each
28 January 30, beginning in 1999. This report shall include, but is

1 not limited to, the following items:

2 (1) The specific content and structure of programs for
3 offenders, including staffing ratios for each program, and a
4 description of the daily routine of offenders in those programs;

5 (2) The process used for placing offenders on parole,
6 including whether offenders may be returned to their original
7 environment for the parole period, the specific means of parole
8 supervision and the specific educational and treatment programs
9 provided to offenders during their parole period;

10 (3) The procedure for transferring an offender to another
11 facility for vocational or training services or when an offender
12 poses a danger to himself or others, and identification of the
13 facilities used for such purposes;

14 (4) The specific criteria and procedures for determining
15 successful completion of a treatment program, whether an offender
16 cannot successfully complete a treatment program, and whether an
17 offender's parole shall be revoked;

18 (5) The recidivism rate for offenders successfully
19 completing a treatment program compared with the recidivism rate
20 for offenders not successfully completing a treatment program.]

21 217.703. 1. The division of probation and parole shall
22 award earned compliance credits to any offender who is:

23 (1) Not subject to lifetime supervision under sections
24 217.735 and 559.106 or otherwise found to be ineligible to earn
25 credits by a court pursuant to subsection 2 of this section;

26 (2) On probation, parole, or conditional release for an
27 offense listed in chapter 195 or for a class C or D felony,
28 excluding the offenses of aggravated stalking, rape in the second

1 degree, sexual assault, sodomy in the second degree, deviate
2 sexual assault, assault in the second degree under subdivision
3 (2) of subsection 1 of section 565.060, sexual misconduct
4 involving a child, endangering the welfare of a child in the
5 first degree under subdivision (2) of subsection 1 of section
6 568.045, incest, invasion of privacy, and abuse of a child;

7 (3) Supervised by the board; and

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

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

12 (1) Involuntary manslaughter in the first degree;

13 (2) Involuntary manslaughter in the second degree;

14 (3) Assault in the second degree except under subdivision
15 (2) of subsection 1 of section 565.060;

16 (4) Domestic assault in the second degree;

17 (5) Assault of a law enforcement officer in the second
18 degree;

19 (6) Statutory rape in the second degree;

20 (7) Statutory sodomy in the second degree;

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

23 (9) Any case in which the defendant is found guilty of a
24 felony offense under chapter 571,

25 the sentencing court may, upon its own motion or a motion of the
26 prosecuting or circuit attorney, make a finding that the offender
27 is ineligible to earn compliance credits because the nature and
28 circumstances of the offense or the history and character of the

1 offender indicate that a longer term of probation, parole, or
2 conditional release is necessary for the protection of the public
3 or the guidance of the offender. The motion may be made any time
4 prior to the first month in which the person may earn compliance
5 credits under this section. The offender's ability to earn
6 credits shall be suspended until the court or board makes its
7 finding. If the court or board finds that the offender is
8 eligible for earned compliance credits, the credits shall begin
9 to accrue on the first day of the next calendar month following
10 the issuance of the decision.

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

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

23 5. Credits shall not accrue during any calendar month in
24 which a violation report has been submitted or a motion to revoke
25 or motion to suspend has been filed, and shall be suspended
26 pending the outcome of a hearing, if a hearing is held. If no
27 hearing is held or the court or board finds that the violation
28 did not occur, then the offender shall be deemed to be in

1 compliance and shall begin earning credits on the first day of
2 the next calendar month following the month in which the report
3 was submitted or the motion was filed. All earned credits shall
4 be rescinded if the court or board revokes the probation or
5 parole or the court places the offender in a department program
6 under subsection 4 of section 559.036. Earned credits shall
7 continue to be suspended for a period of time during which the
8 court or board has suspended the term of probation, parole, or
9 release, and shall begin to accrue on the first day of the next
10 calendar month following the lifting of the suspension.

11 6. Offenders who are deemed by the division to be
12 absconders shall not earn credits. For purposes of this
13 subsection, "absconder" shall mean an offender under supervision
14 who has left such offender's place of residency without the
15 permission of the offender's supervising officer for the purpose
16 of avoiding supervision. An offender shall no longer be deemed
17 an absconder when such offender is available for active
18 supervision.

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

28 8. The award or rescission of any credits earned under this

1 section shall not be subject to appeal or any motion for
2 postconviction relief.

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

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

16 339.100. 1. The commission may, upon its own motion, and
17 shall upon receipt of a written complaint filed by any person,
18 investigate any real estate-related activity of a licensee
19 licensed under sections 339.010 to 339.180 and sections 339.710
20 to 339.860 or an individual or entity acting as or representing
21 themselves as a real estate licensee. In conducting such
22 investigation, if the questioned activity or written complaint
23 involves an affiliated licensee, the commission may forward a
24 copy of the information received to the affiliated licensee's
25 designated broker. The commission shall have the power to hold
26 an investigatory hearing to determine whether there is a
27 probability of a violation of sections 339.010 to 339.180 and
28 sections 339.710 to 339.860. The commission shall have the power

1 to issue a subpoena to compel the production of records and
2 papers bearing on the complaint. The commission shall have the
3 power to issue a subpoena and to compel any person in this state
4 to come before the commission to offer testimony or any material
5 specified in the subpoena. Subpoenas and subpoenas duces tecum
6 issued pursuant to this section shall be served in the same
7 manner as subpoenas in a criminal case. The fees and mileage of
8 witnesses shall be the same as that allowed in the circuit court
9 in civil cases.

10 2. The commission may cause a complaint to be filed with
11 the administrative hearing commission as provided by the
12 provisions of chapter 621 against any person or entity licensed
13 under this chapter or any licensee who has failed to renew or has
14 surrendered his or her individual or entity license for any one
15 or any combination of the following acts:

16 (1) Failure to maintain and deposit in a special account,
17 separate and apart from his or her personal or other business
18 accounts, all moneys belonging to others entrusted to him or her
19 while acting as a real estate broker or as the temporary
20 custodian of the funds of others, until the transaction involved
21 is consummated or terminated, unless all parties having an
22 interest in the funds have agreed otherwise in writing;

23 (2) Making substantial misrepresentations or false promises
24 or suppression, concealment or omission of material facts in the
25 conduct of his or her business or pursuing a flagrant and
26 continued course of misrepresentation through agents,
27 salespersons, advertising or otherwise in any transaction;

28 (3) Failing within a reasonable time to account for or to

1 remit any moneys, valuable documents or other property, coming
2 into his or her possession, which belongs to others;

3 (4) Representing to any lender, guaranteeing agency, or any
4 other interested party, either verbally or through the
5 preparation of false documents, an amount in excess of the true
6 and actual sale price of the real estate or terms differing from
7 those actually agreed upon;

8 (5) Failure to timely deliver a duplicate original of any
9 and all instruments to any party or parties executing the same
10 where the instruments have been prepared by the licensee or under
11 his or her supervision or are within his or her control,
12 including, but not limited to, the instruments relating to the
13 employment of the licensee or to any matter pertaining to the
14 consummation of a lease, listing agreement or the purchase, sale,
15 exchange or lease of property, or any type of real estate
16 transaction in which he or she may participate as a licensee;

17 (6) Acting for more than one party in a transaction without
18 the knowledge of all parties for whom he or she acts, or
19 accepting a commission or valuable consideration for services
20 from more than one party in a real estate transaction without the
21 knowledge of all parties to the transaction;

22 (7) Paying a commission or valuable consideration to any
23 person for acts or services performed in violation of sections
24 339.010 to 339.180 and sections 339.710 to 339.860;

25 (8) Guaranteeing or having authorized or permitted any
26 licensee to guarantee future profits which may result from the
27 resale of real property;

28 (9) Having been finally adjudicated and been found guilty

1 of the violation of any state or federal statute which governs
2 the sale or rental of real property or the conduct of the real
3 estate business as defined in subsection 1 of section 339.010;

4 (10) Obtaining a certificate or registration of authority,
5 permit or license for himself or herself or anyone else by false
6 or fraudulent representation, fraud or deceit;

7 (11) Representing a real estate broker other than the
8 broker with whom associated without the express written consent
9 of the broker with whom associated;

10 (12) Accepting a commission or valuable consideration for
11 the performance of any of the acts referred to in section 339.010
12 from any person except the broker with whom associated at the
13 time the commission or valuable consideration was earned;

14 (13) Using prizes, money, gifts or other valuable
15 consideration as inducement to secure customers or clients to
16 purchase, lease, sell or list property when the awarding of such
17 prizes, money, gifts or other valuable consideration is
18 conditioned upon the purchase, lease, sale or listing; or
19 soliciting, selling or offering for sale real property by
20 offering free lots, or conducting lotteries or contests, or
21 offering prizes for the purpose of influencing a purchaser or
22 prospective purchaser of real property;

23 (14) Placing a sign on or advertising any property offering
24 it for sale or rent without the written consent of the owner or
25 his or her duly authorized agent;

26 (15) Violation of, or attempting to violate, directly or
27 indirectly, or assisting or enabling any person to violate, any
28 provision of sections 339.010 to 339.180 and sections 339.710 to

1 339.860, or of any lawful rule adopted pursuant to sections
2 339.010 to 339.180 and sections 339.710 to 339.860;

3 (16) Committing any act which would otherwise be grounds
4 for the commission to refuse to issue a license under section
5 339.040;

6 (17) Failure to timely inform seller of all written offers
7 unless otherwise instructed in writing by the seller;

8 (18) Been finally adjudicated and found guilty, or entered
9 a plea of guilty or nolo contendere, in a criminal prosecution
10 under the laws of this state or any other state or of the United
11 States, for any offense reasonably related to the qualifications,
12 functions or duties of any profession licensed or regulated under
13 this chapter, for any offense an essential element of which is
14 fraud, dishonesty or an act of violence, or for any offense
15 involving moral turpitude, whether or not sentence is imposed;

16 (19) Any other conduct which constitutes untrustworthy,
17 improper or fraudulent business dealings, demonstrates bad faith
18 or incompetence, misconduct, or gross negligence;

19 (20) Disciplinary action against the holder of a license or
20 other right to practice any profession regulated under sections
21 339.010 to 339.180 and sections 339.710 to 339.860 granted by
22 another state, territory, federal agency, or country upon grounds
23 for which revocation, suspension, or probation is authorized in
24 this state;

25 (21) Been found by a court of competent jurisdiction of
26 having used any controlled substance, as defined in chapter 195,
27 to the extent that such use impairs a person's ability to perform
28 the work of any profession licensed or regulated by sections

1 339.010 to 339.180 and sections 339.710 to 339.860;

2 (22) Been finally adjudged insane or incompetent by a court
3 of competent jurisdiction;

4 (23) Assisting or enabling any person to practice or offer
5 to practice any profession licensed or regulated under sections
6 339.010 to 339.180 and sections 339.710 to 339.860 who is not
7 registered and currently eligible to practice under sections
8 339.010 to 339.180 and sections 339.710 to 339.860;

9 (24) Use of any advertisement or solicitation which is
10 knowingly false, misleading or deceptive to the general public or
11 persons to whom the advertisement or solicitation is primarily
12 directed;

13 (25) Making any material misstatement, misrepresentation,
14 or omission with regard to any application for licensure or
15 license renewal. As used in this section, "material" means
16 important information about which the commission should be
17 informed and which may influence a licensing decision;

18 (26) Engaging in, committing, or assisting any person in
19 engaging in or committing mortgage fraud, as defined in section
20 443.930.

21 3. After the filing of such complaint, the proceedings will
22 be conducted in accordance with the provisions of law relating to
23 the administrative hearing commission. A finding of the
24 administrative hearing commissioner that the licensee has
25 performed or attempted to perform one or more of the foregoing
26 acts shall be grounds for the suspension or revocation of his
27 license by the commission, or the placing of the licensee on
28 probation on such terms and conditions as the real estate

1 commission shall deem appropriate, or the imposition of a civil
2 penalty by the commission not to exceed two thousand five hundred
3 dollars for each offense. Each day of a continued violation
4 shall constitute a separate offense.

5 4. The commission may prepare a digest of the decisions of
6 the administrative hearing commission which concern complaints
7 against licensed brokers or salespersons and cause such digests
8 to be mailed to all licensees periodically. Such digests may
9 also contain reports as to new or changed rules adopted by the
10 commission and other information of significance to licensees.

11 5. Notwithstanding other provisions of this section, a
12 broker or salesperson's license shall be revoked, or in the case
13 of an applicant, shall not be issued, if the licensee or
14 applicant has pleaded guilty to, entered a plea of nolo
15 contendere to, or been found guilty of any of the following
16 offenses or offenses of a similar nature established under the
17 laws of this, any other state, the United States, or any other
18 country, notwithstanding whether sentence is imposed:

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

21 (2) Any of the following sexual offenses: rape in the
22 first degree, forcible rape, rape, statutory rape in the first
23 degree, statutory rape in the second degree, rape in the second
24 degree, sexual assault, sodomy in the first degree, forcible
25 sodomy, statutory sodomy in the first degree, statutory sodomy in
26 the second degree, child molestation in the first degree, child
27 molestation in the second degree, sodomy in the second degree,
28 deviate sexual assault, sexual misconduct involving a child,

1 sexual misconduct in the first degree under section 566.090 as it
2 existed prior to August 28, 2013, sexual abuse under section
3 566.100 as it existed prior to August 28, 2013, sexual abuse in
4 the first or second degree, enticement of a child, or attempting
5 to entice a child;

6 (3) Any of the following offenses against the family and
7 related offenses: incest, abandonment of a child in the first
8 degree, abandonment of a child in the second degree, endangering
9 the welfare of a child in the first degree, abuse of a child,
10 using a child in a sexual performance, promoting sexual
11 performance by a child, or trafficking in children;

12 (4) Any of the following offenses involving child
13 pornography and related offenses: promoting obscenity in the
14 first degree, promoting obscenity in the second degree when the
15 penalty is enhanced to a class D felony, promoting child
16 pornography in the first degree, promoting child pornography in
17 the second degree, possession of child pornography in the first
18 degree, possession of child pornography in the second degree,
19 furnishing child pornography to a minor, furnishing pornographic
20 materials to minors, or coercing acceptance of obscene material;
21 and

22 (5) Mortgage fraud as defined in section 570.310.

23 6. A person whose license was revoked under subsection 5 of
24 this section may appeal such revocation to the administrative
25 hearing commission. Notice of such appeal must be received by
26 the administrative hearing commission within ninety days of
27 mailing, by certified mail, the notice of revocation. Failure of
28 a person whose license was revoked to notify the administrative

1 hearing commission of his or her intent to appeal waives all
2 rights to appeal the revocation. Upon notice of such person's
3 intent to appeal, a hearing shall be held before the
4 administrative hearing commission.

5 375.1312. 1. As used in this section, the following terms
6 mean:

7 (1) "Domestic violence"[, the occurrence of stalking or one
8 or more of the following acts between family or household
9 members:

10 (a) Attempting to cause or intentionally or knowingly
11 causing bodily injury or physical harm;

12 (b) Knowingly engaging in a course of conduct or repeatedly
13 committing acts toward another person under circumstances that
14 place the person in reasonable fear of bodily injury or physical
15 harm; or

16 (c) Knowingly committing forcible rape, sexual assault or
17 forcible sodomy, as defined in chapter 566;

18 (2) "Family or household member", spouses, former spouses,
19 adults related by blood or marriage, adults who are presently
20 residing together or have resided together in the past and adults
21 who have a child in common regardless of whether they have been
22 married or have resided together at any time] and "family" or
23 "household member", as such terms are defined in section 455.010;

24 [(3)] (2) "Innocent coinsured", an insured who did not
25 cooperate in or contribute to the creation of a property loss and
26 the loss arose out of a pattern of domestic violence;

27 [(4)] (3) "Sole", a single act or a pattern of domestic
28 violence which may include multiple acts[;

1 (5) "Stalking", when an adult purposely and repeatedly
2 harasses or follows with the intent of harassing another adult.
3 As used in this subdivision, "harasses" means to engage in a
4 course of conduct directed at a specific adult that serves no
5 legitimate purpose, that would cause a reasonable adult to suffer
6 substantial emotional distress. As used in this subdivision,
7 "course of conduct" means a pattern of conduct composed of a
8 series of acts over a period of time, however short, evidencing a
9 continuity of purpose. Constitutionally protected activity is
10 not included within the meaning of "course of conduct"].

11 2. No insurer shall do any of the following on the sole
12 basis of the status of an insured or prospective insured as a
13 victim of domestic violence:

14 (1) Deny, cancel or refuse to issue or renew an insurance
15 policy;

16 (2) Require a greater premium, deductible or any other
17 payment;

18 (3) Exclude or limit coverage for losses or deny a claim;

19 (4) Designate domestic violence as a preexisting condition
20 for which coverage will be denied or reduced;

21 (5) Terminate group coverage solely because of claims
22 relating to the fact that any individual in the group is or has
23 been a victim of domestic violence; or

24 (6) Fix any lower rate or discriminate in the fees or
25 commissions of an agent for writing or renewing a policy insuring
26 an individual solely because an individual is or has been a
27 victim of domestic violence.

28 3. The fact that an insured or prospective insured has been

1 a victim of domestic violence shall not be considered a permitted
2 underwriting or rating criterion.

3 4. Nothing in this section shall prohibit an insurer from
4 taking an action described in subsection 2 of this section if the
5 action is otherwise permissible by law and is taken in the same
6 manner and to the same extent with respect to all insureds and
7 prospective insureds without regard to whether the insured or
8 prospective insured is a victim of domestic violence.

9 5. If an innocent coinsured files a police report and
10 completes a sworn affidavit for the insurer that indicates both
11 the cause of the loss and a pledge to cooperate in any criminal
12 prosecution of the person committing the act causing the loss,
13 then no insurer shall deny payment to an innocent coinsured on a
14 property loss claim due to any policy provision that excludes
15 coverage for intentional acts. Payment to the innocent coinsured
16 may be limited to such innocent coinsured's ownership interest in
17 the property as reduced by any payment to a mortgagor or other
18 secured interest; however, insurers shall not be required to make
19 any subsequent payment to any other insured for the part of any
20 loss for which the innocent coinsured has received payment. An
21 insurer making payment to an insured shall have all rights of
22 subrogation to recover against the perpetrator of the loss.

23 6. A violation of this section shall be subject to the
24 provisions of sections 375.930 to 375.948, relating to unfair
25 trade practices.

26 544.455. 1. Any person charged with a bailable offense, at
27 his or her appearance before an associate circuit judge or judge
28 may be ordered released pending trial, appeal, or other stage of

1 the proceedings against him on his personal recognizance, unless
2 the associate circuit judge or judge determines, in the exercise
3 of his discretion, that such a release will not reasonably assure
4 the appearance of the person as required. When such a
5 determination is made, the associate circuit judge or judge may
6 either in lieu of or in addition to the above methods of release,
7 impose any or any combination of the following conditions of
8 release which will reasonably assure the appearance of the person
9 for trial:

10 (1) Place the person in the custody of a designated person
11 or organization agreeing to supervise him;

12 (2) Place restriction on the travel, association, or place
13 of abode of the person during the period of release;

14 (3) Require the execution of a bail bond with sufficient
15 solvent sureties, or the deposit of cash in lieu thereof;

16 (4) Require the person to report regularly to some officer
17 of the court, or peace officer, in such manner as the associate
18 circuit judge or judge directs;

19 (5) Require the execution of a bond in a given sum and the
20 deposit in the registry of the court of ten percent, or such
21 lesser percent as the judge directs, of the sum in cash or
22 negotiable bonds of the United States or of the state of Missouri
23 or any political subdivision thereof;

24 (6) Place the person on house arrest with electronic
25 monitoring[,]; except that all costs associated with the
26 electronic monitoring shall be charged to the person on house
27 arrest. If the judge finds the person unable to afford the costs
28 associated with electronic monitoring, [then] the judge [shall

1 not] may order that the person be placed on house arrest with
2 electronic monitoring if the county commission agrees to pay from
3 the general revenue of the county the costs of such monitoring.
4 If the person on house arrest is unable to afford the costs
5 associated with electronic monitoring and the county commission
6 does not agree to pay the costs of such electronic monitoring,
7 the judge shall not order that the person be placed on house
8 arrest with electronic monitoring;

9 (7) Impose any other condition deemed reasonably necessary
10 to assure appearance as required, including a condition requiring
11 that the person return to custody after specified hours.

12 2. In determining which conditions of release will
13 reasonably assure appearance, the associate circuit judge or
14 judge shall, on the basis of available information, take into
15 account the nature and circumstances of the offense charged, the
16 weight of the evidence against the accused, the accused's family
17 ties, employment, financial resources, character and mental
18 condition, the length of his residence in the community, his
19 record of convictions, and his record of appearance at court
20 proceedings or flight to avoid prosecution or failure to appear
21 at court proceedings.

22 3. An associate circuit judge or judge authorizing the
23 release of a person under this section shall issue an appropriate
24 order containing a statement of the conditions imposed, if any,
25 shall inform such person of the penalties applicable to
26 violations of the conditions of his release and shall advise him
27 that a warrant for his arrest will be issued immediately upon any
28 such violation.

1 4. A person for whom conditions of release are imposed and
2 who after twenty-four hours from the time of the release hearing
3 continues to be detained as a result of his inability to meet the
4 conditions of release, shall, upon application, be entitled to
5 have the condition reviewed by the associate circuit judge or
6 judge who imposed them. The motion shall be determined promptly.

7 5. An associate circuit judge or judge ordering the release
8 of a person on any condition specified in this section may at any
9 time amend his order to impose additional or different conditions
10 of release; except that, if the imposition of such additional or
11 different conditions results in the detention of the person as a
12 result of his inability to meet such conditions or in the release
13 of the person on a condition requiring him to return to custody
14 after specified hours, the provisions of subsection 4 of this
15 section shall apply.

16 6. Information stated in, or offered in connection with,
17 any order entered pursuant to this section need not conform to
18 the rules pertaining to the admissibility of evidence in a court
19 of law.

20 7. Nothing contained in this section shall be construed to
21 prevent the disposition of any case or class of cases by
22 forfeiture of collateral security where such disposition is
23 authorized by the court.

24 8. Persons charged with violations of municipal ordinances
25 may be released by a municipal judge or other judge who hears and
26 determines municipal ordinance violation cases of the
27 municipality involved under the same conditions and in the same
28 manner as provided in this section for release by an associate

1 circuit judge.

2 9. A circuit court may adopt a local rule authorizing the
3 pretrial release on electronic monitoring pursuant to subdivision
4 (6) of subsection 1 of this section in lieu of incarceration of
5 individuals charged with offenses specifically identified
6 therein.

7 556.036. 1. A prosecution for murder, rape in the first
8 degree, forcible rape, attempted rape in the first degree,
9 attempted forcible rape, sodomy in the first degree, forcible
10 sodomy, attempted sodomy in the first degree, attempted forcible
11 sodomy, or any class A felony may be commenced at any time.

12 2. Except as otherwise provided in this section,
13 prosecutions for other offenses must be commenced within the
14 following periods of limitation:

15 (1) For any felony, three years, except as provided in
16 subdivision (4) of this subsection;

17 (2) For any misdemeanor, one year;

18 (3) For any infraction, six months;

19 (4) For any violation of section 569.040, when classified
20 as a class B felony, or any violation of section 569.050 or
21 569.055, five years.

22 3. If the period prescribed in subsection 2 of this section
23 has expired, a prosecution may nevertheless be commenced for:

24 (1) Any offense a material element of which is either fraud
25 or a breach of fiduciary obligation within one year after
26 discovery of the offense by an aggrieved party or by a person who
27 has a legal duty to represent an aggrieved party and who is
28 himself or herself not a party to the offense, but in no case

1 shall this provision extend the period of limitation by more than
2 three years. As used in this subdivision, the term "person who
3 has a legal duty to represent an aggrieved party" shall mean the
4 attorney general or the prosecuting or circuit attorney having
5 jurisdiction pursuant to section 407.553, for purposes of
6 offenses committed pursuant to sections 407.511 to 407.556; and

7 (2) Any offense based upon misconduct in office by a public
8 officer or employee at any time when the defendant is in public
9 office or employment or within two years thereafter, but in no
10 case shall this provision extend the period of limitation by more
11 than three years; and

12 (3) Any offense based upon an intentional and willful
13 fraudulent claim of child support arrearage to a public servant
14 in the performance of his or her duties within one year after
15 discovery of the offense, but in no case shall this provision
16 extend the period of limitation by more than three years.

17 4. An offense is committed either when every element
18 occurs, or, if a legislative purpose to prohibit a continuing
19 course of conduct plainly appears, at the time when the course of
20 conduct or the defendant's complicity therein is terminated.
21 Time starts to run on the day after the offense is committed.

22 5. A prosecution is commenced for a misdemeanor or
23 infraction when the information is filed and for a felony when
24 the complaint or indictment is filed.

25 6. The period of limitation does not run:

26 (1) During any time when the accused is absent from the
27 state, but in no case shall this provision extend the period of
28 limitation otherwise applicable by more than three years; or

1 (2) During any time when the accused is concealing himself
2 from justice either within or without this state; or

3 (3) During any time when a prosecution against the accused
4 for the offense is pending in this state; or

5 (4) During any time when the accused is found to lack
6 mental fitness to proceed pursuant to section 552.020.

7 556.037. Notwithstanding the provisions of section 556.036,
8 prosecutions for unlawful sexual offenses involving a person
9 eighteen years of age or under must be commenced within thirty
10 years after the victim reaches the age of eighteen unless the
11 prosecutions are for rape in the first degree, forcible rape,
12 attempted rape in the first degree, attempted forcible rape,
13 sodomy in the first degree, forcible sodomy, kidnapping,
14 attempted sodomy in the first degree, or attempted forcible
15 sodomy in which case such prosecutions may be commenced at any
16 time.

17 556.061. In this code, unless the context requires a
18 different definition, the following shall apply:

19 (1) "Affirmative defense" has the meaning specified in
20 section 556.056;

21 (2) "Burden of injecting the issue" has the meaning
22 specified in section 556.051;

23 (3) "Commercial film and photographic print processor", any
24 person who develops exposed photographic film into negatives,
25 slides or prints, or who makes prints from negatives or slides,
26 for compensation. The term commercial film and photographic
27 print processor shall include all employees of such persons but
28 shall not include a person who develops film or makes prints for

1 a public agency;

2 (4) "Confinement":

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

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

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

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

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

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

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

21 (5) "Consent": consent or lack of consent may be expressed
22 or implied. Assent does not constitute consent if:

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

26 (b) It is given by a person who by reason of youth, mental
27 disease or defect, [or] intoxication, a drug-induced state, or
28 any other reason is manifestly unable or known by the actor to be

1 unable to make a reasonable judgment as to the nature or
2 harmfulness of the conduct charged to constitute the offense; or

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

4 (6) "Criminal negligence" has the meaning specified in
5 section 562.016;

6 (7) "Custody", a person is in custody when the person has
7 been arrested but has not been delivered to a place of
8 confinement;

9 (8) "Dangerous felony" means the felonies of arson in the
10 first degree, assault in the first degree, attempted rape in the
11 first degree if physical injury results, attempted forcible rape
12 if physical injury results, attempted sodomy in the first degree
13 if physical injury results, attempted forcible sodomy if physical
14 injury results, rape in the first degree, forcible rape, sodomy
15 in the first degree, forcible sodomy, kidnapping, murder in the
16 second degree, assault of a law enforcement officer in the first
17 degree, domestic assault in the first degree, elder abuse in the
18 first degree, robbery in the first degree, statutory rape in the
19 first degree when the victim is a child less than twelve years of
20 age at the time of the commission of the act giving rise to the
21 offense, statutory sodomy in the first degree when the victim is
22 a child less than twelve years of age at the time of the
23 commission of the act giving rise to the offense, and, abuse of a
24 child [pursuant to subdivision (2) of subsection 3 of] if the
25 child dies as a result of injuries sustained from conduct
26 chargeable under section 568.060, child kidnapping, and parental
27 kidnapping committed by detaining or concealing the whereabouts
28 of the child for not less than one hundred twenty days under

1 section 565.153;

2 (9) "Dangerous instrument" means any instrument, article or
3 substance, which, under the circumstances in which it is used, is
4 readily capable of causing death or other serious physical
5 injury;

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

10 (11) "Felony" has the meaning specified in section 556.016;

11 (12) "Forcible compulsion" means either:

12 (a) Physical force that overcomes reasonable resistance; or

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

16 (13) "Incapacitated" means that physical or mental
17 condition, temporary or permanent, in which a person is
18 unconscious, unable to appraise the nature of such person's
19 conduct, or unable to communicate unwillingness to an act[. A
20 person is not incapacitated with respect to an act committed upon
21 such person if he or she became unconscious, unable to appraise
22 the nature of such person's conduct or unable to communicate
23 unwillingness to an act, after consenting to the act];

24 (14) "Infraction" has the meaning specified in section
25 556.021;

26 (15) "Inhabitable structure" has the meaning specified in
27 section 569.010;

28 (16) "Knowingly" has the meaning specified in section

1 562.016;

2 (17) "Law enforcement officer" means any public servant
3 having both the power and duty to make arrests for violations of
4 the laws of this state, and federal law enforcement officers
5 authorized to carry firearms and to make arrests for violations
6 of the laws of the United States;

7 (18) "Misdemeanor" has the meaning specified in section
8 556.016;

9 (19) "Offense" means any felony, misdemeanor or infraction;

10 (20) "Physical injury" means physical pain, illness, or any
11 impairment of physical condition;

12 (21) "Place of confinement" means any building or facility
13 and the grounds thereof wherein a court is legally authorized to
14 order that a person charged with or convicted of a crime be held;

15 (22) "Possess" or "possessed" means having actual or
16 constructive possession of an object with knowledge of its
17 presence. A person has actual possession if such person has the
18 object on his or her person or within easy reach and convenient
19 control. A person has constructive possession if such person has
20 the power and the intention at a given time to exercise dominion
21 or control over the object either directly or through another
22 person or persons. Possession may also be sole or joint. If one
23 person alone has possession of an object, possession is sole. If
24 two or more persons share possession of an object, possession is
25 joint;

26 (23) "Public servant" means any person employed in any way
27 by a government of this state who is compensated by the
28 government by reason of such person's employment, any person

1 appointed to a position with any government of this state, or any
2 person elected to a position with any government of this state.
3 It includes, but is not limited to, legislators, jurors, members
4 of the judiciary and law enforcement officers. It does not
5 include witnesses;

6 (24) "Purposely" has the meaning specified in section
7 562.016;

8 (25) "Recklessly" has the meaning specified in section
9 562.016;

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

13 (27) "Serious emotional injury", an injury that creates a
14 substantial risk of temporary or permanent medical or
15 psychological damage, manifested by impairment of a behavioral,
16 cognitive or physical condition. Serious emotional injury shall
17 be established by testimony of qualified experts upon the
18 reasonable expectation of probable harm to a reasonable degree of
19 medical or psychological certainty;

20 (28) "Serious physical injury" means physical injury that
21 creates a substantial risk of death or that causes serious
22 disfigurement or protracted loss or impairment of the function of
23 any part of the body;

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

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

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

8 (32) "Voluntary act" has the meaning specified in section
9 562.011.

10 557.011. 1. Every person found guilty of an offense shall
11 be dealt with by the court in accordance with the provisions of
12 this chapter, except that for offenses defined outside this code
13 and not repealed, the term of imprisonment or the fine that may
14 be imposed is that provided in the statute defining the offense;
15 however, the conditional release term of any sentence of a term
16 of years shall be determined as provided in subsection 4 of
17 section 558.011.

18 2. Whenever any person has been found guilty of a felony or
19 a misdemeanor the court shall make one or more of the following
20 dispositions of the offender in any appropriate combination. The
21 court may:

22 (1) Sentence the person to a term of imprisonment as
23 authorized by chapter 558;

24 (2) Sentence the person to pay a fine as authorized by
25 chapter 560;

26 (3) Suspend the imposition of sentence, with or without
27 placing the person on probation;

28 (4) Pronounce sentence and suspend its execution, placing

1 the person on probation;

2 (5) Impose a period of detention as a condition of
3 probation, as authorized by section 559.026.

4 3. Whenever any person has been found guilty of an
5 infraction, the court shall make one or more of the following
6 dispositions of the offender in any appropriate combination. The
7 court may:

8 (1) Sentence the person to pay a fine as authorized by
9 chapter 560;

10 (2) Suspend the imposition of sentence, with or without
11 placing the person on probation;

12 (3) Pronounce sentence and suspend its execution, placing
13 the person on probation.

14 4. Whenever any organization has been found guilty of an
15 offense, the court shall make one or more of the following
16 dispositions of the organization in any appropriate combination.
17 The court may:

18 (1) Sentence the organization to pay a fine as authorized
19 by chapter 560;

20 (2) Suspend the imposition of sentence, with or without
21 placing the organization on probation;

22 (3) Pronounce sentence and suspend its execution, placing
23 the organization on probation;

24 (4) Impose any special sentence or sanction authorized by
25 law.

26 5. This chapter shall not be construed to deprive the court
27 of any authority conferred by law to decree a forfeiture of
28 property, suspend or cancel a license, remove a person from

1 office, or impose any other civil penalty. An appropriate order
2 exercising such authority may be included as part of any
3 sentence.

4 6. In the event a sentence of confinement is ordered
5 executed, a court may order that an individual serve all or any
6 portion of such sentence on electronic monitoring[,]; except that
7 all costs associated with the electronic monitoring shall be
8 charged to the person on house arrest. If the judge finds the
9 person unable to afford the costs associated with electronic
10 monitoring, [then] the judge [shall not] may order that the
11 person be placed on house arrest with electronic monitoring if
12 the county commission agrees to pay the costs of such
13 monitoring. If the person on house arrest is unable to afford
14 the costs associated with electronic monitoring and the county
15 commission does not agree to pay from the general revenue of the
16 county the costs of such electronic monitoring, the judge shall
17 not order that the person be placed on house arrest with
18 electronic monitoring.

19 558.018. 1. The court shall sentence a person [who has
20 pleaded guilty to or] to an extended term of imprisonment if it
21 finds the defendant is a persistent sexual offender and has been
22 found guilty of [the felony of forcible rape, statutory rape in
23 the first degree, forcible sodomy, statutory sodomy in the first
24 degree or an attempt to commit any of the crimes designated in
25 this subsection to an extended term of imprisonment if it finds
26 the defendant is a persistent sexual offender] attempting to
27 commit or committing the following offenses:

28 (1) Statutory rape in the first degree or statutory sodomy

1 in the first degree;

2 (2) Rape in the first degree or sodomy in the first degree
3 attempted or committed on or after August 28, 2013;

4 (3) Forcible rape committed or attempted any time during
5 the period of August 13, 1980 to August 27, 2013;

6 (4) Forcible sodomy committed or attempted any time during
7 the period of January 1, 1995 to August 27, 2013;

8 (5) Rape committed or attempted before August 13, 1980;

9 (6) Sodomy committed or attempted before January 1, 1995.

10 2. A "persistent sexual offender" is one who has previously
11 [pleaded guilty to or has been found guilty of the felony of
12 forcible rape, rape, statutory rape in the first degree, forcible
13 sodomy, sodomy, statutory sodomy in the first degree or an
14 attempt to commit any of the crimes designated in this
15 subsection] been found guilty of attempting to commit or
16 committing any of the offenses listed in subsection 1 of this
17 section.

18 3. The term of imprisonment for one found to be a
19 persistent sexual offender shall be imprisonment for life without
20 eligibility for probation or parole. Subsection 4 of section
21 558.019 shall not apply to any person imprisoned under this
22 subsection, and "imprisonment for life" shall mean imprisonment
23 for the duration of the person's natural life.

24 4. The court shall sentence a person [who has pleaded
25 guilty to or has] to an extended term of imprisonment as provided
26 for in this section if it finds the defendant is a predatory
27 sexual offender and has been found guilty of [the felony of
28 forcible rape, statutory rape in the first degree, forcible

1 sodomy, statutory sodomy in the first degree, or an attempt to
2 commit any of the preceding crimes or] committing or attempting
3 to commit any of the offenses listed in subsection 1 of this
4 section or committing child molestation in the first degree when
5 classified as a class B felony or sexual abuse when classified as
6 a class B felony to an extended term of imprisonment as provided
7 for in this section if it finds the defendant is a predatory
8 sexual offender.

9 5. For purposes of this section, a "predatory sexual
10 offender" is a person who:

11 (1) Has previously [pleaded guilty to or has] been found
12 guilty of [the felony of forcible rape, rape, statutory rape in
13 the first degree, forcible sodomy, sodomy, statutory sodomy in
14 the first degree, or an attempt to commit any of the preceding
15 crimes or] committing or attempting to commit any of the offenses
16 listed in subsection 1 of this section, or committing child
17 molestation in the first degree when classified as a class B
18 felony or sexual abuse when classified as a class B felony; or

19 (2) Has previously committed an act which would constitute
20 an offense listed in subsection 4 of this section, whether or not
21 the act resulted in a conviction; or

22 (3) Has committed an act or acts against more than one
23 victim which would constitute an offense or offenses listed in
24 subsection 4 of this section, whether or not the defendant was
25 charged with an additional offense or offenses as a result of
26 such act or acts.

27 6. A person found to be a predatory sexual offender shall
28 be imprisoned for life with eligibility for parole, however

1 subsection 4 of section 558.019 shall not apply to persons found
2 to be predatory sexual offenders for the purposes of determining
3 the minimum prison term or the length of sentence as defined or
4 used in such subsection. Notwithstanding any other provision of
5 law, in no event shall a person found to be a predatory sexual
6 offender receive a final discharge from parole.

7 7. Notwithstanding any other provision of law, the court
8 shall set the minimum time required to be served before a
9 predatory sexual offender is eligible for parole, conditional
10 release or other early release by the department of corrections.
11 The minimum time to be served by a person found to be a predatory
12 sexual offender who:

13 (1) Has previously [pleaded guilty to or has] been found
14 guilty of [the felony of forcible rape, rape, statutory rape in
15 the first degree, forcible sodomy, sodomy, statutory sodomy in
16 the first degree, or an attempt to commit any of the preceding
17 crimes and pleads guilty to or is found guilty of the felony of
18 forcible rape, statutory rape in the first degree, forcible
19 sodomy, statutory sodomy in the first degree or an attempt to
20 commit any of the preceding crimes] committing or attempting to
21 commit any of the offenses listed in subsection 1 of this section
22 and is found guilty of committing or attempting to commit any of
23 the offenses listed in subsection 1 of this section shall be any
24 number of years but not less than thirty years;

25 (2) Has previously pleaded guilty to or has been found
26 guilty of child molestation in the first degree when classified
27 as a class B felony or sexual abuse when classified as a class B
28 felony and [pleads guilty to or] is found guilty of attempting to

1 commit or committing [forcible rape, statutory rape in the first
2 degree, forcible sodomy or statutory sodomy in the first degree]
3 any of the offenses listed in subsection 1 of this section shall
4 be any number of years but not less than fifteen years;

5 (3) Has previously [pleaded guilty to or has] been found
6 guilty of [the felony of forcible rape, rape, statutory rape in
7 the first degree, forcible sodomy, sodomy, statutory sodomy in
8 the first degree, or an attempt to commit any of the preceding
9 crimes and pleads guilty to or is found guilty of] committing or
10 attempting to commit any of the offenses listed in subsection 1
11 of this section, or committing child molestation in the first
12 degree when classified as a class B felony or sexual abuse when
13 classified as a class B felony shall be any number of years but
14 not less than fifteen years;

15 (4) Has previously pleaded guilty to or has been found
16 guilty of child molestation in the first degree when classified
17 as a class B felony or sexual abuse when classified as a class B
18 felony, and pleads guilty to or is found guilty of child
19 molestation in the first degree when classified as a class B
20 felony or sexual abuse when classified as a class B felony shall
21 be any number of years but not less than fifteen years;

22 (5) Is found to be a predatory sexual offender pursuant to
23 subdivision (2) or (3) of subsection 5 of this section shall be
24 any number of years within the range to which the person could
25 have been sentenced pursuant to the applicable law if the person
26 was not found to be a predatory sexual offender.

27 8. Notwithstanding any provision of law to the contrary,
28 the department of corrections, or any division thereof, may not

1 furlough an individual found to be and sentenced as a persistent
2 sexual offender or a predatory sexual offender.

3 558.026. 1. Multiple sentences of imprisonment shall run
4 concurrently unless the court specifies that they shall run
5 consecutively; except [that,] in the case of multiple sentences
6 of imprisonment imposed for [the felony of rape, forcible rape,
7 sodomy, forcible sodomy or] any offense committed during or at
8 the same time as, or multiple offenses of, the following
9 felonies:

10 (1) Rape in the first degree, forcible rape, or rape;

11 (2) Statutory rape in the first degree;

12 (3) Sodomy in the first degree, forcible sodomy, or sodomy;

13 (4) Statutory sodomy in the first degree; or

14 (5) An attempt to commit any of the [aforesaid and for
15 other offenses committed during or at the same time as that rape,
16 forcible rape, sodomy, forcible sodomy or an attempt to commit
17 any of the aforesaid, the sentences of imprisonment imposed for
18 the other offenses may run concurrently, but] felonies listed in
19 this subsection.

20
21 In such case, the sentence of imprisonment imposed for [the
22 felony of rape, forcible rape, sodomy, forcible sodomy] any
23 felony listed in this subsection or an attempt to commit any of
24 the aforesaid shall run consecutively to the other sentences.
25 The sentences imposed for any other offense may run concurrently.

26 2. If a person who is on probation, parole or conditional
27 release is sentenced to a term of imprisonment for an offense
28 committed after the granting of probation or parole or after the

1 start of his conditional release term, the court shall direct the
2 manner in which the sentence or sentences imposed by the court
3 shall run with respect to any resulting probation, parole or
4 conditional release revocation term or terms. If the subsequent
5 sentence to imprisonment is in another jurisdiction, the court
6 shall specify how any resulting probation, parole or conditional
7 release revocation term or terms shall run with respect to the
8 foreign sentence of imprisonment.

9 3. A court may cause any sentence it imposes to run
10 concurrently with a sentence an individual is serving or is to
11 serve in another state or in a federal correctional center. If
12 the Missouri sentence is served in another state or in a federal
13 correctional center, subsection 4 of section 558.011 and section
14 217.690 shall apply as if the individual were serving his
15 sentence within the department of corrections of the state of
16 Missouri, except that a personal hearing before the board of
17 probation and parole shall not be required for parole
18 consideration.

19 559.036. 1. A term of probation commences on the day it is
20 imposed. Multiple terms of Missouri probation, whether imposed at
21 the same time or at different times, shall run concurrently.
22 Terms of probation shall also run concurrently with any federal
23 or other state jail, prison, probation or parole term for another
24 offense to which the defendant is or becomes subject during the
25 period, unless otherwise specified by the Missouri court.

26 2. The court may terminate a period of probation and
27 discharge the defendant at any time before completion of the
28 specific term fixed under section 559.016 if warranted by the

1 conduct of the defendant and the ends of justice. The court may
2 extend the term of the probation, but no more than one extension
3 of any probation may be ordered except that the court may extend
4 the term of probation by one additional year by order of the
5 court if the defendant admits he or she has violated the
6 conditions of probation or is found by the court to have violated
7 the conditions of his or her probation. Total time on any
8 probation term, including any extension shall not exceed the
9 maximum term established in section 559.016. Procedures for
10 termination, discharge and extension may be established by rule
11 of court.

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

17 4. (1) Unless the defendant consents to the revocation of
18 probation, if a continuation, modification, enlargement or
19 extension is not appropriate under this section, the court shall
20 order placement of the offender in one of the department of
21 corrections' one hundred twenty-day programs so long as:

22 (a) The underlying offense for the probation is a class C
23 or D felony or an offense listed in chapter 195; except that, the
24 court may, upon its own motion or a motion of the prosecuting or
25 circuit attorney, make a finding that an offender is not eligible
26 if the underlying offense is involuntary manslaughter in the
27 first degree, involuntary manslaughter in the second degree,
28 aggravated stalking, assault in the second degree, sexual

1 assault, rape in the second degree, domestic assault in the
2 second degree, assault of a law enforcement officer in the second
3 degree, statutory rape in the second degree, statutory sodomy in
4 the second degree, deviate sexual assault, sodomy in the second
5 degree, sexual misconduct involving a child, incest, endangering
6 the welfare of a child in the first degree under subdivision (1)
7 or (2) of subsection 1 of section 568.045, abuse of a child,
8 invasion of privacy or any case in which the defendant is found
9 guilty of a felony offense under chapter 571;

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

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

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

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

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

9 5. If the defendant consents to the revocation of probation
10 or if the defendant is not eligible under subsection 4 of this
11 section for placement in a program and a continuation,
12 modification, enlargement, or extension of the term under this
13 section is not appropriate, the court may revoke probation and
14 order that any sentence previously imposed be executed. If
15 imposition of sentence was suspended, the court may revoke
16 probation and impose any sentence available under section
17 557.011. The court may mitigate any sentence of imprisonment by
18 reducing the prison or jail term by all or part of the time the
19 defendant was on probation. The court may, upon revocation of
20 probation, place an offender on a second term of probation. Such
21 probation shall be for a term of probation as provided by section
22 559.016, notwithstanding any amount of time served by the
23 offender on the first term of probation.

24 6. Probation shall not be revoked without giving the
25 probationer notice and an opportunity to be heard on the issues
26 of whether [he] such probationer violated a condition of
27 probation and, if [he did] a condition was violated, whether
28 revocation is warranted under all the circumstances. Not less

1 than five business days prior to the date set for a hearing on
2 the violation, except for a good cause shown, the judge shall
3 inform the probationer that he or she may have the right to
4 request the appointment of counsel if the probationer is unable
5 to retain counsel. If the probationer requests counsel, the
6 judge shall determine whether counsel is necessary to protect the
7 probationer's due process rights. If the judge determines that
8 counsel is not necessary, the judge shall state the grounds for
9 the decision in the record.

10 7. The prosecuting or circuit attorney may file a motion to
11 revoke probation or at any time during the term of probation, the
12 court may issue a notice to the probationer to appear to answer a
13 charge of a violation, and the court may issue a warrant of
14 arrest for the violation. Such notice shall be personally served
15 upon the probationer. The warrant shall authorize the return of
16 the probationer to the custody of the court or to any suitable
17 detention facility designated by the court. Upon the filing of
18 the prosecutor's or circuit attorney's motion or on the court's
19 own motion, the court may immediately enter an order suspending
20 the period of probation and may order a warrant for the
21 defendant's arrest. The probation shall remain suspended until
22 the court rules on the prosecutor's or circuit attorney's motion,
23 or until the court otherwise orders the probation reinstated.

24 8. The power of the court to revoke probation shall extend
25 for the duration of the term of probation designated by the court
26 and for any further period which is reasonably necessary for the
27 adjudication of matters arising before its expiration, provided
28 that some affirmative manifestation of an intent to conduct a

1 revocation hearing occurs prior to the expiration of the period
2 and that every reasonable effort is made to notify the
3 probationer and to conduct the hearing prior to the expiration of
4 the period.

5 559.100. 1. The circuit courts of this state shall have
6 power, herein provided, to place on probation or to parole
7 persons convicted of any offense over which they have
8 jurisdiction, except as otherwise provided in sections 195.275 to
9 195.296, section 558.018, section 559.115, section 565.020,
10 sections 566.030, 566.060, 566.067, 566.151, and 566.213, section
11 571.015, and subsection 3 of section 589.425.

12 2. The circuit court shall have the power to revoke the
13 probation or parole previously granted under section 559.036 and
14 commit the person to the department of corrections. The circuit
15 court shall determine any conditions of probation or parole for
16 the defendant that it deems necessary to ensure the successful
17 completion of the probation or parole term, including the
18 extension of any term of supervision for any person while on
19 probation or parole. The circuit court may require that the
20 defendant pay restitution for his crime. The probation or parole
21 may be revoked under section 559.036 for failure to pay
22 restitution or for failure to conform his behavior to the
23 conditions imposed by the circuit court. The circuit court may,
24 in its discretion, credit any period of probation or parole as
25 time served on a sentence.

26 3. Restitution, whether court ordered as provided in
27 subsection 2 of this section or agreed to by the parties, or as
28 enforced under section 558.019, shall be paid through the office

1 of the prosecuting attorney or circuit attorney. Nothing in this
2 section shall prohibit the prosecuting attorney or circuit
3 attorney from contracting with or utilizing another entity for
4 the collection of restitution and costs under this section. When
5 ordered by the court, interest shall be allowed under subsection
6 1 of section 408.040. In addition to all other costs and fees
7 allowed by law, each prosecuting attorney or circuit attorney who
8 takes any action to collect restitution shall collect from the
9 person paying restitution an administrative handling cost. The
10 cost shall be twenty-five dollars for restitution of less than
11 one hundred dollars and fifty dollars for restitution of at least
12 one hundred dollars but less than two hundred fifty dollars. For
13 restitution of two hundred fifty dollars or more an additional
14 fee of ten percent of the total restitution shall be assessed,
15 with a maximum fee for administrative handling costs not to
16 exceed seventy-five dollars total. Notwithstanding the
17 provisions of sections 50.525 to 50.745, the costs provided for
18 in this subsection shall be deposited by the county treasurer
19 into a separate interest-bearing fund to be expended by the
20 prosecuting attorney or circuit attorney. This fund shall be
21 known as the "Administrative Handling Cost Fund", and it shall be
22 the fund for deposits under this section and under section
23 570.120. The funds shall be expended, upon warrants issued by
24 the prosecuting attorney or circuit attorney directing the
25 treasurer to issue checks thereon, only for purposes related to
26 that authorized by subsection 4 of this section.

27 4. The moneys deposited in the fund may be used by the
28 prosecuting attorney or circuit attorney for office supplies,

1 postage, books, training, office equipment, capital outlay,
2 expenses of trial and witness preparation, additional employees
3 for the staff of the prosecuting or circuit attorney, employees'
4 salaries, and for other lawful expenses incurred by the
5 prosecuting or circuit attorney in the operation of that office.

6 5. This fund may be audited by the state auditor's office
7 or the appropriate auditing agency.

8 6. If the moneys collected and deposited into this fund are
9 not totally expended annually, then the unexpended balance shall
10 remain in the fund and the balance shall be kept in the fund to
11 accumulate from year to year.

12 7. Nothing in this section shall be construed to prohibit a
13 crime victim from pursuing other lawful remedies against a
14 defendant for restitution.

15 559.105. 1. Any person who has been found guilty of or has
16 pled guilty to [a violation of subdivision (2) of subsection 1 of
17 section 569.080 or paragraph (a) of subdivision (3) of subsection
18 3 of section 570.030] an offense may be ordered by the court to
19 make restitution to the victim for the victim's losses due to
20 such offense. Restitution pursuant to this section shall
21 include, but not be limited to[, the following:

22 (1)] A victim's reasonable expenses to participate in the
23 prosecution of the crime[;

24 (2) A victim's payment for any repairs or replacement of
25 the motor vehicle, watercraft, or aircraft; and

26 (3) A victim's costs associated with towing or storage fees
27 for the motor vehicle caused by the acts of the defendant].

28 2. No person ordered by the court to pay restitution

1 pursuant to this section shall be released from probation until
2 such restitution is complete. If full restitution is not made
3 within the original term of probation, the court shall order the
4 maximum term of probation allowed for such offense.

5 3. Any person eligible to be released on parole [for a
6 violation of subdivision (2) of subsection 1 of section 569.080
7 or paragraph (a) of subdivision (3) of subsection 3 of section
8 570.030 may] shall be required, as a condition of parole, to make
9 restitution pursuant to this section. The board of probation and
10 parole shall not release any person from any term of parole for
11 such offense until the person has completed such restitution, or
12 until the maximum term of parole for such offense has been
13 served.

14 4. The court may set an amount of restitution to be paid by
15 the defendant. Said amount may be taken from the inmate's
16 account at the department of corrections while the defendant is
17 incarcerated. Upon conditional release or parole, if any amount
18 of such court-ordered restitution is unpaid, the payment of the
19 unpaid balance may be collected as a condition of conditional
20 release or parole by the prosecuting attorney or circuit attorney
21 under section 559.100. The prosecuting attorney or circuit
22 attorney may refer any failure to make such restitution as a
23 condition of conditional release or parole to the parole board
24 for enforcement.

25 559.115. 1. Neither probation nor parole shall be granted
26 by the circuit court between the time the transcript on appeal
27 from the offender's conviction has been filed in appellate court
28 and the disposition of the appeal by such court.

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

13 3. The court may recommend placement of an offender in a
14 department of corrections one hundred twenty-day program under
15 this [section] subsection or order such placement under
16 subsection 4 of section 559.036. Upon the recommendation or
17 order of the court, the department of corrections shall assess
18 each offender to determine the appropriate one hundred twenty-day
19 program in which to place the offender, [including] which may
20 include placement in the shock incarceration program or
21 institutional treatment program. When the court recommends and
22 receives placement of an offender in a department of corrections
23 one hundred twenty-day program, the offender shall be released on
24 probation if the department of corrections determines that the
25 offender has successfully completed the program except as
26 follows. Upon successful completion of a [treatment] program
27 under this subsection, the board of probation and parole shall
28 advise the sentencing court of an offender's probationary release

1 date thirty days prior to release. [The court shall release the
2 offender unless such release constitutes an abuse of discretion.
3 If the court determined that there is an abuse of discretion, the
4 court may order the execution of the offender's sentence only
5 after conducting a hearing on the matter within ninety to one
6 hundred twenty days of the offender's sentence. If the court
7 does not respond when an offender successfully completes the
8 program, the offender shall be released on probation. Upon
9 successful completion of a shock incarceration program, the board
10 of probation and parole shall advise the sentencing court of an
11 offender's probationary release date thirty days prior to
12 release.] The court shall follow the recommendation of the
13 department unless the court determines that probation is not
14 appropriate. If the court determines that probation is not
15 appropriate, the court may order the execution of the offender's
16 sentence only after conducting a hearing on the matter within
17 ninety to one hundred twenty days [of the offender's sentence.
18 If the department determines that an offender is not successful
19 in a program, then after one hundred days of incarceration the
20 circuit court shall receive from] from the date the offender was
21 delivered to the department of corrections. If the department
22 determines the offender has not successfully completed a one
23 hundred twenty-day program under this subsection, the offender
24 shall be removed from the program and the court shall be advised
25 of the removal. The department [of corrections a] shall report
26 on the offender's participation in the program and [department]
27 may provide recommendations for terms and conditions of an
28 offender's probation. The court shall then [release the offender

1 on probation or order the offender to remain in the department to
2 serve the sentence imposed] have the power to grant probation or
3 order the execution of the offender's sentence.

4 4. If the court is advised that an offender is not eligible
5 for placement in a one hundred twenty-day program under
6 subsection 3 of this section, the court shall consider other
7 authorized dispositions. If the department of corrections one
8 hundred twenty-day program under subsection 3 of this section is
9 full, the court may place the offender in a private program
10 approved by the department of corrections or the court, the
11 expenses of such program to be paid by the offender, or in an
12 available program offered by another organization. If the
13 offender is convicted of a class C or class D nonviolent felony,
14 the court may order probation while awaiting appointment to
15 treatment.

16 5. Except when the offender has been found to be a
17 predatory sexual offender pursuant to section 558.018, the court
18 shall request [that the offender be placed in the sexual offender
19 assessment unit of the department of corrections] the department
20 of corrections to conduct a sexual offender assessment if the
21 defendant has pleaded guilty to or has been found guilty of
22 sexual abuse when classified as a class B felony. Upon
23 completion of the assessment, the department shall provide to the
24 court a report on the offender and may provide recommendations
25 for terms and conditions of an offender's probation. The
26 assessment shall not be considered a one hundred twenty-day
27 program as provided under subsection 3 of this section. The
28 process for granting probation to an offender who has completed

1 the assessment shall be as provided under subsections 2 and 6 of
2 this section.

3 6. Unless the offender is being granted probation pursuant
4 to successful completion of a one hundred twenty-day program the
5 circuit court shall notify the state in writing when the court
6 intends to grant probation to the offender pursuant to the
7 provisions of this section. The state may, in writing, request a
8 hearing within ten days of receipt of the court's notification
9 that the court intends to grant probation. Upon the state's
10 request for a hearing, the court shall grant a hearing as soon as
11 reasonably possible. If the state does not respond to the
12 court's notice in writing within ten days, the court may proceed
13 upon its own motion to grant probation.

14 7. An offender's first incarceration [for one hundred
15 twenty days for participation in a department of corrections
16 program] under this section prior to release on probation shall
17 not be considered a previous prison commitment for the purpose of
18 determining a minimum prison term under the provisions of section
19 558.019.

20 8. Notwithstanding any other provision of law, probation
21 may not be granted pursuant to this section to offenders who have
22 been convicted of murder in the second degree pursuant to section
23 565.021; forcible rape pursuant to section 566.030 as it existed
24 prior to August 28, 2013; rape in the first degree under section
25 566.030; forcible sodomy pursuant to section 566.060 as it
26 existed prior to August 28, 2013; sodomy in the first degree
27 under section 566.060; statutory rape in the first degree
28 pursuant to section 566.032; statutory sodomy in the first degree

1 pursuant to section 566.062; child molestation in the first
2 degree pursuant to section 566.067 when classified as a class A
3 felony; abuse of a child pursuant to section 568.060 when
4 classified as a class A felony; an offender who has been found to
5 be a predatory sexual offender pursuant to section 558.018; or
6 any offense in which there exists a statutory prohibition against
7 either probation or parole.

8 559.117. 1. The director of the department of corrections
9 is authorized to establish, as a three-year pilot program, a
10 mental health assessment process.

11 2. Only upon a motion filed by the prosecutor in a criminal
12 case, the judge who is hearing the criminal case in a
13 participating county may request that an offender be placed in
14 the department of corrections for one hundred twenty days for a
15 mental health assessment and for treatment if it appears that the
16 offender has a mental disorder or mental illness such that the
17 offender may qualify for probation including community
18 psychiatric rehabilitation (CPR) programs and such probation is
19 appropriate and not inconsistent with public safety. Before the
20 judge rules upon the motion, the victim shall be given notice of
21 such motion and the opportunity to be heard. Upon recommendation
22 of the court, the department shall determine the offender's
23 eligibility for the mental health assessment process.

24 3. Following this assessment and treatment period, an
25 assessment report shall be sent to the sentencing court and the
26 sentencing court may, if appropriate, release the offender on
27 probation. The offender shall be supervised on probation by a
28 state probation and parole officer, who shall work cooperatively

1 with the department of mental health to enroll eligible offenders
2 in community psychiatric rehabilitation (CPR) programs.

3 4. Notwithstanding any other provision of law, probation
4 shall not be granted under this section to offenders who:

5 (1) Have been found guilty of, or plead guilty to, murder
6 in the second degree under section 565.021;

7 (2) Have been found guilty of, or plead guilty to, rape in
8 the first degree under section 566.030 or forcible rape under
9 section 566.030 as it existed prior to August 28, 2013;

10 (3) Have been found guilty of, or plead guilty to,
11 statutory rape in the first degree under section 566.032;

12 (4) Have been found guilty of, or plead guilty to, sodomy
13 in the first degree under section 566.060 or forcible sodomy
14 under section 566.060 as it existed prior to August 28, 2013;

15 (5) Have been found guilty of, or plead guilty to,
16 statutory sodomy in the first degree under section 566.062;

17 (6) Have been found guilty of, or plead guilty to, child
18 molestation in the first degree under section 566.067 when
19 classified as a class A felony;

20 (7) Have been found to be a predatory sexual offender under
21 section 558.018; or

22 (8) Have been found guilty of, or plead guilty to, any
23 offense for which there exists a statutory prohibition against
24 either probation or parole.

25 5. At the end of the three-year pilot, the director of the
26 department of corrections and the director of the department of
27 mental health shall jointly submit recommendations to the
28 governor and to the general assembly by December 31, 2015, on

1 whether to expand the process statewide.

2 566.020. 1. [Whenever in this chapter the criminality of
3 conduct depends upon a victim's being incapacitated, no crime is
4 committed if the actor reasonably believed that the victim was
5 not incapacitated and reasonably believed that the victim
6 consented to the act. The defendant shall have the burden of
7 injecting the issue of belief as to capacity and consent.

8 2.] Whenever in this chapter the criminality of conduct
9 depends upon a child being thirteen years of age or younger, it
10 is no defense that the defendant believed the child to be older.

11 [3.] 2. Whenever in this chapter the criminality of conduct
12 depends upon a child being under seventeen years of age, it is an
13 affirmative defense that the defendant reasonably believed that
14 the child was seventeen years of age or older.

15 [4.] 3. Consent is not an affirmative defense to any
16 offense under chapter 566 if the alleged victim is less than
17 twelve years of age.

18 566.030. 1. A person commits the [crime] offense of
19 [forcible] rape in the first degree if [such person] he or she
20 has sexual intercourse with another person who is incapacitated,
21 incapable of consent, or lacks the capacity to consent, or by the
22 use of forcible compulsion. Forcible compulsion includes the use
23 of a substance administered without a victim's knowledge or
24 consent which renders the victim physically or mentally impaired
25 so as to be incapable of making an informed consent to sexual
26 intercourse.

27 2. [Forcible] The offense of rape in the first degree or an
28 attempt to commit [forcible] rape in the first degree is a felony

1 for which the authorized term of imprisonment is life
2 imprisonment or a term of years not less than five years, unless:

3 (1) In the course thereof the actor inflicts serious
4 physical injury or displays a deadly weapon or dangerous
5 instrument in a threatening manner or subjects the victim to
6 sexual intercourse or deviate sexual intercourse with more than
7 one person, in which case the authorized term of imprisonment is
8 life imprisonment or a term of years not less than fifteen years;

9 (2) The victim is a child less than twelve years of age, in
10 which case the required term of imprisonment is life imprisonment
11 without eligibility for probation or parole until the [defendant]
12 offender has served not less than thirty years of such sentence
13 or unless the [defendant] offender has reached the age of
14 seventy-five years and has served at least fifteen years of such
15 sentence, unless such [forcible] rape in the first degree is
16 described under subdivision (3) of this subsection; or

17 (3) The victim is a child less than twelve years of age and
18 such [forcible] rape in the first degree or attempt to commit
19 rape in the first degree was outrageously or wantonly vile,
20 horrible or inhumane, in that it involved torture or depravity of
21 mind, in which case the required term of imprisonment is life
22 imprisonment without eligibility for probation, parole or
23 conditional release.

24 3. Subsection 4 of section 558.019 shall not apply to the
25 sentence of a person who has [pleaded guilty to or has] been
26 found guilty of [forcible] rape in the first degree or attempt to
27 commit rape in the first degree when the victim is [under the age
28 of] less than twelve years of age, and "life imprisonment" shall

1 mean imprisonment for the duration of a person's natural life for
2 the purposes of this section.

3 4. No person found guilty of [or pleading guilty to
4 forcible] rape in the first degree or an attempt to commit
5 [forcible] rape in the first degree shall be granted a suspended
6 imposition of sentence or suspended execution of sentence.

7 [566.040.] 566.031. 1. A person commits the [crime]
8 offense of [sexual assault] rape in the second degree if he or
9 she has sexual intercourse with another person knowing that he or
10 she does so without that person's consent.

11 2. [Sexual assault] The offense of rape in the second
12 degree is a class C felony.

13 566.060. 1. A person commits the [crime] offense of
14 [forcible] sodomy in the first degree if [such person] he or she
15 has deviate sexual intercourse with another person who is
16 incapacitated, incapable of consent, or lacks the capacity to
17 consent, or by the use of forcible compulsion. Forcible
18 compulsion includes the use of a substance administered without a
19 victim's knowledge or consent which renders the victim physically
20 or mentally impaired so as to be incapable of making an informed
21 consent to sexual intercourse.

22 2. [Forcible] The offense of sodomy in the first degree or
23 an attempt to commit [forcible] sodomy in the first degree is a
24 felony for which the authorized term of imprisonment is life
25 imprisonment or a term of years not less than five years, unless:

26 (1) In the course thereof the actor inflicts serious
27 physical injury or displays a deadly weapon or dangerous
28 instrument in a threatening manner or subjects the victim to

1 sexual intercourse or deviate sexual intercourse with more than
2 one person, in which case the authorized term of imprisonment is
3 life imprisonment or a term of years not less than ten years; or

4 (2) The victim is a child less than twelve years [of age]
5 old, in which case the required term of imprisonment is life
6 imprisonment without eligibility for probation or parole until
7 the [defendant] offender has served not less than thirty years of
8 such sentence or unless the [defendant] offender has reached the
9 age of seventy-five years and has served at least fifteen years
10 of such sentence, unless such [forcible] sodomy in the first
11 degree is described under subdivision (3) of this subsection; or

12 (3) The victim is a child less than twelve years of age and
13 such [forcible] sodomy in the first degree or attempt to commit
14 sodomy in the first degree was outrageously or wantonly vile,
15 horrible or inhumane, in that it involved torture or depravity of
16 mind, in which case the required term of imprisonment is life
17 imprisonment without eligibility for probation, parole or
18 conditional release.

19 3. Subsection 4 of section 558.019 shall not apply to the
20 sentence of a person who has [pleaded guilty to or has] been
21 found guilty of [forcible] sodomy in the first degree or an
22 attempt to commit sodomy in the first degree when the victim is
23 [under the age of] less than twelve years of age, and "life
24 imprisonment" shall mean imprisonment for the duration of a
25 person's natural life for the purposes of this section.

26 4. No person found guilty of [or pleading guilty to
27 forcible] sodomy in the first degree or an attempt to commit
28 [forcible] sodomy in the first degree shall be granted a

1 suspended imposition of sentence or suspended execution of
2 sentence.

3 [566.070.] 566.061. 1. A person commits the [crime of
4 deviate sexual assault] offense of sodomy in the second degree if
5 he or she has deviate sexual intercourse with another person
6 knowing that he or she does so without that person's consent.

7 2. [Deviate sexual assault] The offense of sodomy in the
8 second degree is a class C felony.

9 566.093. 1. A person commits the [crime] offense of sexual
10 misconduct in the [second] first degree if such person:

11 (1) Exposes his or her genitals under circumstances in
12 which he or she knows that his or her conduct is likely to cause
13 affront or alarm;

14 (2) Has sexual contact in the presence of a third person or
15 persons under circumstances in which he or she knows that such
16 conduct is likely to cause affront or alarm; or

17 (3) Has sexual intercourse or deviate sexual intercourse in
18 a public place in the presence of a third person.

19 2. The offense of sexual misconduct in the [second] first
20 degree is a class B misdemeanor unless the [actor] person has
21 previously been [convicted] found guilty of an offense under this
22 chapter, in which case it is a class A misdemeanor.

23 566.095. 1. A person commits the [crime] offense of sexual
24 misconduct in the [third] second degree if he or she solicits or
25 requests another person to engage in sexual conduct under
26 circumstances in which he or she knows that [his requests] such
27 request or solicitation is likely to cause affront or alarm.

28 2. The offense of sexual misconduct in the [third] second

1 degree is a class C misdemeanor.

2 566.100. 1. A person commits the [crime] offense of sexual
3 abuse in the first degree if he or she subjects another person to
4 sexual contact when that person is incapacitated, incapable of
5 consent, or lacks the capacity to consent, or by the use of
6 forcible compulsion.

7 2. The offense of sexual abuse in the first degree is a
8 class C felony unless in the course thereof the actor inflicts
9 serious physical injury or displays a deadly weapon or dangerous
10 instrument in a threatening manner or subjects the victim to
11 sexual contact with more than one person or the victim is less
12 than fourteen years of age, in which case [the crime] it is a
13 class B felony.

14 [566.090.] 566.101. 1. A person commits the [crime]
15 offense of sexual [misconduct] abuse in the [first] second degree
16 if [such person] he or she purposely subjects another person to
17 sexual contact without that person's consent.

18 2. The offense of sexual [misconduct] abuse in the [first]
19 second degree is a class A misdemeanor, unless the actor has
20 previously been convicted of an offense under this chapter or
21 unless in the course thereof the actor displays a deadly weapon
22 in a threatening manner or the offense is committed as a part of
23 a ritual or ceremony, in which case it is a class D felony.

24 566.224. No prosecuting or circuit attorney, peace officer,
25 governmental official, or employee of a law enforcement agency
26 shall request or require a victim of rape in the second degree
27 under section 566.031, sexual assault under section 566.040 as it
28 existed prior to August 28, 2013, rape in the first degree under

1 section 566.030, or forcible rape under section 566.030 as it
2 existed prior to August 28, 2013 to submit to any polygraph test
3 or psychological stress evaluator exam as a condition for
4 proceeding with a criminal investigation of such crime.

5 566.226. 1. After August 28, 2007, any information
6 contained in any court record, whether written or published on
7 the internet, that could be used to identify or locate any victim
8 of sexual assault, domestic assault, stalking, rape in the first
9 or second degree, or forcible rape shall be closed and redacted
10 from such record prior to disclosure to the public. Identifying
11 information shall include the name, home or temporary address,
12 telephone number, Social Security number or physical
13 characteristics.

14 2. If the court determines that a person or entity who is
15 requesting identifying information of a victim has a legitimate
16 interest in obtaining such information, the court may allow
17 access to the information, but only if the court determines that
18 disclosure to the person or entity would not compromise the
19 welfare or safety of such victim.

20 3. Notwithstanding the provisions of subsection 1 of this
21 section, the judge presiding over a sexual assault, domestic
22 assault, stalking, [or] forcible rape, or rape in the first or
23 second degree case shall have the discretion to publicly disclose
24 identifying information regarding the defendant which could be
25 used to identify or locate the victim of the crime. The victim
26 may provide a statement to the court regarding whether he or she
27 desires such information to remain closed. When making the
28 decision to disclose such information, the judge shall consider

1 the welfare and safety of the victim and any statement to the
2 court received from the victim regarding the disclosure.

3 570.120. 1. A person commits the crime of passing a bad
4 check when:

5 (1) With purpose to defraud, the person makes, issues or
6 passes a check or other similar sight order or any other form of
7 presentment involving the transmission of account information for
8 the payment of money, knowing that it will not be paid by the
9 drawee, or that there is no such drawee; or

10 (2) The person makes, issues, or passes a check or other
11 similar sight order or any other form of presentment involving
12 the transmission of account information for the payment of money,
13 knowing that there are insufficient funds in or on deposit with
14 that account for the payment of such check, sight order, or other
15 form of presentment involving the transmission of account
16 information in full and all other checks, sight orders, or other
17 forms of presentment involving the transmission of account
18 information upon such funds then outstanding, or that there is no
19 such account or no drawee and fails to pay the check or sight
20 order or other form of presentment involving the transmission of
21 account information within ten days after receiving actual notice
22 in writing that it has not been paid because of insufficient
23 funds or credit with the drawee or because there is no such
24 drawee.

25 2. As used in subdivision (2) of subsection 1 of this
26 section, "actual notice in writing" means notice of the
27 nonpayment which is actually received by the defendant. Such
28 notice may include the service of summons or warrant upon the

1 defendant for the initiation of the prosecution of the check or
2 checks which are the subject matter of the prosecution if the
3 summons or warrant contains information of the ten-day period
4 during which the instrument may be paid and that payment of the
5 instrument within such ten-day period will result in dismissal of
6 the charges. The requirement of notice shall also be satisfied
7 for written communications which are tendered to the defendant
8 and which the defendant refuses to accept.

9 3. The face amounts of any bad checks passed pursuant to
10 one course of conduct within any ten-day period may be aggregated
11 in determining the grade of the offense.

12 4. Passing bad checks is a class A misdemeanor, unless:

13 (1) The face amount of the check or sight order or the
14 aggregated amounts is five hundred dollars or more; or

15 (2) The issuer had no account with the drawee or if there
16 was no such drawee at the time the check or order was issued, in
17 which cases passing bad checks is a class C felony.

18 5. [(1)] In addition to all other costs and fees allowed
19 by law, each prosecuting attorney or circuit attorney who takes
20 any action pursuant to the provisions of this section shall
21 collect from the issuer in such action an administrative handling
22 cost. The cost shall be twenty-five dollars for checks of less
23 than one hundred dollars, and fifty dollars for checks of one
24 hundred dollars but less than two hundred fifty dollars. For
25 checks of two hundred fifty dollars or more an additional fee of
26 ten percent of the face amount shall be assessed, with a maximum
27 fee for administrative handling costs not to exceed seventy-five
28 dollars total. Notwithstanding the provisions of sections 50.525

1 to 50.745, the costs provided for in this subsection shall be
2 deposited by the county treasurer into [a separate
3 interest-bearing fund to be expended by the prosecuting attorney
4 or circuit attorney. The funds shall be expended, upon warrants
5 issued by the prosecuting attorney or circuit attorney directing
6 the treasurer to issue checks thereon, only for purposes related
7 to that previously authorized in this section. Any revenues that
8 are not required for the purposes of this section may be placed
9 in the general revenue fund of the county or city not within a
10 county] the "Administrative Handling Cost Fund", established
11 under section 559.100. Notwithstanding any law to the contrary,
12 in addition to the administrative handling cost, the prosecuting
13 attorney or circuit attorney shall collect an additional cost of
14 five dollars per check for deposit to the Missouri office of
15 prosecution services fund established in subsection 2 of section
16 56.765. All moneys collected pursuant to this section which are
17 payable to the Missouri office of prosecution services fund shall
18 be transmitted at least monthly by the county treasurer to the
19 director of revenue who shall deposit the amount collected
20 pursuant to the credit of the Missouri office of prosecution
21 services fund under the procedure established pursuant to
22 subsection 2 of section 56.765.

23 [(2) The moneys deposited in the fund may be used by the
24 prosecuting or circuit attorney for office supplies, postage,
25 books, training, office equipment, capital outlay, expenses of
26 trial and witness preparation, additional employees for the staff
27 of the prosecuting or circuit attorney, employees' salaries, and
28 for other lawful expenses incurred by the circuit or prosecuting

1 attorney in operation of that office.

2 (3) This fund may be audited by the state auditor's office
3 or the appropriate auditing agency.

4 (4) If the moneys collected and deposited into this fund
5 are not totally expended annually, then the unexpended balance
6 shall remain in said fund and the balance shall be kept in said
7 fund to accumulate from year to year.]

8 6. Notwithstanding any other provision of law to the
9 contrary:

10 (1) In addition to the administrative handling costs
11 provided for in subsection 5 of this section, the prosecuting
12 attorney or circuit attorney may collect from the issuer, in
13 addition to the face amount of the check, a reasonable service
14 charge, which along with the face amount of the check, shall be
15 turned over to the party to whom the bad check was issued;

16 (2) If a check that is dishonored or returned unpaid by a
17 financial institution is not referred to the prosecuting attorney
18 or circuit attorney for any action pursuant to the provisions of
19 this section, the party to whom the check was issued, or his or
20 her agent or assignee, or a holder, may collect from the issuer,
21 in addition to the face amount of the check, a reasonable service
22 charge, not to exceed twenty-five dollars, plus an amount equal
23 to the actual charge by the depository institution for the return
24 of each unpaid or dishonored instrument.

25 7. When any financial institution returns a dishonored
26 check to the person who deposited such check, it shall be in
27 substantially the same physical condition as when deposited, or
28 in such condition as to provide the person who deposited the

1 check the information required to identify the person who wrote
2 the check.

3 573.037. 1. A person commits the ~~[crime]~~ offense of
4 possession of child pornography if such person knowingly or
5 recklessly possesses any child pornography of a minor ~~[under the~~
6 ~~age of]~~ less than eighteen years old or obscene material
7 portraying what appears to be a minor ~~[under the age of]~~ less
8 than eighteen years old.

9 2. The offense of possession of child pornography is a
10 class C felony ~~[unless]~~ if the person possesses one still image
11 of child pornography or one obscene still image. The offense of
12 possession of child pornography is a class B felony if the
13 person:

14 (1) Possesses:

15 (a) More than twenty still images of child pornography[,,
16 possesses]; or

17 (b) More than twenty obscene still images; or

18 (c) Child pornography comprised of one motion picture,
19 film, videotape, videotape production, or other moving image [of
20 child pornography,]; or

21 (d) Obscene material comprised of one motion picture, film,
22 videotape production, or other moving image; or

23 (2) Has previously pleaded guilty to or has been found
24 guilty of an offense under this section[, in which case it is a
25 class B felony].

26 3. A person who has committed the offense of possession of
27 child pornography is subject to separate punishments for each
28 item of child pornography or obscene material possessed by the

1 person.

2 589.015. As used in sections 589.010 to 589.040:

3 (1) The term "center" shall mean the state center for the
4 prevention and control of sexual assault established pursuant to
5 section 589.030;

6 (2) The term "sexual assault" shall include:

7 (a) The acts of rape in the first or second degree,
8 forcible rape, rape, statutory rape in the first degree,
9 statutory rape in the second degree, sexual assault, sodomy in
10 the first or second degree, forcible sodomy, sodomy, statutory
11 sodomy in the first degree, statutory sodomy in the second
12 degree, child molestation in the first degree, child molestation
13 in the second degree, deviate sexual assault, sexual misconduct
14 and sexual abuse, or attempts to commit any of the aforesaid, as
15 these acts are defined in chapter 566;

16 (b) The act of incest, as this act is defined in section
17 568.020;

18 (c) The act of abuse of a child, as defined in subdivision
19 (1) of subsection 1 of section 568.060, which involves sexual
20 contact, and as defined in subdivision (2) of subsection 1 of
21 section 568.060;

22 (d) The act of use of a child in a sexual performance as
23 defined in section 568.080; and

24 (e) The act of enticement of a child, as defined in section
25 566.151, or any attempt to commit such act.

26 590.700. 1. As used in this section, the following terms
27 shall mean:

28 (1) "Custodial interrogation", the questioning of a person

1 under arrest, who is no longer at the scene of the crime, by a
2 member of a law enforcement agency along with the answers and
3 other statements of the person questioned. "Custodial
4 interrogation" shall not include:

5 (a) A situation in which a person voluntarily agrees to
6 meet with a member of a law enforcement agency;

7 (b) A detention by a law enforcement agency that has not
8 risen to the level of an arrest;

9 (c) Questioning that is routinely asked during the
10 processing of the arrest of the suspect;

11 (d) Questioning pursuant to an alcohol influence report;

12 (e) Questioning during the transportation of a suspect;

13 (2) "Recorded" and "recording", any form of audiotape,
14 videotape, motion picture, or digital recording.

15 2. All custodial interrogations of persons suspected of
16 committing or attempting to commit murder in the first degree,
17 murder in the second degree, assault in the first degree, assault
18 of a law enforcement officer in the first degree, domestic
19 assault in the first degree, elder abuse in the first degree,
20 robbery in the first degree, arson in the first degree, rape in
21 the first degree, forcible rape, sodomy in the first degree,
22 forcible sodomy, kidnapping, statutory rape in the first degree,
23 statutory sodomy in the first degree, child abuse, or child
24 kidnapping shall be recorded when feasible.

25 3. Law enforcement agencies may record an interrogation in
26 any circumstance with or without the knowledge or consent of a
27 suspect, but they shall not be required to record an
28 interrogation under subsection 2 of this section:

1 (1) If the suspect requests that the interrogation not be
2 recorded;

3 (2) If the interrogation occurs outside the state of
4 Missouri;

5 (3) If exigent public safety circumstances prevent
6 recording;

7 (4) To the extent the suspect makes spontaneous statements;

8 (5) If the recording equipment fails; or

9 (6) If recording equipment is not available at the location
10 where the interrogation takes place.

11 4. Each law enforcement agency shall adopt a written policy
12 to record custodial interrogations of persons suspected of
13 committing or attempting to commit the felony crimes described in
14 subsection 2 of this section.

15 5. If a law enforcement agency fails to comply with the
16 provisions of this section, the governor may withhold any state
17 funds appropriated to the noncompliant law enforcement agency if
18 the governor finds that the agency did not act in good faith in
19 attempting to comply with the provisions of this section.

20 6. Nothing in this section shall be construed as a ground
21 to exclude evidence, and a violation of this section shall not
22 have impact other than that provided for in subsection 5 of this
23 section. Compliance or noncompliance with this section shall not
24 be admitted as evidence, argued, referenced, considered or
25 questioned during a criminal trial.

26 7. Nothing contained in this section shall be construed to
27 authorize, create, or imply a private cause of action.

28 595.220. 1. The department of public safety shall make

1 payments to appropriate medical providers, out of appropriations
2 made for that purpose, to cover the reasonable charges of the
3 forensic examination of persons who may be a victim of a sexual
4 offense if:

5 (1) The victim or the victim's guardian consents in writing
6 to the examination; and

7 (2) The report of the examination is made on a form
8 approved by the attorney general with the advice of the
9 department of public safety. The department shall establish
10 maximum reimbursement rates for charges submitted under this
11 section, which shall reflect the reasonable cost of providing the
12 forensic exam.

13 2. A minor may consent to examination under this section.
14 Such consent is not subject to disaffirmance because of minority,
15 and consent of parent or guardian of the minor is not required
16 for such examination. The appropriate medical provider making
17 the examination shall give written notice to the parent or
18 guardian of a minor that such an examination has taken place.

19 3. The attorney general, with the advice of the department
20 of public safety, shall develop the forms and procedures for
21 gathering evidence during the forensic examination under the
22 provisions of this section. The department of health and senior
23 services shall develop a checklist, protocols, and procedures for
24 appropriate medical providers to refer to while providing medical
25 treatment to victims of a sexual offense, including those
26 specific to victims who are minors.

27 4. Evidentiary collection kits shall be developed and made
28 available, subject to appropriation, to appropriate medical

1 providers by the highway patrol or its designees and eligible
2 crime laboratories. Such kits shall be distributed with the
3 forms and procedures for gathering evidence during forensic
4 examinations of victims of a sexual offense to appropriate
5 medical providers upon request of the provider, in the amount
6 requested, and at no charge to the medical provider. All
7 appropriate medical providers shall, with the written consent of
8 the victim, perform a forensic examination using the evidentiary
9 collection kit, or other collection procedures developed for
10 victims who are minors, and forms and procedures for gathering
11 evidence following the checklist for any person presenting as a
12 victim of a sexual offense.

13 5. In reviewing claims submitted under this section, the
14 department shall first determine if the claim was submitted
15 within ninety days of the examination. If the claim is submitted
16 within ninety days, the department shall, at a minimum, use the
17 following criteria in reviewing the claim: examination charges
18 submitted shall be itemized and fall within the definition of
19 forensic examination as defined in subdivision (3) of subsection
20 **[7] 8** of this section.

21 6. All appropriate medical provider charges for eligible
22 forensic examinations shall be billed to and paid by the
23 department of public safety. No appropriate medical provider
24 conducting forensic examinations and providing medical treatment
25 to victims of sexual offenses shall charge the victim for the
26 forensic examination. For appropriate medical provider charges
27 related to the medical treatment of victims of sexual offenses,
28 if the victim is an eligible claimant under the crime victims'

1 compensation fund, the victim shall seek compensation under
2 sections 595.010 to 595.075.

3 7. The department of public safety shall establish rules
4 regarding the reimbursement of the costs of forensic examinations
5 for children under fourteen years of age, including establishing
6 conditions and definitions for emergency and nonemergency
7 forensic examinations and may by rule establish additional
8 qualifications for appropriate medical providers performing
9 nonemergency forensic examinations for children under fourteen
10 years of age. The department shall provide reimbursement
11 regardless of whether or not the findings indicate that the child
12 was abused.

13 8. For purposes of this section, the following terms mean:

14 (1) "Appropriate medical provider",

15 (a) Any licensed nurse, physician, or physician assistant,
16 and any institution employing licensed nurses, physicians, or
17 physician assistants, provided that such licensed professionals
18 are the only persons at such institution to perform tasks under
19 the provisions of this section; or

20 (b) For the purposes of any nonemergency forensic
21 examination of a child under fourteen years of age, the
22 department of public safety may establish additional
23 qualifications for any provider listed in paragraph (a) under
24 rules authorized under subsection 7 of this section;

25 (2) "Evidentiary collection kit", a kit used during a
26 forensic examination that includes materials necessary for
27 appropriate medical providers to gather evidence in accordance
28 with the forms and procedures developed by the attorney general

1 for forensic examinations;

2 (3) "Forensic examination", an examination performed by an
3 appropriate medical provider on a victim of an alleged sexual
4 offense to gather evidence for the evidentiary collection kit or
5 using other collection procedures developed for victims who are
6 minors;

7 (4) "Medical treatment", the treatment of all injuries and
8 health concerns resulting directly from a patient's sexual
9 assault or victimization;

10 (5) "Emergency forensic examination", an examination of a
11 person under fourteen years of age that occurs within five days
12 of the alleged sexual offense. The department of public safety
13 may further define the term "emergency forensic examination" by
14 rule;

15 (6) "Nonemergency forensic examination", an examination of
16 a person under fourteen years of age that occurs more than five
17 days after the alleged sexual offense. The department of public
18 safety may further define the term "nonemergency forensic
19 examination" by rule.

20 [8.] 9. The department shall have authority to promulgate
21 rules and regulations necessary to implement the provisions of
22 this section. Any rule or portion of a rule, as that term is
23 defined in section 536.010, that is created under the authority
24 delegated in this section shall become effective only if it
25 complies with and is subject to all of the provisions of chapter
26 536 and, if applicable, section 536.028. This section and
27 chapter 536 are nonseverable and if any of the powers vested with
28 the general assembly pursuant to chapter 536 to review, to delay

1 the effective date, or to disapprove and annul a rule are
2 subsequently held unconstitutional, then the grant of rulemaking
3 authority and any rule proposed or adopted after August 28, 2009,
4 shall be invalid and void.

5 600.011. The following words and phrases as used in this
6 chapter have the following meanings, unless the context otherwise
7 requires:

8 (1) "Assigned counsel" means private attorneys who are
9 hired by the state public defender director to handle the cases
10 of eligible persons from time to time on a case basis;

11 (2) ["Chief deputy director" means the attorney appointed
12 by the commission to assist the state public defender director
13 and to exercise the duties and powers of the director in his
14 absence or upon his resignation;

15 (3) "Assistant public defender", a staff attorney within a
16 particular public defender office responsible for the handling of
17 cases of eligible persons;

18 (3) "Commission" [means] the public defender commission;

19 (4) "Defender(s)" includes both attorneys which serve as
20 staff attorneys in the state defender system and [assigned]
21 contract counsel [who provide defense services on a case basis],
22 but does not include secretarial, investigative, social service,
23 or paraprofessional staff;

24 (5) "Deputy director", the attorney or attorneys appointed
25 by the commission to assist the state public defender director
26 and to temporarily exercise the duties and powers of the director
27 in his or her absence or upon his or her resignation, pending the
28 commission's appointment of a new director;

1 (6) "Deputy district defender", an attorney who assists the
2 district defender in the management and supervision of a public
3 defender district office and performs the duty of the district
4 defender in his or her absence;

5 (7) "Director" [means], the state public defender director;

6 ~~[(6)]~~ (8) "District defender", the managing attorney in
7 charge of a public defender district office;

8 (9) "Division director", an employee responsible for the
9 supervision and management of multiple district offices or areas
10 of statewide responsibility as assigned by the director, or both;

11 (10) "Eligible person" [means], a person who falls within
12 the financial rules for legal representation at public expense
13 prescribed by section 600.086;

14 ~~[(7)]~~ (11) "State public defender system" [means], a system
15 for providing defense services to every jurisdiction within the
16 state by means of a centrally administered organization having a
17 full-time staff.

18 600.040. 1. The city or county shall provide office space
19 and utility services, other than telephone service, for the
20 ~~[circuit or regional]~~ district public defender and his or her
21 personnel. If there is more than one county in a ~~[circuit or~~
22 ~~region]~~ district, each county shall contribute, on the basis of
23 population, its pro rata share of the costs of office space and
24 utility services, other than telephone service. The state shall
25 pay, within the limits of the appropriation therefor, all other
26 expenses and costs of the state public defender system authorized
27 under this chapter.

28 2. A complete budget for the state public defender system

1 shall be provided through an annual appropriation subject to
2 approval by the governor and the general assembly. The budget
3 request for the state public defender system shall be approved by
4 the commission and submitted directly to the governor and the
5 general assembly by the director and shall not be subject to
6 diminution or alteration by the judicial department of state
7 government.

8 3. Any person who is a public defender or employee of a
9 public defender shall be entitled to all benefits of the Missouri
10 state employees' retirement system as defined in sections 104.310
11 to 104.550.

12 600.042. 1. The director shall:

13 (1) Direct and supervise the work of the deputy directors
14 and other state public defender office personnel appointed
15 pursuant to this chapter; and he or she and the [chief] deputy
16 director or directors may participate in the trial and appeal of
17 criminal actions at the request of the defender;

18 (2) Submit to the commission, between August fifteenth and
19 September fifteenth of each year, a report which shall include
20 all pertinent data on the operation of the state public defender
21 system, the costs, projected needs, and recommendations for
22 statutory changes. Prior to October fifteenth of each year, the
23 commission shall submit such report along with such
24 recommendations, comments, conclusions, or other pertinent
25 information it chooses to make to the chief justice, the
26 governor, and the general assembly. Such reports shall be a
27 public record, shall be maintained in the office of the state
28 public defender, and shall be otherwise distributed as the

1 commission shall direct;

2 (3) With the approval of the commission, establish such
3 divisions, facilities and offices and select such professional,
4 technical and other personnel, including investigators, as he
5 deems reasonably necessary for the efficient operation and
6 discharge of the duties of the state public defender system under
7 this chapter;

8 (4) Administer and coordinate the operations of defender
9 services and be responsible for the overall supervision of all
10 personnel, offices, divisions and facilities of the state public
11 defender system, except that the director shall have no authority
12 to direct or control the legal defense provided by a defender to
13 any person served by the state public defender system;

14 (5) Develop programs and administer activities to achieve
15 the purposes of this chapter;

16 (6) Keep and maintain proper financial records with respect
17 to the [providing] provision of all public defender services for
18 use in the calculating of direct and indirect costs of any or all
19 aspects of the operation of the state public defender system;

20 (7) Supervise the training of all public defenders,
21 [assistant public defenders, deputy public defenders] and other
22 personnel and establish such training courses as shall be
23 appropriate;

24 (8) With approval of the commission, promulgate necessary
25 rules, regulations and instructions consistent with this chapter
26 defining the organization of [his office] the state public
27 defender system and the responsibilities of [public] division
28 directors, district defenders, [assistant public] deputy district

1 defenders, [deputy] assistant public defenders and other
2 personnel;

3 (9) With the approval of the commission, apply for and
4 accept on behalf of the public defender system any funds which
5 may be offered or which may become available from government
6 grants, private gifts, donations or bequests or from any other
7 source. Such moneys shall be deposited in the state general
8 revenue fund;

9 (10) Contract for legal services with private attorneys on
10 a case-by-case basis and with assigned counsel as the commission
11 deems necessary considering the needs of the area, for fees
12 approved and established by the commission;

13 (11) With the approval and on behalf of the commission,
14 contract with private attorneys for the collection and
15 enforcement of liens and other judgments owed to the state for
16 services rendered by the state public defender system;

17 (12) Prepare a plan to establish district offices, the
18 boundaries of which shall coincide with existing judicial
19 circuits. Any district office may contain more than one judicial
20 circuit within its boundaries, but in no event shall any district
21 office boundary include any geographic region of a judicial
22 circuit without including the entire judicial circuit. The
23 director shall submit the plan to the chair of the house
24 judiciary committee and the chair of the senate judiciary
25 committee, with fiscal estimates, by December 31, 2014. The plan
26 shall be implemented by December 31, 2018.

27 2. No rule or portion of a rule promulgated under the
28 authority of this chapter shall become effective unless it has

1 been promulgated pursuant to the provisions of section 536.024.

2 3. The director and defenders shall, within guidelines as
3 established by the commission and as set forth in subsection 4 of
4 this section, accept requests for legal services from eligible
5 persons entitled to counsel under this chapter or otherwise so
6 entitled under the constitution or laws of the United States or
7 of the state of Missouri and provide such persons with legal
8 services when, in the discretion of the director or the
9 defenders, such provision of legal services is appropriate.

10 4. The director and defenders shall provide legal services
11 to an eligible person:

12 (1) Who is detained or charged with a felony, including
13 appeals from a conviction in such a case;

14 (2) Who is detained or charged with a misdemeanor which
15 will probably result in confinement in the county jail upon
16 conviction, including appeals from a conviction in such a case,
17 unless the prosecuting or circuit attorney has waived a jail
18 sentence;

19 (3) Who is [detained or] charged with a violation of
20 probation [or parole] when it has been determined by a judge that
21 the appointment of counsel is necessary to protect the person's
22 due process rights under section 559.036;

23 (4) Who has been taken into custody pursuant to section
24 632.489, including appeals from a determination that the person
25 is a sexually violent predator and petitions for release,
26 notwithstanding any provisions of law to the contrary;

27 (5) For whom the federal constitution or the state
28 constitution requires the appointment of counsel; and

1 (6) [For whom,] Who is charged in a case in which he or she
2 faces a loss or deprivation of liberty, and in which the federal
3 or the state constitution or any law of this state requires the
4 appointment of counsel; however, the director and the defenders
5 shall not be required to provide legal services to persons
6 charged with violations of county or municipal ordinances, or
7 misdemeanor offenses except as provided in this section.

8 5. The director may:

9 (1) Delegate the legal representation of any person to any
10 member of the state bar of Missouri;

11 (2) Designate persons as representatives of the director
12 for the purpose of making indigency determinations and assigning
13 counsel.

14 600.048. 1. It shall be the duty of every person in charge
15 of a jail, police station, constable's or sheriff's office, or
16 detention facility provided by any county to post in a
17 conspicuous place a notice stating in effect:

18 (1) That every person held in custody under a charge or
19 suspicion of a crime is entitled to have a lawyer;

20 (2) That if any such person is held in custody in
21 connection with any of the cases or proceedings set out in
22 section 600.042, and wants a lawyer to represent him or her and
23 is unable, without substantial financial hardship to [himself]
24 self or his or her dependents, to obtain a lawyer, the state will
25 provide a lawyer to represent him [if he requests such
26 representation] or her upon request; and

27 (3) That if the state provides such a lawyer [for him, he],
28 the client may be liable to the state for the cost of the

1 services and expenses of the lawyer who handles [his] the case if
2 he or she is or will be able to pay all or any part of such
3 costs. The notice shall also contain a listing of the cases and
4 proceedings for which defender services are available under
5 section 600.042, and the telephone number of a person or
6 answering service to call to request that a person designated by
7 the state public defender system visit and interview him or her,
8 and [give him] provide further information.

9 2. A person who is charged or detained in any case listed
10 in section 600.042 or who appears in court without counsel at any
11 stage of a case, or any other person on behalf of such person,
12 may request that legal representation be furnished to him or her
13 by the state. The court or any person representing the state
14 public defender system to whom such request is made shall first
15 [give him] provide a copy of the notice referred to in subsection
16 1 of this section or call the posted notice to [his] the charged
17 or detained person's attention and permit him or her to read it
18 or [explain it] have it explained to him or her. If such person
19 renews a request for state public defender system services, he or
20 she shall be required to complete and sign an affidavit in
21 accordance with section 600.086~~[. He]~~ and shall be orally
22 informed of the punishment for intentionally falsifying such
23 affidavit.

24 3. It shall be the duty of every person in charge of a
25 jail, police station, constable's or sheriff's office, or
26 detention facility to make a room or place available therein
27 where any person held in custody under a charge or suspicion of a
28 crime will be able to talk privately with his or her lawyer,

1 [his] lawyer's representative, or any authorized person
2 responding to [his] a request for an interview concerning his or
3 her right to counsel.

4 600.062. Notwithstanding the provisions of sections 600.017
5 and 600.042 to the contrary, neither the director nor the
6 commission shall have the authority to limit the availability of
7 a district office or any division director, district defender,
8 deputy district defender, or assistant public defender to accept
9 cases based on a determination that the office has exceeded a
10 caseload standard. The director, commission, any division
11 director, district defender, deputy district defender, or
12 assistant public defender may not refuse to provide
13 representation required under this chapter without prior approval
14 from a court of competent jurisdiction.

15 600.063. 1. Upon approval by the director or the
16 commission, any district defender may file a motion to request a
17 conference to discuss caseload issues involving any individual
18 public defender or defenders, but not the entire office, with the
19 presiding judge of any circuit court served by the district
20 office. The motion shall state the reasons why the individual
21 public defender or public defenders will be unable to provide
22 effective assistance of counsel due to caseload concerns. When a
23 motion to request a conference has been filed, the clerk of the
24 court shall immediately provide a copy of the motion to the
25 prosecuting or circuit attorney who serves the circuit court.

26 2. If the presiding judge approves the motion, a date for
27 the conference shall be set within thirty days of the filing of
28 the motion. The court shall provide notice of the conference

1 date and time to the district defender and the prosecuting or
2 circuit attorney.

3 3. Within thirty days of the conference, the presiding
4 judge shall issue an order either granting or denying relief. If
5 relief is granted, it shall be based upon a finding that the
6 individual public defender or defenders will be unable to provide
7 effective assistance of counsel due to caseload issues. The
8 judge may order one or more of the following types of relief in
9 any appropriate combination:

10 (1) Appoint private counsel to represent any eligible
11 defendant pursuant to the provisions of section 600.064;

12 (2) Investigate the financial status of any defendant
13 determined to be eligible for public defender representation
14 under section 600.086 and make findings regarding the eligibility
15 of such defendants;

16 (3) Determine, with the express concurrence of the
17 prosecuting or circuit attorney, whether any cases can be
18 disposed of without the imposition of a jail or prison sentence
19 and allow such cases to proceed without the provision of counsel
20 to the defendant;

21 (4) Modify the conditions of release ordered in any case in
22 which the defendant is being represented by a public defender,
23 including, but not limited to, reducing the amount of any bond
24 required for release;

25 (5) Place cases on a waiting list for defender services,
26 taking into account the seriousness of the case, the
27 incarceration status of the defendant, and such other special
28 circumstances as may be brought to the attention of the court by

1 the prosecuting or circuit attorney, the district defender, or
2 other interested parties; and

3 (6) Grant continuances.

4 4. Upon receiving the order, the prosecuting or circuit
5 attorney and the district defender shall have ten days to file an
6 application for review to the appropriate appellate court. Such
7 appeal shall be expedited by the court in every manner
8 practicable.

9 5. Nothing in this section shall deny any party the right
10 to seek any relief authorized by law nor shall any provisions of
11 this section be construed as providing a basis for a claim for
12 post conviction relief by a defendant.

13 6. The commission and the supreme court may make such rules
14 and regulations to implement this section. Any rule or portion
15 of a rule, as that term is defined in section 536.010, that is
16 created by the commission under the authority delegated in this
17 section shall become effective only if it complies with and is
18 subject to all of the provisions of chapter 536 and, if
19 applicable, section 536.028. This section and chapter 536 are
20 nonseverable and if any of the powers vested with the general
21 assembly pursuant to chapter 536 to review, to delay the
22 effective date, or to disapprove and annul a rule are
23 subsequently held unconstitutional, then the grant of rulemaking
24 authority and any rule proposed or adopted after August 28, 2013,
25 shall be invalid and void.

26 600.064. 1. Before a circuit court judge appoints private
27 counsel to represent an indigent defendant, the judge shall:

28 (1) Investigate the defendant's financial status to verify

1 that the defendant does not have the means to obtain counsel;

2 (2) Provide each appointed lawyer, upon request, with an
3 evidentiary hearing as to the propriety of the appointment,
4 taking into consideration the lawyer's right to earn a livelihood
5 and be free from involuntary servitude. If the judge determines
6 after the hearing that the appointment will cause any undue
7 hardship to the lawyer, the judge shall appoint another lawyer;
8 and

9 (3) Determine whether the private counsel to be appointed
10 possesses the necessary experience, education, and expertise in
11 criminal defense to provide effective assistance of counsel.

12 2. No judge shall require a lawyer to advance personal
13 funds in any amount for the payment of litigation expenses to
14 prepare a proper defense for an indigent defendant.

15 3. If an employee of the general assembly is appointed to
16 represent an indigent defendant during the time period beginning
17 January first and ending June first of each year, or whenever the
18 general assembly is in a veto session or special session or is
19 holding out-of-session committee hearings, the judge who made the
20 appointment shall postpone the trial and all other proceedings of
21 any kind or nature to a date that does not fall within such time
22 period or appoint a different lawyer who is not an employee of
23 the general assembly to represent the defendant.

24 4. Private counsel appointed to represent an indigent
25 defendant may seek payment of litigation expenses from the public
26 defender system. Such litigation expenses shall not include
27 counsel fees and shall be limited to those expenses approved in
28 advance by the director as reasonably necessary for the proper

1 defense of the defendant.

2 632.480. As used in sections 632.480 to 632.513, the
3 following terms mean:

4 (1) "Agency with jurisdiction", the department of
5 corrections or the department of mental health;

6 (2) "Mental abnormality", a congenital or acquired
7 condition affecting the emotional or volitional capacity which
8 predisposes the person to commit sexually violent offenses in a
9 degree constituting such person a menace to the health and safety
10 of others;

11 (3) "Predatory", acts directed towards individuals,
12 including family members, for the primary purpose of
13 victimization;

14 (4) "Sexually violent offense", the felonies of rape in the
15 first degree, forcible rape, rape, statutory rape in the first
16 degree, sodomy in the first degree, forcible sodomy, sodomy,
17 statutory sodomy in the first degree, or an attempt to commit any
18 of the preceding crimes, or child molestation in the first or
19 second degree, sexual abuse, sexual abuse in the first degree,
20 rape in the second degree, sexual assault, sexual assault in the
21 first degree, sodomy in the second degree, deviate sexual
22 assault, deviate sexual assault in the first degree, or the act
23 of abuse of a child [as defined in subdivision (1) of subsection
24 1 of section 568.060 which involves sexual contact, and as
25 defined in subdivision (2) of subsection 1 of section 568.060]
26 involving either sexual contact, a prohibited sexual act, sexual
27 abuse, or sexual exploitation of a minor, or any felony offense
28 that contains elements substantially similar to the offenses

1 listed above;

2 (5) "Sexually violent predator", any person who suffers
3 from a mental abnormality which makes the person more likely than
4 not to engage in predatory acts of sexual violence if not
5 confined in a secure facility and who:

6 (a) Has pled guilty or been found guilty, or been found not
7 guilty by reason of mental disease or defect pursuant to section
8 552.030 of a sexually violent offense; or

9 (b) Has been committed as a criminal sexual psychopath
10 pursuant to section 632.475 and statutes in effect before August
11 13, 1980.

12 632.498. 1. Each person committed pursuant to sections
13 632.480 to 632.513 shall have a current examination of the
14 person's mental condition made once every year by the director of
15 the department of mental health or designee. The yearly report
16 shall be provided to the court that committed the person pursuant
17 to sections 632.480 to 632.513. The court shall conduct an
18 annual review of the status of the committed person. The court
19 shall not conduct an annual review of a person's status if he or
20 she has been conditionally released pursuant to section 632.505.

21 2. Nothing contained in sections 632.480 to 632.513 shall
22 prohibit the person from otherwise petitioning the court for
23 release. The director of the department of mental health shall
24 provide the committed person who has not been conditionally
25 released with an annual written notice of the person's right to
26 petition the court for release over the director's objection.
27 The notice shall contain a waiver of rights. The director shall
28 forward the notice and waiver form to the court with the annual

1 report.

2 3. If the committed person petitions the court for
3 conditional release over the director's objection, the petition
4 shall be served upon the court that committed the person, the
5 prosecuting attorney of the jurisdiction into which the committed
6 person is to be released, the director of the department of
7 mental health, the head of the facility housing the person, and
8 the attorney general.

9 4. The committed person shall have a right to have an
10 attorney represent the person at the hearing but the person is
11 not entitled to be present at the hearing. If the court at the
12 hearing determines by a preponderance of the evidence that the
13 person no longer suffers from a mental abnormality that makes the
14 person likely to engage in acts of sexual violence if released,
15 then the court shall set a trial on the issue.

16 5. The trial shall be governed by the following provisions:

17 (1) The committed person shall be entitled to be present
18 and entitled to the benefit of all constitutional protections
19 that were afforded the person at the initial commitment
20 proceeding;

21 (2) The attorney general shall represent the state and
22 shall have a right to a jury trial and to have the committed
23 person evaluated by a psychiatrist or psychologist not employed
24 by the department of mental health or the department of
25 corrections. In addition, the person may be examined by a
26 consenting psychiatrist or psychologist of the person's choice at
27 the person's own expense;

28 (3) The burden of proof at the trial shall be upon the

1 state to prove by clear and convincing evidence that the
2 committed person's mental abnormality remains such that the
3 person is not safe to be at large and if released is likely to
4 engage in acts of sexual violence. If such determination is made
5 by a jury, the verdict must be unanimous;

6 (4) If the court or jury finds that the person's mental
7 abnormality remains such that the person is not safe to be at
8 large and if released is likely to engage in acts of sexual
9 violence, the person shall remain in the custody of the
10 department of mental health in a secure facility designated by
11 the director of the department of mental health. If the court or
12 jury finds that the person's mental abnormality has so changed
13 that the person is not likely to commit acts of sexual violence
14 if released, the person shall be conditionally released as
15 provided in section 632.505.

16 632.505. 1. Upon determination by a court or jury that the
17 person's mental abnormality has so changed that the person is not
18 likely to commit acts of sexual violence if released, the court
19 shall place the person on conditional release pursuant to the
20 terms of this section. The primary purpose of conditional
21 release is to provide outpatient treatment and monitoring to
22 prevent the person's condition from deteriorating to the degree
23 that the person would need to be returned to a secure facility
24 designated by the director of the department of mental health.

25 2. The department of mental health is authorized to enter
26 into an interagency agreement with the department of corrections
27 for the supervision of persons granted a conditional release by
28 the court. In conjunction with the department of corrections,

1 the department of mental health shall develop a conditional
2 release plan which contains appropriate conditions for the person
3 to be released. The plan shall address the person's need for
4 supervision, counseling, medication, community support services,
5 residential services, vocational services, and alcohol and drug
6 treatment. The department of mental health shall submit the
7 proposed plan for conditional release to the court.

8 3. The court shall review the plan and determine the
9 conditions that it deems necessary to meet the person's need for
10 treatment and supervision and to protect the safety of the
11 public. The court shall order that the person shall be subject
12 to the following conditions and other conditions as deemed
13 necessary:

14 (1) Maintain a residence approved by the department of
15 mental health and not change residence unless approved by the
16 department of mental health;

17 (2) Maintain employment unless engaged in other structured
18 activity approved by the department of mental health;

19 (3) Obey all federal and state laws;

20 (4) Not possess a firearm or dangerous weapon;

21 (5) Not be employed or voluntarily participate in an
22 activity that involves contact with children without approval of
23 the department of mental health;

24 (6) Not consume alcohol or use a controlled substance
25 except as prescribed by a treating physician and to submit, upon
26 request, to any procedure designed to test for alcohol or
27 controlled substance use;

28 (7) Not associate with any person who has been convicted of

- 1 a felony unless approved by the department of mental health;
- 2 (8) Not leave the state without permission of the
3 department of mental health;
- 4 (9) Not have contact with specific persons, including but
5 not limited to, the victim or victim's family, as directed by the
6 department of mental health;
- 7 (10) Not have any contact with any child without specific
8 approval by the department of mental health;
- 9 (11) Not possess material that is pornographic, sexually
10 oriented, or sexually stimulating;
- 11 (12) Not enter a business providing sexually stimulating or
12 sexually oriented entertainment;
- 13 (13) Submit to a polygraph, plethysmograph, or other
14 electronic or behavioral monitoring or assessment;
- 15 (14) Submit to electronic monitoring which may be based on
16 a global positioning system or other technology which identifies
17 and records a person's location at all times;
- 18 (15) Attend and fully participate in assessment and
19 treatment as directed by the department of mental health;
- 20 (16) Take all psychiatric medications as prescribed by a
21 treating physician;
- 22 (17) Authorize the department of mental health to access
23 and obtain copies of confidential records pertaining to
24 evaluation, counseling, treatment, and other such records and
25 provide the consent necessary for the release of any such
26 records;
- 27 (18) Pay fees to the department of mental health and the
28 department of corrections to cover the costs of services and

1 monitoring;

2 (19) Report to or appear in person as directed by the
3 department of mental health and the department of corrections,
4 and to follow all directives of such departments;

5 (20) Comply with any registration requirements under
6 sections 589.400 to 589.425; and

7 (21) Comply with any other conditions that the court
8 determines to be in the best interest of the person and society.

9 4. The court shall provide a copy of the order containing
10 the conditions of release to the person, the attorney general,
11 the department of mental health, the head of the facility housing
12 the person, and the department of corrections.

13 5. A person who is conditionally released and supervised by
14 a probation and parole officer employed by the department of
15 corrections remains under the control, care, and treatment of the
16 department of mental health.

17 6. The court may modify conditions of release upon its own
18 motion or upon the petition of the department of mental health,
19 the department of corrections, or the person on conditional
20 release.

21 7. The following provisions shall apply to violations of
22 conditional release:

23 (1) If any probation and parole officer has reasonable
24 cause to believe that a person on conditional release has
25 violated a condition of release or that the person is no longer a
26 proper subject for conditional release, the officer may issue a
27 warrant for the person's arrest. The warrant shall contain a
28 brief recitation of the facts supporting the officer's belief.

1 The warrant shall direct any peace officer to take the person
2 into custody immediately so that the person can be returned to a
3 secure facility;

4 (2) If the director of the department of mental health or
5 the director's designee has reasonable cause to believe that a
6 person on conditional release has violated a condition of release
7 or that the person is no longer a proper subject for conditional
8 release, the director or the director's designee may request that
9 a peace officer take the person into custody immediately, or
10 request that a probation and parole officer or the court which
11 ordered the release issue a warrant for the person's arrest so
12 that the person can be returned to a secure facility;

13 (3) At any time during the period of a conditional release,
14 the court which ordered the release may issue a notice to the
15 released person to appear to answer a charge of a violation of
16 the terms of the release and the court may issue a warrant of
17 arrest for the violation. Such notice shall be personally served
18 upon the released person. The warrant shall authorize the return
19 of the released person to the custody of the court or to the
20 custody of the director of mental health or the director's
21 designee;

22 (4) No peace officer responsible for apprehending and
23 returning the person to the facility upon the request of the
24 director of the department of mental health or the director's
25 designee or a probation and parole officer shall be civilly
26 liable for apprehending or transporting such person to the
27 facility so long as such duties were performed in good faith and
28 without negligence;

1 (5) The department of mental health shall promptly notify
2 the court that the person has been apprehended and returned to a
3 secure facility;

4 (6) Within seven days of the person's return to a secure
5 facility, the department of mental health must either request
6 that the attorney general file a petition to revoke the person's
7 conditional release or continue the person on conditional
8 release;

9 (7) If a petition to revoke conditional release is filed,
10 the person shall remain in custody until a hearing is held on the
11 petition. The hearing shall be given priority on the court's
12 docket. If upon hearing the evidence, the court finds by
13 preponderance of the evidence that the person has violated a
14 condition of release and that the violation of the condition was
15 sufficient to render the person no longer suitable for
16 conditional release, the court shall revoke the conditional
17 release and order the person returned to a secure facility
18 designated by the director of the department of mental health.
19 If the court determines that revocation is not required, the
20 court may modify or increase the conditions of release or order
21 the person's release on the existing conditions of release;

22 (8) A person whose conditional release has been revoked may
23 petition the court for subsequent release pursuant to sections
24 632.498, 632.501, and 632.504 no sooner than six months after the
25 person's return to a secure facility.

26 8. The department of mental health may enter into
27 agreements with the department of corrections and other
28 departments and may enter into contracts with private entities

1 for the purpose of supervising a person on conditional release.

2 9. The department of mental health and the department of
3 corrections may require a person on conditional release to pay a
4 reasonable fee to cover the costs of providing services and
5 monitoring while the person is released. Each department may
6 adopt rules with respect to establishing, waiving, collecting,
7 and using fees. Any rule or portion of a rule, as that term is
8 defined in section 536.010, that is created under the authority
9 delegated in this section shall become effective only if it
10 complies with and is subject to all of the provisions of chapter
11 536 and, if applicable, section 536.028. This section and
12 chapter 536 are nonseverable and if any of the powers vested with
13 the general assembly pursuant to chapter 536 to review, to delay
14 the effective date, or to disapprove and annul a rule are
15 subsequently held unconstitutional, then the grant of rulemaking
16 authority and any rule proposed or adopted after August 28, 2006,
17 shall be invalid and void.

18 10. In the event a person on conditional release escapes
19 from custody, the department of mental health shall notify the
20 court, the department of corrections, the attorney general, the
21 chief law enforcement officer of the county or city not within a
22 county from where the person escaped or absconded, and any other
23 persons necessary to protect the safety of the public or to
24 assist in the apprehension of the person. The attorney general
25 shall notify victims and witnesses. Upon receiving such notice,
26 the attorney general shall file escape from commitment charges
27 under section 575.195.

28 11. When a person who has been granted conditional release

1 under this section is being electronically monitored and remains
2 in the county, city, town, or village where the facility is
3 located that released the person, the department of corrections
4 shall provide, upon request, the chief of the local law
5 enforcement agency of such county, city, town, or village with
6 access to the information gathered by the global positioning
7 system or other technology used to monitor the person. This
8 access shall include, but not be limited to, any user name or
9 password needed to view any real-time or recorded information
10 about the person, and any alert or message generated by the
11 technology. The access shall continue while the person is being
12 electronically monitored and is living in the county, city, town,
13 or village where the facility that released the offender is
14 located. The information obtained by the chief of the local law
15 enforcement agency shall be closed and shall not be disclosed to
16 any person outside the law enforcement agency except upon an
17 order of the court supervising the conditional release.

18 Section 1. It is the intent of the legislature to reject
19 and abrogate earlier case law interpretations on the meaning of
20 or definition of "sexually violent offense" to include, but not
21 be limited to, holdings in: Robertson v. State, 392 S.W.3d 1 (Mo.
22 App. W.D., 2012); and State ex rel. Whitaker v. Satterfield, 386
23 S.W.3d 893 (Mo. App. S.D., 2012); and all cases citing,
24 interpreting, applying, or following those cases. It is the
25 intent of the legislature to apply these provisions
26 retroactively.

27 Section B. Because immediate action is necessary to ensure
28 the quality of representation of indigent criminal defendants and

1 to protect victims of criminal offenses, the enactment of section
2 600.062, and the repeal and reenactment of section 632.480 of
3 this act is deemed necessary for the immediate preservation of
4 the public health, welfare, peace, and safety, and is hereby
5 declared to be an emergency act within the meaning of the
6 constitution, the enactment of section 600.062, and the repeal
7 and reenactment of section 632.480 of this act shall be in full
8 force and effect upon its passage and approval.