

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1371

AN ACT

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

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

1 Section A. Sections 160.261, 167.115, 167.171, 188.030,
2 195.130, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212,

1 556.061, 558.019, 559.036, 559.106, 559.115, 559.633, 565.002,
2 565.073, 566.135, 566.147, 566.148, 566.149, 577.001, 577.010,
3 577.020, 577.037, 577.041, and 660.315, RSMo, and section 476.055
4 as enacted by senate committee substitute for house bill no. 1460
5 merged with conference committee substitute for house committee
6 substitute for senate bill no. 628, ninety-sixth general
7 assembly, second regular session, section 476.055 as enacted by
8 conference committee substitute for house committee substitute
9 for senate bill no. 636, ninety-sixth general assembly, second
10 regular session, and sections 160.261, 167.115, 167.171, 188.030,
11 197.1036, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212,
12 476.055, 545.940, 556.061, 558.019, 559.036, 559.106, 559.115,
13 559.633, 565.002, 565.073, 566.147, 566.148, 566.149, 577.001,
14 577.010, 577.013, 577.020, 577.037, 577.041, 579.060, and 579.105
15 as enacted by house committee substitute for senate substitute
16 for senate committee substitute for senate bill no. 491, ninety-
17 seventh general assembly, second regular session, RSMo, are
18 repealed and thirty-two new sections enacted in lieu thereof, to
19 be known as sections 160.261, 167.115, 167.171, 188.030,
20 197.1036, 210.117, 211.038, 217.010, 217.703, 260.211, 260.212,
21 476.055, 545.940, 556.061, 558.019, 559.036, 559.106, 559.115,
22 559.633, 565.002, 565.073, 566.147, 566.148, 566.149, 577.001,
23 577.010, 577.013, 577.020, 577.037, 577.041, 579.060, and
24 579.105, to read as follows:

25 160.261. 1. The local board of education of each school
26 district shall clearly establish a written policy of discipline,
27 including the district's determination on the use of corporal
28 punishment and the procedures in which punishment will be

1 applied. A written copy of the district's discipline policy and
2 corporal punishment procedures, if applicable, shall be provided
3 to the pupil and parent or legal guardian of every pupil enrolled
4 in the district at the beginning of each school year and also
5 made available in the office of the superintendent of such
6 district, during normal business hours, for public inspection.
7 All employees of the district shall annually receive instruction
8 related to the specific contents of the policy of discipline and
9 any interpretations necessary to implement the provisions of the
10 policy in the course of their duties, including but not limited
11 to approved methods of dealing with acts of school violence,
12 disciplining students with disabilities and instruction in the
13 necessity and requirements for confidentiality.

14 2. The policy shall require school administrators to report
15 acts of school violence to all teachers at the attendance center
16 and, in addition, to other school district employees with a need
17 to know. For the purposes of this chapter or chapter 167, "need
18 to know" is defined as school personnel who are directly
19 responsible for the student's education or who otherwise interact
20 with the student on a professional basis while acting within the
21 scope of their assigned duties. As used in this section, the
22 phrase "act of school violence" or "violent behavior" means the
23 exertion of physical force by a student with the intent to do
24 serious physical injury as defined in [subdivision (6) of]
25 section [565.002] 556.061 to another person while on school
26 property, including a school bus in service on behalf of the
27 district, or while involved in school activities. The policy
28 shall at a minimum require school administrators to report, as

1 soon as reasonably practical, to the appropriate law enforcement
2 agency any of the following crimes, or any act which if committed
3 by an adult would be one of the following crimes:

4 (1) First degree murder under section 565.020;

5 (2) Second degree murder under section 565.021;

6 (3) Kidnapping under section 565.110 as it existed prior to
7 January 1, 2017, or kidnapping in the first degree under section
8 565.110;

9 (4) First degree assault under section 565.050;

10 (5) Rape in the first degree under section 566.030;

11 (6) Sodomy in the first degree under section 566.060;

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

13 (8) Burglary in the second degree under section 569.170;

14 (9) Robbery in the first degree under section 569.020 as it
15 existed prior to January 1, 2017, or robbery in the first degree
16 under section 570.023;

17 (10) Distribution of drugs under section 195.211 as it
18 existed prior to January 1, 2017, or manufacture of a controlled
19 substance under section 579.055;

20 (11) Distribution of drugs to a minor under section 195.212
21 as it existed prior to January 1, 2017, or delivery of a
22 controlled substance under section 579.020;

23 (12) Arson in the first degree under section 569.040;

24 (13) Voluntary manslaughter under section 565.023;

25 (14) Involuntary manslaughter under section 565.024 as it
26 existed prior to January 1, 2017, involuntary manslaughter in the
27 first degree under section 565.024, or involuntary manslaughter
28 in the second degree under section 565.027;

1 (15) Second degree assault under section 565.060 as it
2 existed prior to January 1, 2017, or second degree assault under
3 section 565.052;

4 (16) Rape in the second degree under section 566.031;

5 (17) Felonious restraint under section 565.120 as it
6 existed prior to January 1, 2017, or kidnapping in the second
7 degree under section 565.120;

8 (18) Property damage in the first degree under section
9 569.100;

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

11 (20) Child molestation in the first degree pursuant to
12 section 566.067 as it existed prior to January 1, 2017, or child
13 molestation in the first, second, or third degree pursuant to
14 section 566.067, 566.068, or 566.069;

15 (21) Sodomy in the second degree pursuant to section
16 566.061;

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

19 (23) Sexual abuse in the first degree pursuant to section
20 566.100;

21 (24) Harassment under section 565.090 as it existed prior
22 to January 1, 2017, or harassment in the first degree under
23 section 565.090; or

24 (25) Stalking under section 565.225 as it existed prior to
25 January 1, 2017, or stalking in the first degree under section
26 565.225;

27
28 committed on school property, including but not limited to

1 actions on any school bus in service on behalf of the district or
2 while involved in school activities. The policy shall require
3 that any portion of a student's individualized education program
4 that is related to demonstrated or potentially violent behavior
5 shall be provided to any teacher and other school district
6 employees who are directly responsible for the student's
7 education or who otherwise interact with the student on an
8 educational basis while acting within the scope of their assigned
9 duties. The policy shall also contain the consequences of
10 failure to obey standards of conduct set by the local board of
11 education, and the importance of the standards to the maintenance
12 of an atmosphere where orderly learning is possible and
13 encouraged.

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

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

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

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

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

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

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

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

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

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

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

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

1 but may also include other weapons.

2 7. All school district personnel responsible for the care
3 and supervision of students are authorized to hold every pupil
4 strictly accountable for any disorderly conduct in school or on
5 any property of the school, on any school bus going to or
6 returning from school, during school-sponsored activities, or
7 during intermission or recess periods.

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

23 9. Each school board shall define in its discipline policy
24 acts of violence and any other acts that constitute a serious
25 violation of that policy. "Acts of violence" as defined by
26 school boards shall include but not be limited to exertion of
27 physical force by a student with the intent to do serious bodily
28 harm to another person while on school property, including a

1 school bus in service on behalf of the district, or while
2 involved in school activities. School districts shall for each
3 student enrolled in the school district compile and maintain
4 records of any serious violation of the district's discipline
5 policy. Such records shall be made available to teachers and
6 other school district employees with a need to know while acting
7 within the scope of their assigned duties, and shall be provided
8 as required in section 167.020 to any school district in which
9 the student subsequently attempts to enroll.

10 10. Spanking, when administered by certificated personnel
11 and in the presence of a witness who is an employee of the school
12 district, or the use of reasonable force to protect persons or
13 property, when administered by personnel of a school district in
14 a reasonable manner in accordance with the local board of
15 education's written policy of discipline, is not abuse within the
16 meaning of chapter 210. The provisions of sections 210.110 to
17 210.165 notwithstanding, the children's division shall not have
18 jurisdiction over or investigate any report of alleged child
19 abuse arising out of or related to the use of reasonable force to
20 protect persons or property when administered by personnel of a
21 school district or any spanking administered in a reasonable
22 manner by any certificated school personnel in the presence of a
23 witness who is an employee of the school district pursuant to a
24 written policy of discipline established by the board of
25 education of the school district, as long as no allegation of
26 sexual misconduct arises from the spanking or use of force.

27 11. If a student reports alleged sexual misconduct on the
28 part of a teacher or other school employee to a person employed

1 in a school facility who is required to report such misconduct to
2 the children's division under section 210.115, such person and
3 the superintendent of the school district shall report the
4 allegation to the children's division as set forth in section
5 210.115. Reports made to the children's division under this
6 subsection shall be investigated by the division in accordance
7 with the provisions of sections 210.145 to 210.153 and shall not
8 be investigated by the school district under subsections 12 to 20
9 of this section for purposes of determining whether the
10 allegations should or should not be substantiated. The district
11 may investigate the allegations for the purpose of making any
12 decision regarding the employment of the accused employee.

13 12. Upon receipt of any reports of child abuse by the
14 children's division other than reports provided under subsection
15 11 of this section, pursuant to sections 210.110 to 210.165 which
16 allegedly involve personnel of a school district, the children's
17 division shall notify the superintendent of schools of the
18 district or, if the person named in the alleged incident is the
19 superintendent of schools, the president of the school board of
20 the school district where the alleged incident occurred.

21 13. If, after an initial investigation, the superintendent
22 of schools or the president of the school board finds that the
23 report involves an alleged incident of child abuse other than the
24 administration of a spanking by certificated school personnel or
25 the use of reasonable force to protect persons or property when
26 administered by school personnel pursuant to a written policy of
27 discipline or that the report was made for the sole purpose of
28 harassing a public school employee, the superintendent of schools

1 or the president of the school board shall immediately refer the
2 matter back to the children's division and take no further
3 action. In all matters referred back to the children's division,
4 the division shall treat the report in the same manner as other
5 reports of alleged child abuse received by the division.

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

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

21 16. The investigation shall begin no later than forty-eight
22 hours after notification from the children's division is
23 received, and shall consist of, but need not be limited to,
24 interviewing and recording statements of the child and the
25 child's parents or guardian within two working days after the
26 start of the investigation, of the school district personnel
27 allegedly involved in the report, and of any witnesses to the
28 alleged incident.

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

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

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

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

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

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

28 20. The findings and conclusions of the school board under

1 subsection 19 of this section shall be sent to the children's
2 division. If the findings and conclusions of the school board
3 are that the report of the alleged child abuse is
4 unsubstantiated, the investigation shall be terminated, the case
5 closed, and no record shall be entered in the children's division
6 central registry. If the findings and conclusions of the school
7 board are that the report of the alleged child abuse is
8 substantiated, the children's division shall report the incident
9 to the prosecuting attorney of the appropriate county along with
10 the findings and conclusions of the school district and shall
11 include the information in the division's central registry. If
12 the findings and conclusions of the school board are that the
13 issue involved in the alleged incident of child abuse is
14 unresolved, the children's division shall report the incident to
15 the prosecuting attorney of the appropriate county along with the
16 findings and conclusions of the school board, however, the
17 incident and the names of the parties allegedly involved shall
18 not be entered into the central registry of the children's
19 division unless and until the alleged child abuse is
20 substantiated by a court of competent jurisdiction.

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

27 22. In order to ensure the safety of all students, should a
28 student be expelled for bringing a weapon to school, violent

1 behavior, or for an act of school violence, that student shall
2 not, for the purposes of the accreditation process of the
3 Missouri school improvement plan, be considered a dropout or be
4 included in the calculation of that district's educational
5 persistence ratio.

6 167.115. 1. Notwithstanding any provision of chapter 211
7 or chapter 610 to the contrary, the juvenile officer, sheriff,
8 chief of police or other appropriate law enforcement authority
9 shall, as soon as reasonably practical, notify the
10 superintendent, or the superintendent's designee, of the school
11 district in which the pupil is enrolled when a petition is filed
12 pursuant to subsection 1 of section 211.031 alleging that the
13 pupil has committed one of the following acts:

14 (1) First degree murder under section 565.020;

15 (2) Second degree murder under section 565.021;

16 (3) Kidnapping under section 565.110 as it existed prior to
17 January 1, 2017, or kidnapping in the first degree under section
18 565.110;

19 (4) First degree assault under section 565.050;

20 (5) 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 (6) 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 (7) Burglary in the first degree under section 569.160;

27 (8) Robbery in the first degree under section 569.020 as it
28 existed prior to January 1, 2017, or robbery in the first degree

1 under section 570.023;

2 (9) Distribution of drugs under section 195.211 as it
3 existed prior to January 1, 2017, or manufacture of a controlled
4 substance under section 579.055;

5 (10) Distribution of drugs to a minor under section 195.212
6 as it existed prior to January 1, 2017, or delivery of a
7 controlled substance under section 579.020;

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

9 (12) Voluntary manslaughter under section 565.023;

10 (13) Involuntary manslaughter under section 565.024 as it
11 existed prior to January 1, 2017, involuntary manslaughter in the
12 first degree under section 565.024, or involuntary manslaughter
13 in the second degree under section 565.027;

14 (14) Second degree assault under section 565.060 as it
15 existed prior to January 1, 2017, or second degree assault under
16 section 565.052;

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

20 (16) Felonious restraint under section 565.120 as it
21 existed prior to January 1, 2017, or kidnapping in the second
22 degree under section 565.120;

23 (17) Property damage in the first degree under section
24 569.100;

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

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

28 (20) Child molestation in the first, second, or third

1 degree pursuant to sections 566.067, 566.068, or 566.069;

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

5 ~~[(21)]~~ (22) Sexual misconduct involving a child pursuant to
6 section 566.083; or

7 ~~[(22)]~~ (23) Sexual abuse pursuant to section 566.100 as it
8 existed prior to August 28, 2013, or sexual abuse in the first
9 degree under section 566.100.

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

22 3. The superintendent or the designee of the superintendent
23 shall report such information to teachers and other school
24 district employees with a need to know while acting within the
25 scope of their assigned duties. Any information received by
26 school district officials pursuant to this section shall be
27 received in confidence and used for the limited purpose of
28 assuring that good order and discipline is maintained in the

1 school. This information shall not be used as the sole basis for
2 not providing educational services to a public school pupil.

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

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

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

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

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

28 167.171. 1. The school board in any district, by general

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

19 2. No pupil shall be suspended unless:

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

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

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

27 (4) In the event of a suspension for more than ten school
28 days, where the pupil gives notice that such pupil wishes to

1 appeal the suspension to the board, the suspension shall be
2 stayed until the board renders its decision, unless in the
3 judgment of the superintendent of schools, or of the district
4 superintendent, the pupil's presence poses a continuing danger to
5 persons or property or an ongoing threat of disrupting the
6 academic process, in which case the pupil may be immediately
7 removed from school, and the notice and hearing shall follow as
8 soon as practicable.

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

1 to the contrary, no pupil shall be readmitted or enrolled to a
2 regular program of instruction if:

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

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

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

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

14 (a) First degree murder under section 565.020;

15 (b) Second degree murder under section 565.021;

16 (c) First degree assault under section 565.050;

17 (d) Forcible rape under section 566.030 as it existed prior
18 to August 28, 2013, or rape in the first degree under section
19 566.030;

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

23 (f) Statutory rape under section 566.032;

24 (g) Statutory sodomy under section 566.062;

25 (h) Robbery in the first degree under section 569.020 as it
26 existed prior to January 1, 2017, or robbery in the first degree
27 under section 570.023;

28 (i) Distribution of drugs to a minor under section 195.212

1 as it existed prior to January 1, 2017, or delivery of a
2 controlled substance under section 579.020;

3 (j) Arson in the first degree under section 569.040;

4 (k) Kidnapping or kidnapping in the first degree, when
5 classified as a class A felony under section 565.110.

6
7 Nothing in this subsection shall prohibit the readmittance or
8 enrollment of any pupil if a petition has been dismissed, or when
9 a pupil has been acquitted or adjudicated not to have committed
10 any of the above acts. This subsection shall not apply to a
11 student with a disability, as identified under state eligibility
12 criteria, who is convicted or adjudicated guilty as a result of
13 an action related to the student's disability. Nothing in this
14 subsection shall be construed to prohibit a school district which
15 provides an alternative education program from enrolling a pupil
16 in an alternative education program if the district determines
17 such enrollment is appropriate.

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

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

13 188.030. 1. Except in the case of a medical emergency, no
14 abortion of a viable unborn child shall be performed or induced
15 unless the abortion is necessary to preserve the life of the
16 pregnant woman whose life is endangered by a physical disorder,
17 physical illness, or physical injury, including a
18 life-endangering physical condition caused by or arising from the
19 pregnancy itself, or when continuation of the pregnancy will
20 create a serious risk of substantial and irreversible physical
21 impairment of a major bodily function of the pregnant woman. For
22 purposes of this section, "major bodily function" includes, but
23 is not limited to, functions of the immune system, normal cell
24 growth, digestive, bowel, bladder, neurological, brain,
25 respiratory, circulatory, endocrine, and reproductive functions.

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

27 (1) Prior to performing or inducing an abortion upon a
28 woman, the physician shall determine the gestational age of the

1 unborn child in a manner consistent with accepted obstetrical and
2 neonatal practices and standards. In making such determination,
3 the physician shall make such inquiries of the pregnant woman and
4 perform or cause to be performed such medical examinations,
5 imaging studies, and tests as a reasonably prudent physician,
6 knowledgeable about the medical facts and conditions of both the
7 woman and the unborn child involved, would consider necessary to
8 perform and consider in making an accurate diagnosis with respect
9 to gestational age;

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

22 (3) If the physician determines that the gestational age of
23 the unborn child is twenty weeks or more, and further determines
24 that the unborn child is not viable and performs or induces an
25 abortion upon the woman, the physician shall report such findings
26 and determinations and the reasons for such determinations to the
27 health care facility in which the abortion is performed and to
28 the state board of registration for the healing arts, and shall

1 enter such findings and determinations in the medical records of
2 the woman and in the individual abortion report submitted to the
3 department under section 188.052;

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

11 (b) Before a physician may proceed with performing or
12 inducing an abortion upon a woman when it has been determined
13 that the unborn child is viable, the physician shall first
14 certify in writing the medical threat posed to the life of the
15 pregnant woman, or the medical reasons that continuation of the
16 pregnancy would cause a serious risk of substantial and
17 irreversible physical impairment of a major bodily function of
18 the pregnant woman. Upon completion of the abortion, the
19 physician shall report the reasons and determinations for the
20 abortion of a viable unborn child to the health care facility in
21 which the abortion is performed and to the state board of
22 registration for the healing arts, and shall enter such findings
23 and determinations in the medical record of the woman and in the
24 individual abortion report submitted to the department under
25 section 188.052.

26 (c) Before a physician may proceed with performing or
27 inducing an abortion upon a woman when it has been determined
28 that the unborn child is viable, the physician who is to perform

1 the abortion shall obtain the agreement of a second physician
2 with knowledge of accepted obstetrical and neonatal practices and
3 standards who shall concur that the abortion is necessary to
4 preserve the life of the pregnant woman, or that continuation of
5 the pregnancy would cause a serious risk of substantial and
6 irreversible physical impairment of a major bodily function of
7 the pregnant woman. This second physician shall also report such
8 reasons and determinations to the health care facility in which
9 the abortion is to be performed and to the state board of
10 registration for the healing arts, and shall enter such findings
11 and determinations in the medical record of the woman and the
12 individual abortion report submitted to the department under
13 section 188.052. The second physician shall not have any legal
14 or financial affiliation or relationship with the physician
15 performing or inducing the abortion, except that such prohibition
16 shall not apply to physicians whose legal or financial
17 affiliation or relationship is a result of being employed by or
18 having staff privileges at the same hospital as the term
19 "hospital" is defined in section 197.020.

20 (d) Any physician who performs or induces an abortion upon
21 a woman when it has been determined that the unborn child is
22 viable shall utilize the available method or technique of
23 abortion most likely to preserve the life or health of the unborn
24 child. In cases where the method or technique of abortion most
25 likely to preserve the life or health of the unborn child would
26 present a greater risk to the life or health of the woman than
27 another legally permitted and available method or technique, the
28 physician may utilize such other method or technique. In all

1 cases where the physician performs an abortion upon a viable
2 unborn child, the physician shall certify in writing the
3 available method or techniques considered and the reasons for
4 choosing the method or technique employed.

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

19 3. Any person who knowingly performs or induces an abortion
20 of an unborn child in violation of the provisions of this section
21 is guilty of a class [C] D felony, and, upon a finding of guilt
22 or plea of guilty, shall be imprisoned for a term of not less
23 than one year, and, notwithstanding the provisions of section
24 [560.011] 558.002, shall be fined not less than ten thousand nor
25 more than fifty thousand dollars.

26 4. Any physician who pleads guilty to or is found guilty of
27 performing or inducing an abortion of an unborn child in
28 violation of this section shall be subject to suspension or

1 revocation of his or her license to practice medicine in the
2 state of Missouri by the state board of registration for the
3 healing arts under the provisions of sections 334.100 and
4 334.103.

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

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

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

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

22 9. It is the intent of the legislature that this section be
23 severable as noted in section 1.140. In the event that any
24 section, subsection, subdivision, paragraph, sentence, or clause
25 of this section be declared invalid under the Constitution of the
26 United States or the Constitution of the State of Missouri, it is
27 the intent of the legislature that the remaining provisions of
28 this section remain in force and effect as far as capable of

1 being carried into execution as intended by the legislature.

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

7 [660.315.] 197.1036. 1. After an investigation and a
8 determination has been made to place a person's name on the
9 employee disqualification list, that person shall be notified in
10 writing mailed to his or her last known address that:

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

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

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

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

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

26 3. If the person so notified wishes to challenge the
27 allegation, such person may file an application for a hearing
28 with the department. The department shall grant the application

1 within thirty days after receipt by the department and set the
2 matter for hearing, or the department shall notify the applicant
3 that, after review, the allegation has been held to be unfounded
4 and the applicant's name will not be listed.

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

12 5. Any hearing shall be conducted in the county of the
13 person's residence by the director of the department or the
14 director's designee. The provisions of chapter 536 for a
15 contested case except those provisions or amendments which are in
16 conflict with this section shall apply to and govern the
17 proceedings contained in this section and the rights and duties
18 of the parties involved. The person appealing such an action
19 shall be entitled to present evidence, pursuant to the provisions
20 of chapter 536, relevant to the allegations.

21 6. Upon the record made at the hearing, the director of the
22 department or the director's designee shall determine all
23 questions presented and shall determine whether the person shall
24 be listed on the employee disqualification list. The director of
25 the department or the director's designee shall clearly state the
26 reasons for his or her decision and shall include a statement of
27 findings of fact and conclusions of law pertinent to the
28 questions in issue.

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

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

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

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

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

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

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

28 (5) Any mitigating circumstances;

1 (6) Any aggravating circumstances; and

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

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

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

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

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

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

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

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

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

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

3 (7) Is a consumer reporting agency regulated by the federal
4 Fair Credit Reporting Act that conducts employee background
5 checks on behalf of entities listed in subdivisions (1), (2),
6 (5), or (6) of this subsection. Such a consumer reporting agency
7 shall conduct the employee disqualification list check only upon
8 the initiative or request of an entity described in subdivisions
9 (1), (2), (5), or (6) of this subsection when the entity is
10 fulfilling its duties required under this section. The
11 information shall be disclosed only to the requesting entity.
12 The department shall inform any person listed above who inquires
13 of the department whether or not a particular name is on the
14 list. The department may require that the request be made in
15 writing. No person, corporation, organization, or association
16 who is entitled to access the employee disqualification list may
17 disclose the information to any person, corporation,
18 organization, or association who is not entitled to access the
19 list. Any person, corporation, organization, or association who
20 is entitled to access the employee disqualification list who
21 discloses the information to any person, corporation,
22 organization, or association who is not entitled to access the
23 list shall be guilty of an infraction.

24 12. No person, corporation, organization, or association
25 who received the employee disqualification list under
26 subdivisions (1) to (7) of subsection 11 of this section shall
27 knowingly employ any person who is on the employee
28 disqualification list. Any person, corporation, organization, or

1 association who received the employee disqualification list under
2 subdivisions (1) to (7) of subsection 11 of this section, or any
3 person responsible for providing health care service, who
4 declines to employ or terminates a person whose name is listed in
5 this section shall be immune from suit by that person or anyone
6 else acting for or in behalf of that person for the failure to
7 employ or for the termination of the person whose name is listed
8 on the employee disqualification list.

9 13. Any employer or vendor as defined in sections 197.250,
10 197.400, 198.006, 208.900, or ~~[660.250]~~ 197.1000 required to deny
11 employment to an applicant or to discharge an employee,
12 provisional or otherwise, as a result of information obtained
13 through any portion of the background screening and employment
14 eligibility determination process under section 210.903, or
15 subsequent, periodic screenings, shall not be liable in any
16 action brought by the applicant or employee relating to discharge
17 where the employer is required by law to terminate the employee,
18 provisional or otherwise, and shall not be charged for
19 unemployment insurance benefits based on wages paid to the
20 employee for work prior to the date of discharge, pursuant to
21 section 288.100, if the employer terminated the employee because
22 the employee:

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

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

28 (3) Was placed on the employee disqualification registry

1 maintained by the department of mental health after the date of
2 hire;

3 (4) Has a disqualifying finding under this section, section
4 ~~[660.317]~~ 197.1038, or is on any of the background check lists in
5 the family care safety registry under sections 210.900 to
6 210.936; or

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

9 14. Any person who has been listed on the employee
10 disqualification list may request that the director remove his or
11 her name from the employee disqualification list. The request
12 shall be written and may not be made more than once every twelve
13 months. The request will be granted by the director upon a clear
14 showing, by written submission only, that the person will not
15 commit additional acts of abuse, neglect, misappropriation of the
16 property or funds, or the falsification of any documents of
17 service delivery to an in-home services client. The director may
18 make conditional the removal of a person's name from the list on
19 any terms that the director deems appropriate, and failure to
20 comply with such terms may result in the person's name being
21 relisted. The director's determination of whether to remove the
22 person's name from the list is not subject to appeal.

23 210.117. 1. A child taken into the custody of the state
24 shall not be reunited with a parent or placed in a home in which
25 the parent or any person residing in the home has been found
26 guilty of[, or pled guilty to,] any of the following offenses
27 when a child was the victim:

28 (1) A felony violation of section 566.030, 566.031,

1 566.032, [566.040,] 566.060, 566.061, 566.062, 566.064, 566.067,
2 566.068, [566.070,] 566.069, 566.071, 566.083, [566.090,]
3 566.100, 566.101, 566.111, 566.151, 566.203, 566.206, 566.209,
4 [566.212] 566.211, or 566.215;

5 (2) A violation of section 568.020;

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

9 (4) A violation of section 568.065;

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

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

12 (7) A violation of section 568.175;

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

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

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

26 3. In any case where the children's division determines
27 based on a substantiated report of child abuse that a child has
28 abused another child, the abusing child shall be prohibited from

1 returning to or residing in any residence, facility, or school
2 within one thousand feet of the residence of the abused child or
3 any child care facility or school that the abused child attends,
4 unless and until a court of competent jurisdiction determines
5 that the alleged abuse did not occur or the abused child reaches
6 the age of eighteen, whichever earlier occurs. The provisions of
7 this subsection shall not apply when the abusing child and the
8 abused child are siblings or children living in the same home.

9 211.038. 1. A child under the jurisdiction of the juvenile
10 court shall not be reunited with a parent or placed in a home in
11 which the parent or any person residing in the home has been
12 found guilty of[, or pled guilty to,] any of the following
13 offenses when a child was the victim:

14 (1) A felony violation of section 566.030, 566.031,
15 566.032, [566.040,] 566.060, 566.061, 566.062, 566.064, 566.067,
16 566.068, [566.070,] 566.069, 566.071, 566.083, [566.090,]
17 566.100, 566.101, 566.111, 566.151, 566.203, 566.206, 566.209,
18 [566.212] 566.211, or 566.215;

19 (2) A violation of section 568.020;

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

23 (4) A violation of section 568.065;

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

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

26 (7) A violation of section 568.175;

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

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

3 2. For all other violations of offenses in chapters 566 and
4 568 not specifically listed in subsection 1 of this section or
5 for a violation of an offense committed in another state when a
6 child is the victim that would be a violation of chapter 566 or
7 568 if committed in Missouri, the juvenile court may exercise its
8 discretion regarding the placement of a child under the
9 jurisdiction of the juvenile court in a home in which a parent or
10 any person residing in the home has been found guilty of, or pled
11 guilty to, any such offense.

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

20 217.010. As used in this chapter and chapter 558, unless
21 the context clearly indicates otherwise, the following terms
22 shall mean:

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

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

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

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

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

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

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

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

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

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

23 (11) "Nonviolent offender", any offender who is convicted
24 of a crime other than murder in the first or second degree,
25 involuntary manslaughter, involuntary manslaughter in the first
26 or second degree, kidnapping, kidnapping in the first degree,
27 rape in the first degree, forcible rape, sodomy in the first
28 degree, forcible sodomy, robbery in the first degree or assault

1 in the first degree;

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

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

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

11 217.703. 1. The division of probation and parole shall
12 award earned compliance credits to any offender who is:

13 (1) Not subject to lifetime supervision under sections
14 217.735 and 559.106 or otherwise found to be ineligible to earn
15 credits by a court pursuant to subsection 2 of this section;

16 (2) On probation, parole, or conditional release for an
17 offense listed in chapter [195] 579, or an offense previously
18 listed in chapter 195, or for a class [C or] D or E felony,
19 excluding the offenses of [aggravated] stalking in the first
20 degree, rape in the second degree, sexual assault, sodomy in the
21 second degree, deviate sexual assault, assault in the second
22 degree under subdivision (2) of subsection 1 of section [565.060]
23 565.052, sexual misconduct involving a child, endangering the
24 welfare of a child in the first degree under subdivision (2) of
25 subsection 1 of section 568.045, incest, invasion of privacy,
26 [and] abuse of a child, and any offense of aggravated stalking or
27 assault in the second degree under subdivision (2) of subsection
28 1 of section 565.060 as such offenses existed prior to January 1,

1 2017;

2 (3) Supervised by the board; and

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

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

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

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

9 [(3)] (2) Assault in the second degree except under
10 subdivision (2) of subsection 1 of section [565.060] 565.052 or
11 section 565.060 as it existed prior to January 1, 2017;

12 [(4)] (3) Domestic assault in the second degree;

13 [(5)] (4) Assault [of a law enforcement officer in the
14 second] in the third degree when the victim is a special victim
15 or assault of a law enforcement officer in the second degree as
16 it existed prior to January 1, 2017;

17 [(6)] (5) Statutory rape in the second degree;

18 [(7)] (6) Statutory sodomy in the second degree;

19 [(8)] (7) Endangering the welfare of a child in the first
20 degree under subdivision (1) of subsection 1 of section 568.045;

21 or

22 [(9)] (8) Any case in which the defendant is found guilty
23 of a felony offense under chapter 571[,];

24
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 11. Any offender who was sentenced prior to January 1,
17 2017, to an offense that was eligible for earned compliance
18 credits under subsection 1 or 2 of this section at the time of
19 sentencing shall continue to remain eligible for earned
20 compliance credits so long as the offender meets all the other
21 requirements provided under this section.

22 260.211. 1. A person commits the offense of criminal
23 disposition of demolition waste if he purposely or knowingly
24 disposes of or causes the disposal of more than two thousand
25 pounds or four hundred cubic feet of such waste on property in
26 this state other than in a solid waste processing facility or
27 solid waste disposal area having a permit as required by section
28 260.205; provided that, this subsection shall not prohibit the

1 use or require a solid waste permit for the use of solid wastes
2 in normal farming operations or in the processing or
3 manufacturing of other products in a manner that will not create
4 a public nuisance or adversely affect public health and shall not
5 prohibit the disposal of or require a solid waste permit for the
6 disposal by an individual of solid wastes resulting from his or
7 her own residential activities on property owned or lawfully
8 occupied by him or her when such wastes do not thereby create a
9 public nuisance or adversely affect the public health.

10 Demolition waste shall not include clean fill or vegetation.

11 Criminal disposition of demolition waste is a class [D] E felony.

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

26 2. Any person who purposely or knowingly disposes of or
27 causes the disposal of more than two thousand pounds or four
28 hundred cubic feet of his or her personal construction or

1 demolition waste on his or her own property shall be guilty of a
2 class [C] D misdemeanor. If such person receives any amount of
3 money, goods, or services in connection with permitting any other
4 person to dispose of construction or demolition waste on his or
5 her property, such person shall be guilty of a class [D] E
6 felony.

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

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

19 5. The prosecutor of any county or circuit attorney of any
20 city not within a county may, by information or indictment,
21 institute a prosecution for any violation of the provisions of
22 this section.

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

28 260.212. 1. A person commits the offense of criminal

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

1 established herein.

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

9 3. The court may order restitution by requiring any person
10 convicted under this section to clean up any commercial or
11 residential solid waste he illegally dumped and the court may
12 require any such person to perform additional community service
13 by cleaning up commercial or residential solid waste illegally
14 dumped by other persons.

15 4. The prosecutor of any county or circuit attorney of any
16 city not within a county may, by information or indictment,
17 institute a prosecution for any violation of the provisions of
18 this section.

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

24 476.055. 1. There is hereby established in the state
25 treasury the "Statewide Court Automation Fund". All moneys
26 collected pursuant to section 488.027, as well as gifts,
27 contributions, devises, bequests, and grants received relating to
28 automation of judicial record keeping, and moneys received by the

1 judicial system for the dissemination of information and sales of
2 publications developed relating to automation of judicial record
3 keeping, shall be credited to the fund. Moneys credited to this
4 fund may only be used for the purposes set forth in this section
5 and as appropriated by the general assembly. Any unexpended
6 balance remaining in the statewide court automation fund at the
7 end of each biennium shall not be subject to the provisions of
8 section 33.080 requiring the transfer of such unexpended balance
9 to general revenue; except that, any unexpended balance remaining
10 in the fund on September 1, 2018, shall be transferred to general
11 revenue.

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

27 3. The committee shall develop and implement a plan for a
28 statewide court automation system. The committee shall have the

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

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

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

23 6. Any court automation system, including any pilot
24 project, shall be implemented, operated and maintained in
25 accordance with strict standards for the security and privacy of
26 confidential judicial records. Any person who knowingly releases
27 information from a confidential judicial record is guilty of a
28 class B misdemeanor. Any person who, knowing that a judicial

1 record is confidential, uses information from such confidential
2 record for financial gain is guilty of a class [D] E felony.

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

8 (1) The chair of the house budget committee;

9 (2) The chair of the senate appropriations committee;

10 (3) The chair of the house judiciary committee; and

11 (4) The chair of the senate judiciary committee[;

12 (5) One member of the minority party of the house appointed
13 by the speaker of the house of representatives; and

14 (6) One member of the minority party of the senate
15 appointed by the president pro tempore of the senate.

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

20 [9.] 8. Section 488.027 shall expire on September 1, 2018.
21 The court automation committee established pursuant to this
22 section may continue to function until completion of its duties
23 prescribed by this section, but shall complete its duties prior
24 to September 1, 2020.

25 [10.] 9. This section shall expire on September 1, 2020.

26 [476.055. 1. There is hereby established in the
27 state treasury the "Statewide Court Automation Fund".
28 All moneys collected pursuant to section 488.027, as
29 well as gifts, contributions, devises, bequests, and
30 grants received relating to automation of judicial

1 record keeping, and moneys received by the judicial
2 system for the dissemination of information and sales
3 of publications developed relating to automation of
4 judicial record keeping, shall be credited to the fund.
5 Moneys credited to this fund may only be used for the
6 purposes set forth in this section and as appropriated
7 by the general assembly. Any unexpended balance
8 remaining in the statewide court automation fund at the
9 end of each biennium shall not be subject to the
10 provisions of section 33.080 requiring the transfer of
11 such unexpended balance to general revenue; except
12 that, any unexpended balance remaining in the fund on
13 September 1, 2015, shall be transferred to general
14 revenue.

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

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

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

49 5. The court automation committee shall not
50 require any circuit court to change any operating
51 system in such court, unless the committee provides all

1 necessary personnel, funds and equipment necessary to
2 effectuate the required changes. No judicial circuit
3 or county may be reimbursed for any costs incurred
4 pursuant to this subsection unless such judicial
5 circuit or county has the approval of the court
6 automation committee prior to incurring the specific
7 cost.

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

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

- 24 (1) The chair of the house budget committee;
- 25 (2) The chair of the senate appropriations
26 committee;
- 27 (3) The chair of the house judiciary committee;
- 28 (4) The chair of the senate judiciary committee;
- 29 (5) One member of the minority party of the house
30 appointed by the speaker of the house of
31 representatives; and
- 32 (6) One member of the minority party of the
33 senate appointed by the president pro tempore of the
34 senate.

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

40 9. Section 488.027 shall expire on September 1,
41 2015. The court automation committee established
42 pursuant to this section may continue to function until
43 completion of its duties prescribed by this section,
44 but shall complete its duties prior to September 1,
45 2017.

46 10. This section shall expire on September 1,
47 2017.]

48 [566.135.] 545.940. 1. Pursuant to a motion filed by the
49 prosecuting attorney or circuit attorney with notice given to the

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

1 such tests shall be released to the victim and his or her parent
2 or legal guardian if the victim is a minor. The results of [the
3 defendant's HIV, hepatitis B, hepatitis C, syphilis, gonorrhea,
4 and chlamydia] such tests shall also be released to the
5 prosecuting attorney or circuit attorney and the defendant's
6 attorney. The state's motion to obtain said testing, the court's
7 order of the same, and the test results shall be sealed in the
8 court file.

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

12 556.061. In this code, unless the context requires a
13 different definition, the following [shall apply] terms shall
14 mean:

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

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

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

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

25 [(2)] (3) "Burden of injecting the issue" [has the meaning
26 specified in section 556.051] :

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

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

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

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

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

27 (7) "Computer hardware", all equipment which can collect,
28 analyze, create, display, convert, store, conceal or transmit

1 electronic, magnetic, optical or similar computer impulses or
2 data. Hardware includes, but is not limited to, any data
3 processing devices, such as central processing units, memory
4 typewriters and self-contained laptop or notebook computers;
5 internal and peripheral storage devices, transistor-like binary
6 devices and other memory storage devices, such as floppy disks,
7 removable disks, compact disks, digital video disks, magnetic
8 tape, hard drive, optical disks and digital memory; local area
9 networks, such as two or more computers connected together to a
10 central computer server via cable or modem; peripheral input or
11 output devices, such as keyboards, printers, scanners, plotters,
12 video display monitors and optical readers; and related
13 communication devices, such as modems, cables and connections,
14 recording equipment, RAM or ROM units, acoustic couplers,
15 automatic dialers, speed dialers, programmable telephone dialing
16 or signaling devices and electronic tone-generating devices; as
17 well as any devices, mechanisms or parts that can be used to
18 restrict access to computer hardware, such as physical keys and
19 locks;

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

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

25 (10) "Computer software", digital information which can be
26 interpreted by a computer and any of its related components to
27 direct the way they work. Software is stored in electronic,
28 magnetic, optical or other digital form. The term commonly

1 includes programs to run operating systems and applications, such
2 as word processing, graphic, or spreadsheet programs, utilities,
3 compilers, interpreters and communications programs;

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

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

10 [(4)] (13) "Confinement":

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

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

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

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

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

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

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

1 [(5)] (14) "Consent": consent or lack of consent may be
2 expressed or implied. Assent does not constitute consent if:

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

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

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

12 (15) "Controlled substance", a drug, substance, or
13 immediate precursor in schedules I through V as defined in
14 chapter 195;

15 [(6)] (16) "Criminal negligence" [has the meaning specified
16 in section 562.016] , failure to be aware of a substantial and
17 unjustifiable risk that circumstances exist or a result will
18 follow, and such failure constitutes a gross deviation from the
19 standard of care which a reasonable person would exercise in the
20 situation;

21 [(7)] (17) "Custody", a person is in custody when [the
22 person] he or she has been arrested but has not been delivered to
23 a place of confinement;

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

27 [(8)] (19) "Dangerous felony" [means], the felonies of
28 arson in the first degree, assault in the first degree, attempted

1 rape in the first degree if physical injury results, attempted
2 forcible rape if physical injury results, attempted sodomy in the
3 first degree if physical injury results, attempted forcible
4 sodomy if physical injury results, rape in the first degree,
5 forcible rape, sodomy in the first degree, forcible sodomy,
6 assault in the second degree if the victim of such assault is a
7 special victim as defined in subdivision (14) of section 565.002,
8 kidnapping in the first degree, kidnapping, murder in the second
9 degree, assault of a law enforcement officer in the first degree,
10 domestic assault in the first degree, elder abuse in the first
11 degree, robbery in the first degree, statutory rape in the first
12 degree when the victim is a child less than twelve years of age
13 at the time of the commission of the act giving rise to the
14 offense, statutory sodomy in the first degree when the victim is
15 a child less than twelve years of age at the time of the
16 commission of the act giving rise to the offense, [and,] child
17 molestation in the first or second degree, abuse of a child if
18 the child dies as a result of injuries sustained from conduct
19 chargeable under section 568.060, child kidnapping, [and]
20 parental kidnapping committed by detaining or concealing the
21 whereabouts of the child for not less than one hundred twenty
22 days under section 565.153, and an "intoxication-related traffic
23 offense" or "intoxication-related boating offense" if the person
24 is found to be a "habitual offender" or "habitual boating
25 offender" as such terms are defined in section 577.001;

26 [(9)] (20) "Dangerous instrument" [means], any instrument,
27 article or substance, which, under the circumstances in which it
28 is used, is readily capable of causing death or other serious

1 physical injury;

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

8 [(10)] (22) "Deadly weapon" [means] , any firearm, loaded
9 or unloaded, or any weapon from which a shot, readily capable of
10 producing death or serious physical injury, may be discharged, or
11 a switchblade knife, dagger, billy club, blackjack or metal
12 knuckles;

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

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

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

23 [(11)] (26) "Felony" [has the meaning specified in section
24 556.016], an offense so designated or an offense for which
25 persons found guilty thereof may be sentenced to death or
26 imprisonment for a term of more than one year;

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

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

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

4 [(13)] (28) "Incapacitated" [means that], a temporary or
5 permanent physical or mental condition[, temporary or permanent,]
6 in which a person is unconscious, unable to appraise the nature
7 of [such person's] his or her conduct, or unable to communicate
8 unwillingness to an act;

9 [(14)] (29) "Infraction" [has the meaning specified in
10 section 556.021], a violation defined by this code or by any
11 other statute of this state if it is so designated or if no
12 sentence other than a fine, or fine and forfeiture or other civil
13 penalty, is authorized upon conviction;

14 [(15)] (30) "Inhabitable structure" [has the meaning
15 specified in section 569.010], a vehicle, vessel or structure:

16 (a) Where any person lives or carries on business or other
17 calling; or

18 (b) Where people assemble for purposes of business,
19 government, education, religion, entertainment, or public
20 transportation; or

21 (c) Which is used for overnight accommodation of persons.
22 Any such vehicle, vessel, or structure is "inhabitable"
23 regardless of whether a person is actually present.
24 If a building or structure is divided into separately occupied
25 units, any unit not occupied by the actor is an "inhabitable
26 structure of another";

27 [(16)] (31) "Knowingly" [has the meaning specified in
28 section 562.016], when used with respect to:

1 (a) Conduct or attendant circumstances, means a person is
2 aware of the nature of his or her conduct or that those
3 circumstances exist; or

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

6 [(17)] (32) "Law enforcement officer" [means], any public
7 servant having both the power and duty to make arrests for
8 violations of the laws of this state, and federal law enforcement
9 officers authorized to carry firearms and to make arrests for
10 violations of the laws of the United States;

11 [(18)] (33) "Misdemeanor" [has the meaning specified in
12 section 556.016], an offense so designated or an offense for
13 which persons found guilty thereof may be sentenced to
14 imprisonment for a term of which the maximum is one year or less;

15 (34) "Of another", property that any entity, including but
16 not limited to any natural person, corporation, limited liability
17 company, partnership, association, governmental subdivision or
18 instrumentality, other than the actor, has a possessory or
19 proprietary interest therein, except that property shall not be
20 deemed property of another who has only a security interest
21 therein, even if legal title is in the creditor pursuant to a
22 conditional sales contract or other security arrangement;

23 [(19)] (35) "Offense" [means], any felony[,] or misdemeanor
24 [or infraction];

25 [(20)] (36) "Physical injury" [means physical pain,
26 illness, or any impairment of physical condition], slight
27 impairment of any function of the body or temporary loss of use
28 of any part of the body;

1 [(21)] (37) "Place of confinement" [means], any building or
2 facility and the grounds thereof wherein a court is legally
3 authorized to order that a person charged with or convicted of a
4 crime be held;

5 [(22)] (38) "Possess" or "possessed" [means], having actual
6 or constructive possession of an object with knowledge of its
7 presence. A person has actual possession if such person has the
8 object on his or her person or within easy reach and convenient
9 control. A person has constructive possession if such person has
10 the power and the intention at a given time to exercise dominion
11 or control over the object either directly or through another
12 person or persons. Possession may also be sole or joint. If one
13 person alone has possession of an object, possession is sole. If
14 two or more persons share possession of an object, possession is
15 joint;

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

18 [(23)] (40) "Public servant" [means], any person employed
19 in any way by a government of this state who is compensated by
20 the government by reason of such person's employment, any person
21 appointed to a position with any government of this state, or any
22 person elected to a position with any government of this state.
23 It includes, but is not limited to, legislators, jurors, members
24 of the judiciary and law enforcement officers. It does not
25 include witnesses;

26 [(24)] (41) "Purposely" [has the meaning specified in
27 section 562.016], when used with respect to a person's conduct or
28 to a result thereof, means when it is his or her conscious object

1 to engage in that conduct or to cause that result;

2 [(25)] (42) "Recklessly" [has the meaning specified in
3 section 562.016], consciously disregarding a substantial and
4 unjustifiable risk that circumstances exist or that a result will
5 follow, and such disregard constitutes a gross deviation from the
6 standard of care which a reasonable person would exercise in the
7 situation;

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

11 (27)] (43) "Serious emotional injury", an injury that
12 creates a substantial risk of temporary or permanent medical or
13 psychological damage, manifested by impairment of a behavioral,
14 cognitive or physical condition. Serious emotional injury shall
15 be established by testimony of qualified experts upon the
16 reasonable expectation of probable harm to a reasonable degree of
17 medical or psychological certainty;

18 [(28)] (44) "Serious physical injury" [means], physical
19 injury that creates a substantial risk of death or that causes
20 serious disfigurement or protracted loss or impairment of the
21 function of any part of the body;

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

27 (30) "Sexual contact" means any touching of the genitals or
28 anus of any person, or the breast of any female person, or any

1 such touching through the clothing, for the purpose of arousing
2 or gratifying sexual desire of any person;

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

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

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

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

16 (48) "Vessel", any boat or craft propelled by a motor or by
17 machinery, whether or not such motor or machinery is a principal
18 source of propulsion used or capable of being used as a means of
19 transportation on water, or any boat or craft more than twelve
20 feet in length which is powered by sail alone or by a combination
21 of sail and machinery, and used or capable of being used as a
22 means of transportation on water, but not any boat or craft
23 having, as the only means of propulsion, a paddle or oars;

24 [(32)] (49) "Voluntary act" [has the meaning specified in
25 section 562.011]:

26 (a) A bodily movement performed while conscious as a result
27 of effort or determination. Possession is a voluntary act if the
28 possessor knowingly procures or receives the thing possessed, or

1 having acquired control of it was aware of his or her control for
2 a sufficient time to have enabled him or her to dispose of it or
3 terminate his or her control; or

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

9 (50) "Vulnerable person", any person in the custody, care,
10 or control of the department of mental health who is receiving
11 services from an operated, funded, licensed, or certified
12 program.

13 558.019. 1. This section shall not be construed to affect
14 the powers of the governor under article IV, section 7, of the
15 Missouri Constitution. This statute shall not affect those
16 provisions of section 565.020, section [558.018] 566.125, or
17 section 571.015, which set minimum terms of sentences, or the
18 provisions of section 559.115, relating to probation.

19 2. The provisions of subsections 2 to 5 of this section
20 shall be applicable to all classes of felonies except those set
21 forth in chapter [195] 579, or in chapter 195 prior to January 1,
22 2017, and those otherwise excluded in subsection 1 of this
23 section. For the purposes of this section, "prison commitment"
24 means and is the receipt by the department of corrections of an
25 offender after sentencing. For purposes of this section, prior
26 prison commitments to the department of corrections shall not
27 include [commitment to a regimented discipline program
28 established pursuant to section 217.378] an offender's first

1 incarceration prior to release on probation under section 217.362
2 or 559.115. Other provisions of the law to the contrary
3 notwithstanding, any offender who has [pleaded guilty to or has]
4 been found guilty of a felony other than a dangerous felony as
5 defined in section 556.061 and is committed to the department of
6 corrections shall be required to serve the following minimum
7 prison terms:

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

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

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

27 3. Other provisions of the law to the contrary
28 notwithstanding, any offender who has [pleaded guilty to or has]

1 been found guilty of a dangerous felony as defined in section
2 556.061 and is committed to the department of corrections shall
3 be required to serve a minimum prison term of eighty-five percent
4 of the sentence imposed by the court or until the offender
5 attains seventy years of age, and has served at least forty
6 percent of the sentence imposed, whichever occurs first.

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

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

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

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

19 6. (1) A sentencing advisory commission is hereby created
20 to consist of eleven members. One member shall be appointed by
21 the speaker of the house. One member shall be appointed by the
22 president pro tem of the senate. One member shall be the
23 director of the department of corrections. Six members shall be
24 appointed by and serve at the pleasure of the governor from among
25 the following: the public defender commission; private citizens;
26 a private member of the Missouri Bar; the board of probation and
27 parole; and a prosecutor. Two members shall be appointed by the
28 supreme court, one from a metropolitan area and one from a rural

1 area. All members shall be appointed to a four-year term. All
2 members of the sentencing commission appointed prior to August
3 28, 1994, shall continue to serve on the sentencing advisory
4 commission at the pleasure of the governor.

5 (2) The commission shall study sentencing practices in the
6 circuit courts throughout the state for the purpose of
7 determining whether and to what extent disparities exist among
8 the various circuit courts with respect to the length of
9 sentences imposed and the use of probation for offenders
10 convicted of the same or similar [~~crimes~~] offenses and with
11 similar criminal histories. The commission shall also study and
12 examine whether and to what extent sentencing disparity among
13 economic and social classes exists in relation to the sentence of
14 death and if so, the reasons therefor, if sentences are
15 comparable to other states, if the length of the sentence is
16 appropriate, and the rate of rehabilitation based on sentence.
17 It shall compile statistics, examine cases, draw conclusions, and
18 perform other duties relevant to the research and investigation
19 of disparities in death penalty sentencing among economic and
20 social classes.

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

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

28 (5) The members of the commission shall not receive

1 compensation for their duties on the commission, but shall be
2 reimbursed for actual and necessary expenses incurred in the
3 performance of these duties and for which they are not reimbursed
4 by reason of their other paid positions.

5 (6) The circuit and associate circuit courts of this state,
6 the office of the state courts administrator, the department of
7 public safety, and the department of corrections shall cooperate
8 with the commission by providing information or access to
9 information needed by the commission. The office of the state
10 courts administrator will provide needed staffing resources.

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

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

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

20 (2) Offender treatment programs;

21 (3) Mandatory community service;

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

23 (5) Community-based residential and nonresidential
24 programs.

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

27 10. Pursuant to subdivision (1) of subsection 8 of this
28 section, the court may order the assessment and payment of a

1 designated amount of restitution to a county law enforcement
2 restitution fund established by the county commission pursuant to
3 section 50.565. Such contribution shall not exceed three hundred
4 dollars for any charged offense. Any restitution moneys
5 deposited into the county law enforcement restitution fund
6 pursuant to this section shall only be expended pursuant to the
7 provisions of section 50.565.

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

14 12. A [defendant] person who fails to make a payment to a
15 county law enforcement restitution fund may not have his or her
16 probation revoked solely for failing to make such payment unless
17 the judge, after evidentiary hearing, makes a finding supported
18 by a preponderance of the evidence that the [defendant] person
19 either willfully refused to make the payment or that the
20 [defendant] person willfully, intentionally, and purposefully
21 failed to make sufficient bona fide efforts to acquire the
22 resources to pay.

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

26 559.036. 1. A term of probation commences on the day it is
27 imposed. Multiple terms of Missouri probation, whether imposed at
28 the same time or at different times, shall run concurrently.

1 Terms of probation shall also run concurrently with any federal
2 or other state jail, prison, probation or parole term for another
3 offense to which the defendant is or becomes subject during the
4 period, unless otherwise specified by the Missouri court.

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

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

24 4. (1) Unless the defendant consents to the revocation of
25 probation, if a continuation, modification, enlargement or
26 extension is not appropriate under this section, the court shall
27 order placement of the offender in one of the department of
28 corrections' one hundred twenty-day programs so long as:

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

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

1 supervision;

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

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

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

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

21 5. If the defendant consents to the revocation of probation
22 or if the defendant is not eligible under subsection 4 of this
23 section for placement in a program and a continuation,
24 modification, enlargement, or extension of the term under this
25 section is not appropriate, the court may revoke probation and
26 order that any sentence previously imposed be executed. If
27 imposition of sentence was suspended, the court may revoke
28 probation and impose any sentence available under section

1 557.011. The court may mitigate any sentence of imprisonment by
2 reducing the prison or jail term by all or part of the time the
3 defendant was on probation. The court may, upon revocation of
4 probation, place an offender on a second term of probation. Such
5 probation shall be for a term of probation as provided by section
6 559.016, notwithstanding any amount of time served by the
7 offender on the first term of probation.

8 6. Probation shall not be revoked without giving the
9 probationer notice and an opportunity to be heard on the issues
10 of whether such probationer violated a condition of probation
11 and, if a condition was violated, whether revocation is warranted
12 under all the circumstances. Not less than five business days
13 prior to the date set for a hearing on the violation, except for
14 a good cause shown, the judge shall inform the probationer that
15 he or she may have the right to request the appointment of
16 counsel if the probationer is unable to retain counsel. If the
17 probationer requests counsel, the judge shall determine whether
18 counsel is necessary to protect the probationer's due process
19 rights. If the judge determines that counsel is not necessary,
20 the judge shall state the grounds for the decision in the record.

21 7. The prosecuting or circuit attorney may file a motion to
22 revoke probation or at any time during the term of probation, the
23 court may issue a notice to the probationer to appear to answer a
24 charge of a violation, and the court may issue a warrant of
25 arrest for the violation. Such notice shall be personally served
26 upon the probationer. The warrant shall authorize the return of
27 the probationer to the custody of the court or to any suitable
28 detention facility designated by the court. Upon the filing of

1 the prosecutor's or circuit attorney's motion or on the court's
2 own motion, the court may immediately enter an order suspending
3 the period of probation and may order a warrant for the
4 defendant's arrest. The probation shall remain suspended until
5 the court rules on the prosecutor's or circuit attorney's motion,
6 or until the court otherwise orders the probation reinstated.

7 8. The power of the court to revoke probation shall extend
8 for the duration of the term of probation designated by the court
9 and for any further period which is reasonably necessary for the
10 adjudication of matters arising before its expiration, provided
11 that some affirmative manifestation of an intent to conduct a
12 revocation hearing occurs prior to the expiration of the period
13 and that every reasonable effort is made to notify the
14 probationer and to conduct the hearing prior to the expiration of
15 the period.

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

22 559.106. 1. Notwithstanding any statutory provision to the
23 contrary, when a court grants probation to an offender who has
24 [pleaded guilty to or has] been found guilty of an offense in:

25 (1) Section 566.030, 566.032, 566.060, [or] 566.062, [based
26 on an act committed on or after August 28, 2006, or the offender
27 has pleaded guilty to or has been found guilty of an offense
28 under section] 566.067, 566.083, 566.100, 566.151, 566.212,

1 566.213, 568.020, 568.080, or 568.090, based on an act committed
2 on or after August 28, 2006[,]; or

3 (2) Section 566.068, 566.069, 566.210, 566.211, 573.200, or
4 573.205 based on an act committed on or after January 1, 2017,
5 against a victim who was less than fourteen years [old] of age
6 and the offender is a prior sex offender as defined in subsection
7 2 of this section[,];

8
9 the court shall order that the offender be supervised by the
10 board of probation and parole for the duration of his or her
11 natural life.

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

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

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

28 559.115. 1. Neither probation nor parole shall be granted

1 by the circuit court between the time the transcript on appeal
2 from the offender's conviction has been filed in appellate court
3 and the disposition of the appeal by such court.

4 2. Unless otherwise prohibited by subsection 8 of this
5 section, a circuit court only upon its own motion and not that of
6 the state or the offender shall have the power to grant probation
7 to an offender anytime up to one hundred twenty days after such
8 offender has been delivered to the department of corrections but
9 not thereafter. The court may request information and a
10 recommendation from the department concerning the offender and
11 such offender's behavior during the period of incarceration.
12 Except as provided in this section, the court may place the
13 offender on probation in a program created pursuant to section
14 217.777, or may place the offender on probation with any other
15 conditions authorized by law.

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

1 completion of a program under this subsection, the board of
2 probation and parole shall advise the sentencing court of an
3 offender's probationary release date thirty days prior to
4 release. The court shall follow the recommendation of the
5 department unless the court determines that probation is not
6 appropriate. If the court determines that probation is not
7 appropriate, the court may order the execution of the offender's
8 sentence only after conducting a hearing on the matter within
9 ninety to one hundred twenty days from the date the offender was
10 delivered to the department of corrections. If the department
11 determines the offender has not successfully completed a one
12 hundred twenty-day program under this subsection, the offender
13 shall be removed from the program and the court shall be advised
14 of the removal. The department shall report on the offender's
15 participation in the program and may provide recommendations for
16 terms and conditions of an offender's probation. The court shall
17 then have the power to grant probation or order the execution of
18 the offender's sentence.

19 4. If the court is advised that an offender is not eligible
20 for placement in a one hundred twenty-day program under
21 subsection 3 of this section, the court shall consider other
22 authorized dispositions. If the department of corrections one
23 hundred twenty-day program under subsection 3 of this section is
24 full, the court may place the offender in a private program
25 approved by the department of corrections or the court, the
26 expenses of such program to be paid by the offender, or in an
27 available program offered by another organization. If the
28 offender is convicted of a class C [or], class D, or class E

1 nonviolent felony, the court may order probation while awaiting
2 appointment to treatment.

3 5. Except when the offender has been found to be a
4 predatory sexual offender pursuant to section ~~[558.018]~~ 566.125,
5 the court shall request the department of corrections to conduct
6 a sexual offender assessment if the defendant ~~[has pleaded guilty~~
7 ~~to or]~~ has been found guilty of sexual abuse when classified as a
8 class B felony. Upon completion of the assessment, the
9 department shall provide to the court a report on the offender
10 and may provide recommendations for terms and conditions of an
11 offender's probation. The assessment shall not be considered a
12 one hundred twenty-day program as provided under subsection 3 of
13 this section. The process for granting probation to an offender
14 who has completed the assessment shall be as provided under
15 subsections 2 and 6 of this section.

16 6. Unless the offender is being granted probation pursuant
17 to successful completion of a one hundred twenty-day program the
18 circuit court shall notify the state in writing when the court
19 intends to grant probation to the offender pursuant to the
20 provisions of this section. The state may, in writing, request a
21 hearing within ten days of receipt of the court's notification
22 that the court intends to grant probation. Upon the state's
23 request for a hearing, the court shall grant a hearing as soon as
24 reasonably possible. If the state does not respond to the
25 court's notice in writing within ten days, the court may proceed
26 upon its own motion to grant probation.

27 7. An offender's first incarceration under this section
28 prior to release on probation shall not be considered a previous

1 prison commitment for the purpose of determining a minimum prison
2 term under the provisions of section 558.019.

3 8. Notwithstanding any other provision of law, probation
4 may not be granted pursuant to this section to offenders who have
5 been convicted of murder in the second degree pursuant to section
6 565.021; forcible rape pursuant to section 566.030 as it existed
7 prior to August 28, 2013; rape in the first degree under section
8 566.030; forcible sodomy pursuant to section 566.060 as it
9 existed prior to August 28, 2013; sodomy in the first degree
10 under section 566.060; statutory rape in the first degree
11 pursuant to section 566.032; statutory sodomy in the first degree
12 pursuant to section 566.062; child molestation in the first
13 degree pursuant to section 566.067 when classified as a class A
14 felony; abuse of a child pursuant to section 568.060 when
15 classified as a class A felony; or an offender who has been found
16 to be a predatory sexual offender pursuant to section [558.018]
17 566.125; or any offense in which there exists a statutory
18 prohibition against either probation or parole.

19 559.633. 1. Upon [a plea of guilty or] a finding of
20 [guilty for a commission of] guilt for a felony offense pursuant
21 to chapter 195 or 579, except for those offenses in which there
22 exists a statutory prohibition against either probation or
23 parole, when placing the person on probation, the court shall
24 order the person to begin a required educational assessment and
25 community treatment program within the first sixty days of
26 probation as a condition of probation. Persons who are placed on
27 probation after a period of incarceration pursuant to section
28 559.115 may not be required to participate in a required

1 educational assessment and community treatment program.

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

14 565.002. As used in this chapter, unless a different
15 meaning is otherwise plainly required the following terms mean:

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

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

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

22 (4) "Course of conduct", a pattern of conduct composed of
23 two or more acts, which may include communication by any means,
24 over a period of time, however short, evidencing a continuity of
25 purpose. Constitutionally protected activity is not included
26 within the meaning of course of conduct. Such constitutionally
27 protected activity includes picketing or other organized
28 protests;

1 [(3)] (5) "Deliberation" means cool reflection for any
2 length of time no matter how brief;

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

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

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

12 (6) "Domestic victim", a household or family member as the
13 term "family" or "household member" is defined in section
14 455.010, including any child who is a member of the household or
15 family;

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

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

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

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

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

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

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

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

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

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

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

20 (d) An elderly person;

21 (e) A person with a disability;

22 (f) A vulnerable person;

23 (g) Any jailer or corrections officer of the state or one
24 of its political subdivisions assaulted in the performance of his
25 or her official duties or as a direct result of such official
26 duties;

27 (h) A highway worker in a construction or work zone as the
28 terms "highway worker", "construction zone", and "work zone" are

1 defined under section 304.580;

2 (i) Any utility worker, meaning any employee of a utility
3 that provides gas, heat, electricity, water, steam,
4 telecommunications services, or sewer services, whether
5 privately, municipally, or cooperatively owned, while in the
6 performance of his or her job duties, including any person
7 employed under a contract;

8 (j) Any cable worker, meaning any employee of a cable
9 operator, as such term is defined in section 67.2677, including
10 any person employed under contract, while in the performance of
11 his or her job duties; and

12 (k) Any employee of a mass transit system, including any
13 employee of public bus or light rail companies, while in the
14 performance of his or her job duties;

15 [(7)] (15) "Sudden passion" [means], passion directly
16 caused by and arising out of provocation by the victim or another
17 acting with the victim which passion arises at the time of the
18 offense and is not solely the result of former provocation;

19 [(8)] (16) "Trier" [means], the judge or jurors to whom
20 issues of fact, guilt or innocence, or the assessment and
21 declaration of punishment are submitted for decision;

22 (17) "Views", the looking upon of another person, with the
23 unaided eye or with any device designed or intended to improve
24 visual acuity, for the purpose of arousing or gratifying the
25 sexual desire of any person.

26 565.073. 1. A person commits the [crime] offense of
27 domestic assault in the second degree if the act involves a
28 [family or household member, including any child who is a member

1 of the family or household, as defined in section 455.010]
2 domestic victim, as the term "domestic victim" is defined under
3 section 565.002, and he or she:

4 (1) [Attempts to cause or] Knowingly causes physical injury
5 to such [family or household member] domestic victim by any
6 means, including but not limited to, [by] use of a deadly weapon
7 or dangerous instrument, or by choking or strangulation; or

8 (2) Recklessly causes serious physical injury to such
9 [family or household member] domestic victim; or

10 (3) Recklessly causes physical injury to such [family or
11 household member] domestic victim by means of any deadly weapon.

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

14 566.147. 1. Any person who, since July 1, 1979, has been
15 or hereafter has [pleaded guilty or nolo contendere to, or been
16 convicted of, or] been found guilty of:

17 (1) Violating any of the provisions of this chapter or the
18 provisions of [subsection 2 of] section 568.020, incest; section
19 568.045, endangering the welfare of a child in the first degree;
20 subsection 2 of section 568.080 as it existed prior to January 1,
21 2017, or section 573.200, use of a child in a sexual performance;
22 section 568.090 as it existed prior to January 1, 2017, or
23 section 573.205, promoting a sexual performance by a child;
24 section 573.023, sexual exploitation of a minor; section 573.025,
25 promoting child pornography in the first degree; section 573.035,
26 promoting child pornography in the second degree; section
27 573.037, possession of child pornography, or section 573.040,
28 furnishing pornographic material to minors; or

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

5
6 shall not reside within one thousand feet of any public school as
7 defined in section 160.011, any private school giving instruction
8 in a grade or grades not higher than the twelfth grade, or any
9 child care facility that is licensed under chapter 210, or any
10 child care facility as defined in section 210.201 that is exempt
11 from state licensure but subject to state regulation under
12 section 210.252 and holds itself out to be a child care facility,
13 where the school or facility is in existence at the time the
14 individual begins to reside at the location.

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

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

1 mobile or transitory.

2 4. Violation of the provisions of subsection 1 of this
3 section is a class [D] E felony except that the second or any
4 subsequent violation is a class B felony. Violation of the
5 provisions of subsection 2 of this section is a class A
6 misdemeanor except that the second or subsequent violation is a
7 class [D] E felony.

8 566.148. 1. Any person who has [pleaded guilty or nolo
9 contendere to, or been convicted of, or] been found guilty of:

10 (1) Violating any of the provisions of this chapter or the
11 provisions of [subsection 2 of] section 568.020, incest; section
12 568.045, endangering the welfare of a child in the first degree;
13 subsection 2 of section 568.080 as it existed prior to January 1,
14 2017, or section 573.200, use of a child in a sexual performance;
15 section 568.090 as it existed prior to January 1, 2017, or
16 section 573.205, promoting a sexual performance by a child;
17 section 573.023, sexual exploitation of a minor; section 573.025,
18 promoting child pornography in the first degree; section 573.035,
19 promoting child pornography in the second degree; section
20 573.037, possession of child pornography, or section 573.040,
21 furnishing pornographic material to minors; or

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

26
27 shall not knowingly be physically present in or loiter within
28 five hundred feet of or to approach, contact, or communicate with

1 any child under eighteen years of age in any child care facility
2 building, on the real property comprising any child care facility
3 when persons under the age of eighteen are present in the
4 building, on the grounds, or in the conveyance, unless the
5 offender is a parent, legal guardian, or custodian of a student
6 present in the building or on the grounds.

7 2. For purposes of this section, "child care facility"
8 shall [have the same meaning as such term is defined in section
9 210.201] include any child care facility licensed under chapter
10 210, or any child care facility that is exempt from state
11 licensure but subject to state regulation under section 210.252
12 and holds itself out to be a child care facility.

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

15 566.149. 1. Any person who has [pleaded guilty or nolo
16 contendere to, or been convicted of, or] been found guilty of:

17 (1) Violating any of the provisions of this chapter or the
18 provisions [of subsection 2] of section 568.020, incest; section
19 568.045, endangering the welfare of a child in the first degree;
20 subsection 2 of section 568.080 as it existed prior to January 1,
21 2017, or section 573.200, use of a child in a sexual performance;
22 section 568.090 as it existed prior to January 1, 2017, or
23 section 573.205, promoting a sexual performance by a child;
24 section 573.023, sexual exploitation of a minor; section 573.025,
25 promoting child pornography; or section 573.040, furnishing
26 pornographic material to minors; or

27 (2) Any offense in any other [state or foreign country, or
28 under tribal, federal, or military] jurisdiction which, if

1 committed in this state, would be a violation listed in this
2 section;

3

4 shall not be present in or loiter within five hundred feet of any
5 school building, on real property comprising any school, or in
6 any conveyance owned, leased, or contracted by a school to
7 transport students to or from school or a school-related activity
8 when persons under the age of eighteen are present in the
9 building, on the grounds, or in the conveyance, unless the
10 offender is a parent, legal guardian, or custodian of a student
11 present in the building and has met the conditions set forth in
12 subsection 2 of this section.

13 2. No parent, legal guardian, or custodian who has [pleaded
14 guilty or nolo contendere to, or been convicted of, or] been
15 found guilty of violating any of the offenses listed in
16 subsection 1 of this section shall be present in any school
17 building, on real property comprising any school, or in any
18 conveyance owned, leased, or contracted by a school to transport
19 students to or from school or a school-related activity when
20 persons under the age of eighteen are present in the building, on
21 the grounds or in the conveyance unless the parent, legal
22 guardian, or custodian has permission to be present from the
23 superintendent or school board or in the case of a private school
24 from the principal. In the case of a public school, if
25 permission is granted, the superintendent or school board
26 president must inform the principal of the school where the sex
27 offender will be present. Permission may be granted by the
28 superintendent, school board, or in the case of a private school

1 from the principal for more than one event at a time, such as a
2 series of events, however, the parent, legal guardian, or
3 custodian must obtain permission for any other event he or she
4 wishes to attend for which he or she has not yet had permission
5 granted.

6 3. Regardless of the person's knowledge of his or her
7 proximity to school property or a school-related activity,
8 violation of the provisions of this section [~~shall be~~] is a class
9 A misdemeanor.

10 577.001. [1.] As used in this chapter, [the term "court"
11 means any circuit, associate circuit, or municipal court,
12 including traffic court, but not any juvenile court or drug
13 court.

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

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

20 4. As used in this chapter, the term "law enforcement
21 officer" or "arresting officer" includes the definition of law
22 enforcement officer in subdivision (17) of section 556.061 and
23 military policemen conducting traffic enforcement operations on a
24 federal military installation under military jurisdiction in the
25 state of Missouri.

26 5. As used in this chapter, "substance abuse traffic
27 offender program" means a program certified by the division of
28 alcohol and drug abuse of the department of mental health to

1 provide education or rehabilitation services pursuant to a
2 professional assessment screening to identify the individual
3 needs of the person who has been referred to the program as the
4 result of an alcohol- or drug-related traffic offense.

5 Successful completion of such a program includes participation in
6 any education or rehabilitation program required to meet the
7 needs identified in the assessment screening. The assignment
8 recommendations based upon such assessment shall be subject to
9 judicial review as provided in subsection 7 of section 577.041]

10 the following terms mean:

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

13 (a) Three or more intoxication-related traffic offenses
14 committed on separate occasions; or

15 (b) Two or more intoxication-related traffic offenses
16 committed on separate occasions where at least one of the
17 intoxication-related traffic offenses is an offense committed in
18 violation of any state law, county or municipal ordinance, any
19 federal offense, or any military offense in which the defendant
20 was operating a vehicle while intoxicated and another person was
21 injured or killed;

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

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

25 (b) Has been found guilty of one or more intoxication-
26 related boating offenses committed on separate occasions where at
27 least one of the intoxication-related traffic offenses is an
28 offense committed in violation of any state law, county or

1 municipal ordinance, any federal offense, or any military offense
2 in which the defendant was operating a vessel while intoxicated
3 and another person was injured or killed;

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

11 (4) "Court", any circuit, associate circuit, or municipal
12 court, including traffic court, but not any juvenile court or
13 drug court;

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

16 (a) Four or more intoxication-related traffic offenses
17 committed on separate occasions; or

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

25 (c) Two or more intoxication-related traffic offenses
26 committed on separate occasions where both intoxication-related
27 traffic offenses were offenses committed in violation of any
28 state law, county or municipal ordinance, any federal offense, or

1 any military offense in which the defendant was operating a
2 vehicle while intoxicated and another person was injured or
3 killed;

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

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

7 (b) Three or more intoxication-related boating offenses
8 committed on separate occasions where at least one of the
9 intoxication-related boating offenses is an offense committed in
10 violation of any state law, county or municipal ordinance, any
11 federal offense, or any military offense in which the defendant
12 was operating a vessel while intoxicated and another person was
13 injured or killed; or

14 (c) Two or more intoxication-related boating offenses
15 committed on separate occasions where both intoxication-related
16 boating offenses were offenses committed in violation of any
17 state law, county or municipal ordinance, any federal offense, or
18 any military offense in which the defendant was operating a
19 vessel while intoxicated and another person was injured or
20 killed;

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

23 (8) "Drive", "driving", "operates" or "operating", means
24 physically driving or operating a vehicle or vessel;

25 (9) "Flight crew member", the pilot in command, copilots,
26 flight engineers, and flight navigators;

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

1 (a) Five or more intoxication-related traffic offenses
2 committed on separate occasions; or

3 (b) Four or more intoxication-related traffic offenses
4 committed on separate occasions where at least one of the
5 intoxication-related traffic offenses is an offense committed in
6 violation of any state law, county or municipal ordinance, any
7 federal offense, or any military offense in which the defendant
8 was operating a vehicle while intoxicated and another person was
9 injured or killed; or

10 (c) Three or more intoxication-related traffic offenses
11 committed on separate occasions where at least two of the
12 intoxication-related traffic offenses were offenses committed in
13 violation of any state law, county or municipal ordinance, any
14 federal offense, or any military offense in which the defendant
15 was operating a vehicle while intoxicated and another person was
16 injured or killed; or

17 (d) While driving while intoxicated, the defendant acted
18 with criminal negligence to:

19 a. Cause the death of any person not a passenger in the
20 vehicle operated by the defendant, including the death of an
21 individual that results from the defendant's vehicle leaving a
22 highway, as defined by section 301.010, or the highway's
23 right-of-way; or

24 b. Cause the death of two or more persons; or

25 c. Cause the death of any person while he or she has a
26 blood alcohol content of at least eighteen-hundredths of one
27 percent by weight of alcohol in such person's blood;

28 (11) "Habitual boating offender", a person who has been

1 found guilty of:

2 (a) Five or more intoxication-related boating offenses; or

3 (b) Four or more intoxication-related boating offenses
4 committed on separate occasions where at least one of the
5 intoxication-related boating offenses is an offense committed in
6 violation of any state law, county or municipal ordinance, any
7 federal offense, or any military offense in which the defendant
8 was operating a vessel while intoxicated and another person was
9 injured or killed; or

10 (c) Three or more intoxication-related boating offenses
11 committed on separate occasions where at least two of the
12 intoxication-related boating offenses were offenses committed in
13 violation of any state law, county or municipal ordinance, any
14 federal offense, or any military offense in which the defendant
15 was operating a vessel while intoxicated and another person was
16 injured or killed; or

17 (d) While boating while intoxicated, the defendant acted
18 with criminal negligence to:

19 a. Cause the death of any person not a passenger in the
20 vessel operated by the defendant, including the death of an
21 individual that results from the defendant's vessel leaving the
22 water; or

23 b. Cause the death of two or more persons; or

24 c. Cause the death of any person while he or she has a
25 blood alcohol content of at least eighteen-hundredths of one
26 percent by weight of alcohol in such person's blood;

27 (12) "Intoxicated" or "intoxicated condition", when a
28 person is under the influence of alcohol, a controlled substance,

1 or drug, or any combination thereof;

2 (13) "Intoxication-related boating offense", operating a
3 vessel while intoxicated; boating while intoxicated; operating a
4 vessel with excessive blood alcohol content or an offense in
5 which the defendant was operating a vessel while intoxicated and
6 another person was injured or killed in violation of any state
7 law, county or municipal ordinance, any federal offense, or any
8 military offense;

9 (14) "Intoxication-related traffic offense", driving while
10 intoxicated, driving with excessive blood alcohol content or an
11 offense in which the defendant was operating a vehicle while
12 intoxicated and another person was injured or killed in violation
13 of any state law, county or municipal ordinance, any federal
14 offense, or any military offense;

15 (15) "Law enforcement officer" or "arresting officer",
16 includes the definition of law enforcement officer in section
17 556.061 and military policemen conducting traffic enforcement
18 operations on a federal military installation under military
19 jurisdiction in the state of Missouri;

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

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

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

28 (19) "Prior offender", a person who has been found guilty

1 of one intoxication-related traffic offense, where such prior
2 offense occurred within five years of the occurrence of the
3 intoxication-related traffic offense for which the person is
4 charged;

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

10 577.010. 1. A person commits the [crime] offense of
11 ["]driving while intoxicated["] if he or she operates a [motor]
12 vehicle while in an intoxicated [or drugged] condition.

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

19 (1) A class B misdemeanor;

20 (2) A class A misdemeanor if:

21 (a) The defendant is a prior offender; or

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

24 (3) A class E felony if:

25 (a) The defendant is a persistent offender; or

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

1 (4) A class D felony if:

2 (a) The defendant is an aggravated offender;

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

6 (c) While driving while intoxicated, the defendant acts
7 with criminal negligence to cause serious physical injury to
8 another person;

9 (5) A class C felony if:

10 (a) The defendant is a chronic offender;

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

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

16 (6) A class B felony if:

17 (a) The defendant is a habitual offender; or

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

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

25 3. Notwithstanding the provisions of subsection 2 of this
26 section, [in a circuit where a DWI court or docket created under
27 section 478.007 or other court-ordered treatment program is
28 available, no person who operated a motor vehicle with

1 fifteen-hundredths of one percent or more by weight of alcohol in
2 such person's blood shall be granted a suspended imposition of
3 sentence unless the individual participates and successfully
4 completes a program under such DWI court or docket or other
5 court-ordered treatment program] a person found guilty of the
6 offense of driving while intoxicated as a first offense shall not
7 be granted a suspended imposition of sentence:

8 (1) Unless such person shall be placed on probation for a
9 minimum of two years; or

10 (2) In a circuit where a DWI court or docket created under
11 section 478.007 or other court-ordered treatment program is
12 available, and where the offense was committed with fifteen-
13 hundredths of one percent or more by weight of alcohol in such
14 person's blood, unless the individual participates and
15 successfully completes a program under such DWI court or docket
16 or other court-ordered treatment program.

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

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

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

28 5. A person found guilty of the offense of driving while

1 intoxicated:

2 (1) As a prior offender, persistent offender, aggravated
3 offender, chronic offender, or habitual offender shall not be
4 granted a suspended imposition of sentence or be sentenced to pay
5 a fine in lieu of a term of imprisonment, section 557.011 to the
6 contrary notwithstanding;

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

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

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

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

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

26 (b) The offender participates in and successfully completes
27 a program established under section 478.007 or other court-
28 ordered treatment program, if available, and as part of either

1 program, the offender performs at least sixty days of community
2 service under the supervision of the court;

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

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

9 577.013. 1. A person commits the offense of boating while
10 intoxicated if he or she operates a vessel while in an
11 intoxicated condition.

12 2. The offense of boating while intoxicated is:

13 (1) A class B misdemeanor;

14 (2) A class A misdemeanor if:

15 (a) The defendant is a prior boating offender; or

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

18 (3) A class E felony if:

19 (a) The defendant is a persistent boating offender; or

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

23 (4) A class D felony if:

24 (a) The defendant is an aggravated boating offender;

25 (b) While boating while intoxicated, the defendant acts
26 with criminal negligence to cause physical injury to a law
27 enforcement officer or emergency personnel; or

28 (c) While boating while intoxicated, the defendant acts

1 with criminal negligence to cause serious physical injury to
2 another person;

3 (5) A class C felony if:

4 (a) The defendant is a chronic boating offender;

5 (b) While boating while intoxicated, the defendant acts
6 with criminal negligence to cause serious physical injury to a
7 law enforcement officer or emergency personnel; or

8 (c) While boating while intoxicated, the defendant acts
9 with criminal negligence to cause the death of another person;

10 (6) A class B felony if:

11 (a) The defendant is a habitual boating offender; or

12 (b) While boating while intoxicated, the defendant acts
13 with criminal negligence to cause the death of a law enforcement
14 officer or emergency personnel;

15 (7) A class A felony if the defendant is a habitual
16 offender as a result of being found guilty of an act described
17 under paragraph (d) of subdivision (11) of section 577.001 and is
18 found guilty of a subsequent violation of such paragraph.

19 3. Notwithstanding the provisions of subsection 2 of this
20 section, a person found guilty of the offense of boating while
21 intoxicated as a first offense shall not be granted a suspended
22 imposition of sentence:

23 (1) Unless such person shall be placed on probation for a
24 minimum of two years; or

25 (2) In a circuit where a DWI court or docket created under
26 section 478.007 or other court-ordered treatment program is
27 available, and where the offense was committed with fifteen-
28 hundredths of one percent or more by weight of alcohol in such

1 person's blood, unless the individual participates in and
2 successfully completes a program under such DWI court or docket
3 or other court-ordered treatment program.

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

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

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

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

17 (1) As a prior boating offender, persistent boating
18 offender, aggravated boating offender, chronic boating offender
19 or habitual boating offender shall not be granted a suspended
20 imposition of sentence or be sentenced to pay a fine in lieu of a
21 term of imprisonment, section 557.011 to the contrary
22 notwithstanding;

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

26 (a) Unless as a condition of such parole or probation such
27 person performs at least two hundred forty hours of community
28 service under the supervision of the court in those jurisdictions

1 which have a recognized program for community service; or

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

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

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

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

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

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

21 577.020. 1. Any person who operates a [motor] vehicle upon
22 the public highways of this state, a vessel, or any aircraft, or
23 acts as a flight crew member of an aircraft shall be deemed to
24 have given consent [to], subject to the provisions of sections
25 577.019 to 577.041, to a chemical test or tests of the person's
26 breath, blood, saliva, or urine for the purpose of determining
27 the alcohol or drug content of the person's blood pursuant to the
28 following circumstances:

1 (1) If the person is arrested for any offense arising out
2 of acts which the arresting officer had reasonable grounds to
3 believe were committed while the person was [driving a motor]
4 operating a vehicle or a vessel while in an intoxicated [or
5 drugged] condition; [or]

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

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

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

24 [(4)] (5) If the person is under the age of twenty-one, has
25 been stopped at a sobriety checkpoint or roadblock and the law
26 enforcement officer has reasonable grounds to believe that such
27 person has a blood alcohol content of two-hundredths of one
28 percent or greater; or

1 [(5)] (6) If the person, while operating a [motor] vehicle,
2 has been involved in a [motor vehicle] collision or accident
3 which resulted in a fatality or a readily apparent serious
4 physical injury as defined in section [565.002] 556.061, or has
5 been arrested as evidenced by the issuance of a uniform traffic
6 ticket for the violation of any state law or county or municipal
7 ordinance with the exception of equipment violations contained in
8 [chapter] chapters 306 and 307, or similar provisions contained
9 in county or municipal ordinances[; or].

10 [(6) If the person, while operating a motor vehicle, has
11 been involved in a motor vehicle collision which resulted in a
12 fatality or serious physical injury as defined in section
13 565.002.]

14
15 The test shall be administered at the direction of the law
16 enforcement officer whenever the person has been [arrested or]
17 stopped, detained, or arrested for any reason.

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

22 3. To be considered valid, chemical analysis of the
23 person's breath, blood, saliva, or urine [to be considered valid
24 pursuant to the provisions of sections 577.019 to 577.041] shall
25 be performed, according to methods approved by the state
26 department of health and senior services, by licensed medical
27 personnel or by a person possessing a valid permit issued by the
28 state department of health and senior services for this purpose.

1 4. The state department of health and senior services shall
2 approve satisfactory techniques, devices, equipment, or methods
3 to be [considered valid] used in the chemical test pursuant to
4 the provisions of sections 577.019 to 577.041 [and]. The
5 department shall also establish standards to ascertain the
6 qualifications and competence of individuals to conduct such
7 analyses and [to] issue permits which shall be subject to
8 termination or revocation by the state department of health and
9 senior services.

10 5. The person tested may have a physician, or a qualified
11 technician, chemist, registered nurse, or other qualified person
12 at the choosing and expense of the person to be tested,
13 administer a test in addition to any administered at the
14 direction of a law enforcement officer. The failure or inability
15 to obtain an additional test by a person shall not preclude the
16 admission of evidence relating to the test taken at the direction
17 of a law enforcement officer.

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

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

23 (2) The time of the collection of the blood [or], breath
24 [sample], or urine sample analyzed;

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

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

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

9 7. Any person given a chemical test of the person's breath
10 pursuant to subsection 1 of this section or a field sobriety test
11 may be videotaped during any such test at the direction of the
12 law enforcement officer. Any such video recording made during
13 the chemical test pursuant to this subsection or a field sobriety
14 test shall be admissible as evidence at [either] any trial of
15 such person for [either] a violation of any state law or county
16 or municipal ordinance, [or] and at any license revocation or
17 suspension proceeding held pursuant to the provisions of chapter
18 302.

19 577.037. 1. Upon the trial of any person for [violation of
20 any of the provisions of section 565.024, or section 565.060, or
21 section 577.010 or 577.012, or upon the trial of any criminal
22 action] any criminal offense or violations of county or municipal
23 ordinances, or in any license suspension or revocation proceeding
24 pursuant to the provisions of chapter 302, arising out of acts
25 alleged to have been committed by any person while [driving]
26 operating a [motor] vehicle, vessel, or aircraft, or acting as a
27 flight crew member of any aircraft, while in an intoxicated
28 condition or with an excessive blood alcohol content, the amount

1 of alcohol in the person's blood at the time of the act
2 [alleged], as shown by any chemical analysis of the person's
3 blood, breath, saliva, or urine, is admissible in evidence and
4 the provisions of subdivision (5) of section 491.060 shall not
5 prevent the admissibility or introduction of such evidence if
6 otherwise admissible. [If there was eight-hundredths of one
7 percent or more by weight of alcohol in the person's blood, this
8 shall be prima facie evidence that the person was intoxicated at
9 the time the specimen was taken.]

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

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

27 (2) There is evidence that the defendant was under the
28 influence of a controlled substance, or drug, or a combination of

1 either or both with or without alcohol; or

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

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

8 [3.] 4. The foregoing provisions of this section shall not
9 be construed as limiting the introduction of any other competent
10 evidence bearing upon the question of whether the person was
11 intoxicated.

12 [4.] 5. A chemical analysis of a person's breath, blood,
13 saliva or urine, in order to give rise to the presumption or to
14 have the effect provided for in subsection [1] 2 of this section,
15 shall have been performed as provided in sections 577.020 to
16 577.041 and in accordance with methods and standards approved by
17 the state department of health and senior services.

18 [5. Any charge alleging a violation of section 577.010 or
19 577.012 or any county or municipal ordinance prohibiting driving
20 while intoxicated or driving under the influence of alcohol shall
21 be dismissed with prejudice if a chemical analysis of the
22 defendant's breath, blood, saliva, or urine performed in
23 accordance with sections 577.020 to 577.041 and rules promulgated
24 thereunder by the state department of health and senior services
25 demonstrate that there was less than eight-hundredths of one
26 percent of alcohol in the defendant's blood unless one or more of
27 the following considerations cause the court to find a dismissal
28 unwarranted:

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

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

8 (3) There is substantial evidence of intoxication from
9 physical observations of witnesses or admissions of the
10 defendant.]

11 577.041. 1. If a person under arrest, or who has been
12 detained pursuant to subdivision (2) of subsection 1 of section
13 577.020, or stopped pursuant to subdivision [(2) or] (3) or (4)
14 of subsection 1 of section 577.020, refuses upon the request of
15 the officer to submit to any test allowed pursuant to section
16 577.020, then evidence of the refusal shall be admissible in [a]
17 any proceeding [pursuant to section 565.024, 565.060, or 565.082,
18 or section 577.010 or 577.012] related to the acts resulting in
19 such detention, stop, or arrest.

20 2. The request of the officer to submit to any chemical
21 test shall include the reasons of the officer for requesting the
22 person to submit to a test and also shall inform the person that
23 evidence of refusal to take the test may be used against such
24 person [and that the person's]. If such person was operating a
25 vehicle prior to such detention, stop, or arrest, he or she shall
26 further be informed that his or her license shall be immediately
27 revoked upon refusal to take the test.

28 3. If a person when requested to submit to any test allowed

1 pursuant to section 577.020 requests to speak to an attorney, the
2 person shall be granted twenty minutes in which to attempt to
3 contact an attorney. If, upon the completion of the
4 twenty-minute period the person continues to refuse to submit to
5 any test, it shall be deemed a refusal. [In this event, the
6 officer shall, on behalf of the director of revenue, serve the
7 notice of license revocation personally upon the person and shall
8 take possession of any license to operate a motor vehicle issued
9 by this state which is held by that person. The officer shall
10 issue a temporary permit, on behalf of the director of revenue,
11 which is valid for fifteen days and shall also give the person a
12 notice of such person's right to file a petition for review to
13 contest the license revocation.

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

18 (1) That the officer has:

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

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

26 (c) Reasonable grounds to believe that the person stopped,
27 being under the age of twenty-one years, was committing a
28 violation of the traffic laws of the state, or political

1 subdivision of the state, and such officer has reasonable grounds
2 to believe, after making such stop, that the person had a blood
3 alcohol content of two-hundredths of one percent or greater;

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

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

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

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

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

15 3. Upon receipt of the officer's report, the director shall
16 revoke the license of the person refusing to take the test for a
17 period of one year; or if the person is a nonresident, such
18 person's operating permit or privilege shall be revoked for one
19 year; or if the person is a resident without a license or permit
20 to operate a motor vehicle in this state, an order shall be
21 issued denying the person the issuance of a license or permit for
22 a period of one year.

23 4. If a person's license has been revoked because of the
24 person's refusal to submit to a chemical test, such person may
25 petition for a hearing before a circuit division or associate
26 division of the court in the county in which the arrest or stop
27 occurred. The person may request such court to issue an order
28 staying the revocation until such time as the petition for review

1 can be heard. If the court, in its discretion, grants such stay,
2 it shall enter the order upon a form prescribed by the director
3 of revenue and shall send a copy of such order to the director.
4 Such order shall serve as proof of the privilege to operate a
5 motor vehicle in this state and the director shall maintain
6 possession of the person's license to operate a motor vehicle
7 until termination of any revocation pursuant to this section.
8 Upon the person's request the clerk of the court shall notify the
9 prosecuting attorney of the county and the prosecutor shall
10 appear at the hearing on behalf of the director of revenue. At
11 the hearing the court shall determine only:

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

13 (2) Whether or not the officer had:

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

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

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

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

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

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

6 7. No person who has had a license to operate a motor
7 vehicle suspended or revoked pursuant to the provisions of this
8 section shall have that license reinstated until such person has
9 participated in and successfully completed a substance abuse
10 traffic offender program defined in section 577.001, or a program
11 determined to be comparable by the department of mental health or
12 the court. Assignment recommendations, based upon the needs
13 assessment as described in subdivision (24) of section 302.010,
14 shall be delivered in writing to the person with written notice
15 that the person is entitled to have such assignment
16 recommendations reviewed by the court if the person objects to
17 the recommendations. The person may file a motion in the
18 associate division of the circuit court of the county in which
19 such assignment was given, on a printed form provided by the
20 state courts administrator, to have the court hear and determine
21 such motion pursuant to the provisions of chapter 517. The
22 motion shall name the person or entity making the needs
23 assessment as the respondent and a copy of the motion shall be
24 served upon the respondent in any manner allowed by law. Upon
25 hearing the motion, the court may modify or waive any assignment
26 recommendation that the court determines to be unwarranted based
27 upon a review of the needs assessment, the person's driving
28 record, the circumstances surrounding the offense, and the

1 likelihood of the person committing a like offense in the future,
2 except that the court may modify but may not waive the assignment
3 to an education or rehabilitation program of a person determined
4 to be a prior or persistent offender as defined in section
5 577.023, or of a person determined to have operated a motor
6 vehicle with fifteen-hundredths of one percent or more by weight
7 in such person's blood. Compliance with the court determination
8 of the motion shall satisfy the provisions of this section for
9 the purpose of reinstating such person's license to operate a
10 motor vehicle. The respondent's personal appearance at any
11 hearing conducted pursuant to this subsection shall not be
12 necessary unless directed by the court.

13 8. The fees for the substance abuse traffic offender
14 program, or a portion thereof to be determined by the division of
15 alcohol and drug abuse of the department of mental health, shall
16 be paid by the person enrolled in the program. Any person who is
17 enrolled in the program shall pay, in addition to any fee charged
18 for the program, a supplemental fee to be determined by the
19 department of mental health for the purposes of funding the
20 substance abuse traffic offender program defined in section
21 302.010 and section 577.001. The administrator of the program
22 shall remit to the division of alcohol and drug abuse of the
23 department of mental health on or before the fifteenth day of
24 each month the supplemental fee for all persons enrolled in the
25 program, less two percent for administrative costs. Interest
26 shall be charged on any unpaid balance of the supplemental fees
27 due the division of alcohol and drug abuse pursuant to this
28 section and shall accrue at a rate not to exceed the annual rates

1 established pursuant to the provisions of section 32.065, plus
2 three percentage points. The supplemental fees and any interest
3 received by the department of mental health pursuant to this
4 section shall be deposited in the mental health earnings fund
5 which is created in section 630.053.

6 9. Any administrator who fails to remit to the division of
7 alcohol and drug abuse of the department of mental health the
8 supplemental fees and interest for all persons enrolled in the
9 program pursuant to this section shall be subject to a penalty
10 equal to the amount of interest accrued on the supplemental fees
11 due the division pursuant to this section. If the supplemental
12 fees, interest, and penalties are not remitted to the division of
13 alcohol and drug abuse of the department of mental health within
14 six months of the due date, the attorney general of the state of
15 Missouri shall initiate appropriate action of the collection of
16 said fees and interest accrued. The court shall assess attorney
17 fees and court costs against any delinquent program.

18 10. Any person who has had a license to operate a motor
19 vehicle revoked under this section and who has a prior
20 alcohol-related enforcement contact, as defined in section
21 302.525, shall be required to file proof with the director of
22 revenue that any motor vehicle operated by the person is equipped
23 with a functioning, certified ignition interlock device as a
24 required condition of license reinstatement. Such ignition
25 interlock device shall further be required to be maintained on
26 all motor vehicles operated by the person for a period of not
27 less than six months immediately following the date of
28 reinstatement. If the monthly monitoring reports show that the

1 ignition interlock device has registered any confirmed blood
2 alcohol concentration readings above the alcohol setpoint
3 established by the department of transportation or that the
4 person has tampered with or circumvented the ignition interlock
5 device, then the period for which the person must maintain the
6 ignition interlock device following the date of reinstatement
7 shall be extended for an additional six months. If the person
8 fails to maintain such proof with the director as required by
9 this section, the license shall be rerevoked and the person shall
10 be guilty of a class A misdemeanor.

11 11. The revocation period of any person whose license and
12 driving privilege has been revoked under this section and who has
13 filed proof of financial responsibility with the department of
14 revenue in accordance with chapter 303 and is otherwise eligible,
15 shall be terminated by a notice from the director of revenue
16 after one year from the effective date of the revocation. Unless
17 proof of financial responsibility is filed with the department of
18 revenue, the revocation shall remain in effect for a period of
19 two years from its effective date. If the person fails to
20 maintain proof of financial responsibility in accordance with
21 chapter 303, the person's license and driving privilege shall be
22 rerevoked and the person shall be guilty of a class A
23 misdemeanor.]

24 579.060. 1. A person commits the offense of unlawful sale,
25 distribution, or purchase of over-the-counter methamphetamine
26 precursor drugs if he or she knowingly:

27 (1) Sells, distributes, dispenses, or otherwise provides
28 any number of packages of any drug product containing detectable

1 amounts of ephedrine, phenylpropanolamine, or pseudoephedrine, or
2 any of their salts, optical isomers, or salts of optical isomers,
3 in a total amount greater than nine grams to the same individual
4 within a thirty-day period, unless the amount is dispensed, sold,
5 or distributed pursuant to a valid prescription; or

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

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

22 (4) Dispenses or offers drug products that are not excluded
23 from Schedule V in subsection 17 or 18 of section 195.017 and
24 that contain detectable amounts of ephedrine,
25 phenylpropanolamine, or pseudoephedrine, or any of their salts,
26 optical isomers, or salts of optical isomers, without ensuring
27 that such products are located behind a pharmacy counter where
28 the public is not permitted and that such products are dispensed

1 by a registered pharmacist or pharmacy technician under
2 subsection 11 of section 195.017; or

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

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

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

18 (2) Fails to submit information under subsection 13 of
19 section 195.017 and subsection 5 of section 195.417 about the
20 sales of any compound, mixture, or preparation of products
21 containing detectable amounts of ephedrine, phenylpropanolamine,
22 or pseudoephedrine, or any of their salts, optical isomers, or
23 salts of optical isomers, in accordance with transmission methods
24 and frequency established by the department of health and senior
25 services; or

26 (3) Fails to implement and maintain an electronic log, as
27 required by subsection 12 of section 195.017, of each transaction
28 involving any detectable quantity of pseudoephedrine, its salts,

1 isomers, or salts of optical isomers or ephedrine, its salts,
2 optical isomers, or salts of optical isomers; or

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

9 3. Any person who violates the packaging requirements of
10 section 195.418 and is considered the general owner or operator
11 of the outlet where ephedrine, pseudoephedrine, or
12 phenylpropanolamine products are available for sale shall not be
13 penalized if he or she documents that an employee training
14 program was in place to provide the employee who made the
15 unlawful retail sale with information on the state and federal
16 regulations regarding ephedrine, pseudoephedrine, or
17 phenylpropanolamine.

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

21 [195.130.] 579.105. 1. [Any room, building, structure or
22 inhabitable structure as defined in section 569.010 which is used
23 for the illegal use, keeping or selling of controlled substances
24 is a "public nuisance". No person shall keep or maintain such a
25 public nuisance.

26 2. The attorney general, circuit attorney or prosecuting
27 attorney may, in addition to any criminal prosecutions, prosecute
28 a suit in equity to enjoin the public nuisance. If the court

1 finds that the owner of the room, building, structure or
2 inhabitable structure knew that the premises were being used for
3 the illegal use, keeping or selling of controlled substances, the
4 court may order that the premises shall not be occupied or used
5 for such period as the court may determine, not to exceed one
6 year.

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

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

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

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

1 cannabinoid.

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

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

11 [5.] 4. Upon the conviction of the owner pursuant to
12 [subsection 4 of] this section, the room, building, structure, or
13 inhabitable structure is subject to the provisions of sections
14 513.600 to 513.645.

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

35 2. The policy shall require school administrators
36 to report acts of school violence to all teachers at
37 the attendance center and, in addition, to other school
38 district employees with a need to know. For the
39 purposes of this chapter or chapter 167, "need to know"

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

- 18 (1) First degree murder under section 565.020;
- 19 (2) Second degree murder under section 565.021;
- 20 (3) Kidnapping in the first degree under section
21 565.110;
- 22 (4) First degree assault under section 565.050;
- 23 (5) Rape in the first degree under section
24 566.030;
- 25 (6) Sodomy in the first degree under section
26 566.060;
- 27 (7) Burglary in the first degree under section
28 569.160;
- 29 (8) Burglary in the second degree under section
30 569.170;
- 31 (9) Robbery in the first degree under section
32 [569.020] 570.023;
- 33 (10) [Distribution of drugs] Manufacture of a
34 controlled substance under section [195.211] 579.055;
- 35 (11) [Distribution of drugs to a minor] Delivery
36 of a controlled substance under section [195.212]
37 579.020;
- 38 (12) Arson in the first degree under section
39 569.040;
- 40 (13) Voluntary manslaughter under section
41 565.023;
- 42 (14) Involuntary manslaughter under section
43 565.024;
- 44 (15) Second degree assault under section
45 [565.060] 565.052;
- 46 (16) Rape in the second degree under section
47 566.031;
- 48 (17) [Felonious restraint] Kidnapping in the
49 second degree under section 565.120;
- 50 (18) Property damage in the first degree under

1 section 569.100;

2 (19) The possession of a weapon under chapter
3 571;

4 (20) Child molestation in the first, second, or
5 third degree pursuant to section 566.067, 566.068, or
6 566.069;

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

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

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

13 (24) Harassment in the first degree under section
14 565.090; or

15 (25) Stalking in the first degree under section
16 565.225;

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

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

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

50 (2) Such student is under the direct supervision
51 of another adult designated by the student's parent,

1 legal guardian, or custodian, in advance, in writing,
2 to the principal of the school which suspended the
3 student and the superintendent or the superintendent's
4 designee has authorized the student to be on school
5 property;

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

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

15 4. Any student who violates the condition of
16 suspension required pursuant to subsection 3 of this
17 section may be subject to expulsion or further
18 suspension pursuant to the provisions of sections
19 167.161, 167.164, and 167.171. In making this
20 determination consideration shall be given to whether
21 the student poses a threat to the safety of any child
22 or school employee and whether such student's
23 unsupervised presence within one thousand feet of the
24 school is disruptive to the educational process or
25 undermines the effectiveness of the school's
26 disciplinary policy. Removal of any pupil who is a
27 student with a disability is subject to state and
28 federal procedural rights. This section shall not
29 limit a school district's ability to:

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

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

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

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

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

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

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

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

42 9. Each school board shall define in its
43 discipline policy acts of violence and any other acts
44 that constitute a serious violation of that policy.
45 "Acts of violence" as defined by school boards shall
46 include but not be limited to exertion of physical
47 force by a student with the intent to do serious bodily
48 harm to another person while on school property,
49 including a school bus in service on behalf of the
50 district, or while involved in school activities.
51 School districts shall for each student enrolled in the

1 school district compile and maintain records of any
2 serious violation of the district's discipline policy.
3 Such records shall be made available to teachers and
4 other school district employees with a need to know
5 while acting within the scope of their assigned duties,
6 and shall be provided as required in section 167.020 to
7 any school district in which the student subsequently
8 attempts to enroll.

9 10. Spanking, when administered by certificated
10 personnel and in the presence of a witness who is an
11 employee of the school district, or the use of
12 reasonable force to protect persons or property, when
13 administered by personnel of a school district in a
14 reasonable manner in accordance with the local board of
15 education's written policy of discipline, is not abuse
16 within the meaning of chapter 210. The provisions of
17 sections 210.110 to 210.165 notwithstanding, the
18 children's division shall not have jurisdiction over or
19 investigate any report of alleged child abuse arising
20 out of or related to the use of reasonable force to
21 protect persons or property when administered by
22 personnel of a school district or any spanking
23 administered in a reasonable manner by any certificated
24 school personnel in the presence of a witness who is an
25 employee of the school district pursuant to a written
26 policy of discipline established by the board of
27 education of the school district, as long as no
28 allegation of sexual misconduct arises from the
29 spanking or use of force.

30 11. If a student reports alleged sexual
31 misconduct on the part of a teacher or other school
32 employee to a person employed in a school facility who
33 is required to report such misconduct to the children's
34 division under section 210.115, such person and the
35 superintendent of the school district shall report the
36 allegation to the children's division as set forth in
37 section 210.115. Reports made to the children's
38 division under this subsection shall be investigated by
39 the division in accordance with the provisions of
40 sections 210.145 to 210.153 and shall not be
41 investigated by the school district under subsections
42 12 to 20 of this section for purposes of determining
43 whether the allegations should or should not be
44 substantiated. The district may investigate the
45 allegations for the purpose of making any decision
46 regarding the employment of the accused employee.

47 12. Upon receipt of any reports of child abuse by
48 the children's division other than reports provided
49 under subsection 11 of this section, pursuant to
50 sections 210.110 to 210.165 which allegedly involve
51 personnel of a school district, the children's division

1 shall notify the superintendent of schools of the
2 district or, if the person named in the alleged
3 incident is the superintendent of schools, the
4 president of the school board of the school district
5 where the alleged incident occurred.

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

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

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

39 16. The investigation shall begin no later than
40 forty-eight hours after notification from the
41 children's division is received, and shall consist of,
42 but need not be limited to, interviewing and recording
43 statements of the child and the child's parents or
44 guardian within two working days after the start of the
45 investigation, of the school district personnel
46 allegedly involved in the report, and of any witnesses
47 to the alleged incident.

48 17. The law enforcement officer and the
49 investigating school district personnel shall issue
50 separate reports of their findings and recommendations
51 after the conclusion of the investigation to the school

1 board of the school district within seven days after
2 receiving notice from the children's division.

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

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

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

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

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

29 20. The findings and conclusions of the school
30 board under subsection 19 of this section shall be sent
31 to the children's division. If the findings and
32 conclusions of the school board are that the report of
33 the alleged child abuse is unsubstantiated, the
34 investigation shall be terminated, the case closed, and
35 no record shall be entered in the children's division
36 central registry. If the findings and conclusions of
37 the school board are that the report of the alleged
38 child abuse is substantiated, the children's division
39 shall report the incident to the prosecuting attorney
40 of the appropriate county along with the findings and
41 conclusions of the school district and shall include
42 the information in the division's central registry. If
43 the findings and conclusions of the school board are
44 that the issue involved in the alleged incident of
45 child abuse is unresolved, the children's division
46 shall report the incident to the prosecuting attorney
47 of the appropriate county along with the findings and
48 conclusions of the school board, however, the incident
49 and the names of the parties allegedly involved shall
50 not be entered into the central registry of the
51 children's division unless and until the alleged child

1 abuse is substantiated by a court of competent
2 jurisdiction.

3 21. Any superintendent of schools, president of a
4 school board or such person's designee or law
5 enforcement officer who knowingly falsifies any report
6 of any matter pursuant to this section or who knowingly
7 withholds any information relative to any investigation
8 or report pursuant to this section is guilty of a class
9 A misdemeanor.

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

18
19 [167.115. 1. Notwithstanding any provision of
20 chapter 211 or chapter 610 to the contrary, the
21 juvenile officer, sheriff, chief of police or other
22 appropriate law enforcement authority shall, as soon as
23 reasonably practical, notify the superintendent, or the
24 superintendent's designee, of the school district in
25 which the pupil is enrolled when a petition is filed
26 pursuant to subsection 1 of section 211.031 alleging
27 that the pupil has committed one of the following acts:

28 (1) First degree murder under section 565.020;

29 (2) Second degree murder under section 565.021;

30 (3) Kidnapping under section 565.110 as it
31 existed prior to January 1, 2017, or kidnapping in the
32 first degree under section 565.110;

33 (4) First degree assault under section 565.050;

34 (5) Forcible rape under section 566.030 as it
35 existed prior to August 28, 2013, or rape in the first
36 degree under section 566.030;

37 (6) Forcible sodomy under section 566.060 as it
38 existed prior to August 28, 2013, or sodomy in the
39 first degree under section 566.060;

40 (7) Burglary in the first degree under section
41 569.160;

42 (8) Robbery in the first degree under section
43 569.020 as it existed prior to January 1, 2017, or
44 robbery in the first degree under section 570.023;

45 (9) Distribution of drugs under section 195.211
46 as it existed prior to January 1, 2017, or manufacture
47 of a controlled substance under section 579.055;

48 (10) Distribution of drugs to a minor under
49 section 195.212 as it existed prior to January 1, 2017,
50 or delivery of a controlled substance under section
51 579.020;

1 (11) Arson in the first degree under section
2 569.040;

3 (12) Voluntary manslaughter under section
4 565.023;

5 (13) Involuntary manslaughter under section
6 565.024;

7 (14) Second degree assault under section 565.060
8 as it existed prior to January 1, 2017, or second
9 degree assault under section 565.052;

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

13 (16) Felonious restraint under section 565.120 as
14 it existed prior to January 1, 2017, or kidnapping in
15 the second degree for an act committed after December
16 31, 2016;

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

19 (18) The possession of a weapon under chapter
20 571;

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

24 (20) Child molestation in the first, second, or
25 third degree pursuant to sections 566.067, 566.068, or
26 566.069 for an act committed after December 31, 2016;

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

30 [(21)] (22) Sexual misconduct involving a child
31 pursuant to section 566.083; or

32 [(22)] (23) Sexual abuse pursuant to section
33 566.100 as it existed prior to August 28, 2013, or
34 sexual abuse in the first degree under section 566.100.

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

49 3. The superintendent or the designee of the
50 superintendent shall report such information to
51 teachers and other school district employees with a

1 need to know while acting within the scope of their
2 assigned duties. Any information received by school
3 district officials pursuant to this section shall be
4 received in confidence and used for the limited purpose
5 of assuring that good order and discipline is
6 maintained in the school. This information shall not
7 be used as the sole basis for not providing educational
8 services to a public school pupil.

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

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

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

28 7. As used in this section, the terms "school"
29 and "school district" shall include any charter,
30 private or parochial school or school district, and the
31 term "superintendent" shall include the principal or
32 equivalent chief school officer in the cases of
33 charter, private or parochial schools.

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

39
40 [167.171. 1. The school board in any district,
41 by general rule and for the causes provided in section
42 167.161, may authorize the summary suspension of pupils
43 by principals of schools for a period not to exceed ten
44 school days and by the superintendent of schools for a
45 period not to exceed one hundred and eighty school
46 days. In case of a suspension by the superintendent
47 for more than ten school days, the pupil, the pupil's
48 parents or others having such pupil's custodial care
49 may appeal the decision of the superintendent to the
50 board or to a committee of board members appointed by
51 the president of the board which shall have full

1 authority to act in lieu of the board. Any suspension
2 by a principal shall be immediately reported to the
3 superintendent who may revoke the suspension at any
4 time. In event of an appeal to the board, the
5 superintendent shall promptly transmit to it a full
6 report in writing of the facts relating to the
7 suspension, the action taken by the superintendent and
8 the reasons therefor and the board, upon request, shall
9 grant a hearing to the appealing party to be conducted
10 as provided in section 167.161.

11 2. No pupil shall be suspended unless:

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

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

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

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

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

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

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

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

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

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

19 (a) First degree murder under section 565.020;

20 (b) Second degree murder under section 565.021;

21 (c) First degree assault under section 565.050;

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

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

28 (f) Statutory rape under section 566.032;

29 (g) Statutory sodomy under section 566.062;

30 (h) Robbery in the first degree under section
31 569.020 as it existed prior to January 1, 2017, or
32 robbery in the first degree under section 570.023;

33 (i) Distribution of drugs to a minor under
34 section 195.212;

35 (j) Arson in the first degree under section
36 569.040;

37 (k) Kidnapping or kidnapping in the first degree,
38 when classified as a class A felony under section
39 565.110.

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

1 if the district determines such enrollment is
2 appropriate.

3 4. If a pupil is attempting to enroll in a school
4 district during a suspension or expulsion from another
5 in-state or out-of-state school district including a
6 private, charter or parochial school or school
7 district, a conference with the superintendent or the
8 superintendent's designee may be held at the request of
9 the parent, court-appointed legal guardian, someone
10 acting as a parent as defined by rule in the case of a
11 special education student, or the pupil to consider if
12 the conduct of the pupil would have resulted in a
13 suspension or expulsion in the district in which the
14 pupil is enrolling. Upon a determination by the
15 superintendent or the superintendent's designee that
16 such conduct would have resulted in a suspension or
17 expulsion in the district in which the pupil is
18 enrolling or attempting to enroll, the school district
19 may make such suspension or expulsion from another
20 school or district effective in the district in which
21 the pupil is enrolling or attempting to enroll. Upon a
22 determination by the superintendent or the
23 superintendent's designee that such conduct would not
24 have resulted in a suspension or expulsion in the
25 district in which the student is enrolling or
26 attempting to enroll, the school district shall not
27 make such suspension or expulsion effective in its
28 district in which the student is enrolling or
29 attempting to enroll.]
30

31 [188.030. 1. Except in the case of a medical
32 emergency, no abortion of a viable unborn child shall
33 be performed or induced unless the abortion is
34 necessary to preserve the life of the pregnant woman
35 whose life is endangered by a physical disorder,
36 physical illness, or physical injury, including a
37 life-endangering physical condition caused by or
38 arising from the pregnancy itself, or when continuation
39 of the pregnancy will create a serious risk of
40 substantial and irreversible physical impairment of a
41 major bodily function of the pregnant woman. For
42 purposes of this section, "major bodily function"
43 includes, but is not limited to, functions of the
44 immune system, normal cell growth, digestive, bowel,
45 bladder, neurological, brain, respiratory, circulatory,
46 endocrine, and reproductive functions.

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

48 (1) Prior to performing or inducing an abortion
49 upon a woman, the physician shall determine the
50 gestational age of the unborn child in a manner
51 consistent with accepted obstetrical and neonatal

1 practices and standards. In making such determination,
2 the physician shall make such inquiries of the pregnant
3 woman and perform or cause to be performed such medical
4 examinations, imaging studies, and tests as a
5 reasonably prudent physician, knowledgeable about the
6 medical facts and conditions of both the woman and the
7 unborn child involved, would consider necessary to
8 perform and consider in making an accurate diagnosis
9 with respect to gestational age;

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

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

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

44 (b) Before a physician may proceed with
45 performing or inducing an abortion upon a woman when it
46 has been determined that the unborn child is viable,
47 the physician shall first certify in writing the
48 medical threat posed to the life of the pregnant woman,
49 or the medical reasons that continuation of the
50 pregnancy would cause a serious risk of substantial and
51 irreversible physical impairment of a major bodily

1 function of the pregnant woman. Upon completion of the
2 abortion, the physician shall report the reasons and
3 determinations for the abortion of a viable unborn
4 child to the health care facility in which the abortion
5 is performed and to the state board of registration for
6 the healing arts, and shall enter such findings and
7 determinations in the medical record of the woman and
8 in the individual abortion report submitted to the
9 department under section 188.052.

10 (c) Before a physician may proceed with
11 performing or inducing an abortion upon a woman when it
12 has been determined that the unborn child is viable,
13 the physician who is to perform the abortion shall
14 obtain the agreement of a second physician with
15 knowledge of accepted obstetrical and neonatal
16 practices and standards who shall concur that the
17 abortion is necessary to preserve the life of the
18 pregnant woman, or that continuation of the pregnancy
19 would cause a serious risk of substantial and
20 irreversible physical impairment of a major bodily
21 function of the pregnant woman. This second physician
22 shall also report such reasons and determinations to
23 the health care facility in which the abortion is to be
24 performed and to the state board of registration for
25 the healing arts, and shall enter such findings and
26 determinations in the medical record of the woman and
27 the individual abortion report submitted to the
28 department under section 188.052. The second physician
29 shall not have any legal or financial affiliation or
30 relationship with the physician performing or inducing
31 the abortion, except that such prohibition shall not
32 apply to physicians whose legal or financial
33 affiliation or relationship is a result of being
34 employed by or having staff privileges at the same
35 hospital as the term "hospital" is defined in section
36 197.020.

37 (d) Any physician who performs or induces an
38 abortion upon a woman when it has been determined that
39 the unborn child is viable shall utilize the available
40 method or technique of abortion most likely to preserve
41 the life or health of the unborn child. In cases where
42 the method or technique of abortion most likely to
43 preserve the life or health of the unborn child would
44 present a greater risk to the life or health of the
45 woman than another legally permitted and available
46 method or technique, the physician may utilize such
47 other method or technique. In all cases where the
48 physician performs an abortion upon a viable unborn
49 child, the physician shall certify in writing the
50 available method or techniques considered and the
51 reasons for choosing the method or technique employed.

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

18 3. Any person who knowingly performs or induces
19 an abortion of an unborn child in violation of the
20 provisions of this section is guilty of a class [C] D
21 felony, and, upon a finding of guilt or plea of guilty,
22 shall be imprisoned for a term of not less than one
23 year, and, notwithstanding the provisions of section
24 560.011, shall be fined not less than ten thousand nor
25 more than fifty thousand dollars.

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

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

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

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

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

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

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

17
18 [[660.315.] 197.1036. 1. After an investigation
19 and a determination has been made to place a person's
20 name on the employee disqualification list, that person
21 shall be notified in writing mailed to his or her last
22 known address that:

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

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

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

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

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

40 3. If the person so notified wishes to challenge
41 the allegation, such person may file an application for
42 a hearing with the department. The department shall
43 grant the application within thirty days after receipt
44 by the department and set the matter for hearing, or
45 the department shall notify the applicant that, after
46 review, the allegation has been held to be unfounded
47 and the applicant's name will not be listed.

48 4. If a person's name is included on the employee
49 disqualification list without the department providing
50 notice as required under subsection 1 of this section,
51 such person may file a request with the department for

1 removal of the name or for a hearing. Within thirty
2 days after receipt of the request, the department shall
3 either remove the name from the list or grant a hearing
4 and set a date therefor.

5 5. Any hearing shall be conducted in the county
6 of the person's residence by the director of the
7 department or the director's designee. The provisions
8 of chapter 536 for a contested case except those
9 provisions or amendments which are in conflict with
10 this section shall apply to and govern the proceedings
11 contained in this section and the rights and duties of
12 the parties involved. The person appealing such an
13 action shall be entitled to present evidence, pursuant
14 to the provisions of chapter 536, relevant to the
15 allegations.

16 6. Upon the record made at the hearing, the
17 director of the department or the director's designee
18 shall determine all questions presented and shall
19 determine whether the person shall be listed on the
20 employee disqualification list. The director of the
21 department or the director's designee shall clearly
22 state the reasons for his or her decision and shall
23 include a statement of findings of fact and conclusions
24 of law pertinent to the questions in issue.

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

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

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

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

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

1 (3) The degree of misappropriation of the
2 property or funds, or falsification of any documents
3 for service delivery of an in-home services client;
4 (4) Whether the person has previously been listed
5 on the employee disqualification list;
6 (5) Any mitigating circumstances;
7 (6) Any aggravating circumstances; and
8 (7) Whether alternative sanctions resulting in
9 conditions of continued employment are appropriate in
10 lieu of placing a person's name on the employee
11 disqualification list. Such conditions of employment
12 may include, but are not limited to, additional
13 training and employee counseling. Conditional
14 employment shall terminate upon the expiration of the
15 designated length of time and the person's submitting
16 documentation which fulfills the department of health
17 and senior services' requirements.

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

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

- 26 (1) Is licensed as an operator under chapter 198;
27 (2) Provides in-home services under contract with
28 the department;
29 (3) Employs nurses and nursing assistants for
30 temporary or intermittent placement in health care
31 facilities;
32 (4) Is approved by the department to issue
33 certificates for nursing assistants training;
34 (5) Is an entity licensed under this chapter
35 [197];
36 (6) Is a recognized school of nursing, medicine,
37 or other health profession for the purpose of
38 determining whether students scheduled to participate
39 in clinical rotations with entities described in
40 subdivision (1), (2), or (5) of this subsection are
41 included in the employee disqualification list; or
42 (7) Is a consumer reporting agency regulated by
43 the federal Fair Credit Reporting Act that conducts
44 employee background checks on behalf of entities listed
45 in subdivisions (1), (2), (5), or (6) of this
46 subsection. Such a consumer reporting agency shall
47 conduct the employee disqualification list check only
48 upon the initiative or request of an entity described
49 in subdivisions (1), (2), (5), or (6) of this
50 subsection when the entity is fulfilling its duties
51 required under this section. The information shall be

1 disclosed only to the requesting entity. The
2 department shall inform any person listed above who
3 inquires of the department whether or not a particular
4 name is on the list. The department may require that
5 the request be made in writing. No person,
6 corporation, organization, or association who is
7 entitled to access the employee disqualification list
8 may disclose the information to any person,
9 corporation, organization, or association who is not
10 entitled to access the list. Any person, corporation,
11 organization, or association who is entitled to access
12 the employee disqualification list who discloses the
13 information to any person, corporation, organization,
14 or association who is not entitled to access the list
15 shall be guilty of an infraction.

16 12. No person, corporation, organization, or
17 association who received the employee disqualification
18 list under subdivisions (1) to (7) of subsection 11 of
19 this section shall knowingly employ any person who is
20 on the employee disqualification list. Any person,
21 corporation, organization, or association who received
22 the employee disqualification list under subdivisions
23 (1) to (7) of subsection 11 of this section, or any
24 person responsible for providing health care service,
25 who declines to employ or terminates a person whose
26 name is listed in this section shall be immune from
27 suit by that person or anyone else acting for or in
28 behalf of that person for the failure to employ or for
29 the termination of the person whose name is listed on
30 the employee disqualification list.

31 13. Any employer or vendor as defined in sections
32 197.250, 197.400, 198.006, 208.900, or 660.250 required
33 to deny employment to an applicant or to discharge an
34 employee, provisional or otherwise, as a result of
35 information obtained through any portion of the
36 background screening and employment eligibility
37 determination process under section 210.903, or
38 subsequent, periodic screenings, shall not be liable in
39 any action brought by the applicant or employee
40 relating to discharge where the employer is required by
41 law to terminate the employee, provisional or
42 otherwise, and shall not be charged for unemployment
43 insurance benefits based on wages paid to the employee
44 for work prior to the date of discharge, pursuant to
45 section 288.100, if the employer terminated the
46 employee because the employee:

47 (1) Has been found guilty, pled guilty or nolo
48 contendere in this state or any other state of a crime
49 as listed in subsection 6 of section [660.317]
50 197.1038;

51 (2) Was placed on the employee disqualification

1 list under this section after the date of hire;

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

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

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

11 14. Any person who has been listed on the
12 employee disqualification list may request that the
13 director remove his or her name from the employee
14 disqualification list. The request shall be written
15 and may not be made more than once every twelve months.
16 The request will be granted by the director upon a
17 clear showing, by written submission only, that the
18 person will not commit additional acts of abuse,
19 neglect, misappropriation of the property or funds, or
20 the falsification of any documents of service delivery
21 to an in-home services client. The director may make
22 conditional the removal of a person's name from the
23 list on any terms that the director deems appropriate,
24 and failure to comply with such terms may result in the
25 person's name being relisted. The director's
26 determination of whether to remove the person's name
27 from the list is not subject to appeal.]
28

29 [210.117. 1. A child taken into the custody of the
30 state shall not be reunited with a parent or placed in
31 a home in which the parent or any person residing in
32 the home has been found guilty of[, or pled guilty to,]
33 any of the following offenses when a child was the
34 victim:

35 (1) A felony violation of section 566.030,
36 566.031, 566.032, [566.040,] 566.060, 566.061, 566.062,
37 566.064, 566.067, 566.068, [566.070,] 566.069, 566.071,
38 566.083, [566.090,] 566.100, 566.101, 566.111, 566.151,
39 566.203, 566.206, 566.209, 566.212, or 566.215;

40 (2) A violation of section 568.020;

41 (3) [A violation of subdivision (2) of subsection
42 1 of section 568.060] Abuse of a child under section
43 568.060 when such abuse is sexual in nature;

44 (4) A violation of section 568.065;

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

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

47 (7) A violation of section 568.175;

48 (8) A violation of section 566.040, 566.070, or
49 566.090 as such sections existed prior to August 28,
50 2013; or

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

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

13 3. In any case where the children's division
14 determines based on a substantiated report of child
15 abuse that a child has abused another child, the
16 abusing child shall be prohibited from returning to or
17 residing in any residence, facility, or school within
18 one thousand feet of the residence of the abused child
19 or any child care facility or school that the abused
20 child attends, unless and until a court of competent
21 jurisdiction determines that the alleged abuse did not
22 occur or the abused child reaches the age of eighteen,
23 whichever earlier occurs. The provisions of this
24 subsection shall not apply when the abusing child and
25 the abused child are siblings or children living in the
26 same home.]

27
28 [211.038. 1. A child under the jurisdiction of the
29 juvenile court shall not be reunited with a parent or
30 placed in a home in which the parent or any person
31 residing in the home has been found guilty of[, or pled
32 guilty to,] any of the following offenses when a child
33 was the victim:

34 (1) A felony violation of section 566.030,
35 566.031, 566.032, [566.040,] 566.060, 566.061, 566.062,
36 566.064, 566.067, 566.068, [566.070,] 566.069, 566.071,
37 566.083, [566.090,] 566.100, 566.101, 566.111, 566.151,
38 566.203, 566.206, 566.209, 566.212, or 566.215;

39 (2) A violation of section 568.020;

40 (3) [A violation of subdivision (2) of subsection
41 1 of section 568.060] Abuse of a child under section
42 568.060 when such abuse is sexual in nature;

43 (4) A violation of section 568.065;

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

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

46 (7) A violation of section 568.175;

47 (8) A violation of section 566.040, 566.070, or
48 566.090 as such sections existed prior to August 28,
49 2013; or

50 (9) A violation of section 568.080 or 568.090 as

1 such sections existed prior to January 1, 2017.

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

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

23
24 [217.010. As used in this chapter and chapter
25 558, unless the context clearly indicates otherwise,
26 the following terms shall mean:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26
27 [217.703. 1. The division of probation and
28 parole shall award earned compliance credits to any
29 offender who is:

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

34 (2) On probation, parole, or conditional release
35 for an offense listed in chapter [195] 579, or an
36 offense previously listed in chapter 195, or for a
37 class [C or] D or E felony, excluding the offenses of
38 [aggravated] stalking in the first degree, rape in the
39 second degree, sexual assault, sodomy in the second
40 degree, deviate sexual assault, assault in the second
41 degree under subdivision (2) of subsection 1 of section
42 [565.060] 565.052, sexual misconduct involving a child,
43 endangering the welfare of a child in the first degree
44 under subdivision (2) of subsection 1 of section
45 568.045, incest, invasion of privacy, [and] abuse of a
46 child, and any offense of aggravated stalking or
47 assault in the second degree under subdivision (2) of
48 subsection 1 of section 565.060 as such offenses
49 existed prior to January 1, 2017;

50 (3) Supervised by the board; and

1 (4) In compliance with the conditions of
2 supervision imposed by the sentencing court or board.
3 2. If an offender was placed on probation,
4 parole, or conditional release for an offense of:
5 (1) Involuntary manslaughter in the first degree;
6 (2) Involuntary manslaughter in the second
7 degree;
8 (3) Assault in the second degree except under
9 subdivision (2) of subsection 1 of section [565.060]
10 565.052 or section 565.060 as it existed prior to
11 January 1, 2017;
12 (4) Domestic assault in the second degree;
13 (5) Assault [of a law enforcement officer in the
14 second] in the third degree when the victim is a
15 special victim or assault of a law enforcement officer
16 in the second degree as it existed prior to January 1,
17 2017;
18 (6) Statutory rape in the second degree;
19 (7) Statutory sodomy in the second degree;
20 (8) Endangering the welfare of a child in the
21 first degree under subdivision (1) of subsection 1 of
22 section 568.045; or
23 (9) Any case in which the defendant is found
24 guilty of a felony offense under chapter 571, the
25 sentencing court may, upon its own motion or a motion
26 of the prosecuting or circuit attorney, make a finding
27 that the offender is ineligible to earn compliance
28 credits because the nature and circumstances of the
29 offense or the history and character of the offender
30 indicate that a longer term of probation, parole, or
31 conditional release is necessary for the protection of
32 the public or the guidance of the offender. The motion
33 may be made any time prior to the first month in which
34 the person may earn compliance credits under this
35 section. The offender's ability to earn credits shall
36 be suspended until the court or board makes its
37 finding. If the court or board finds that the offender
38 is eligible for earned compliance credits, the credits
39 shall begin to accrue on the first day of the next
40 calendar month following the issuance of the decision.
41 3. Earned compliance credits shall reduce the
42 term of probation, parole, or conditional release by
43 thirty days for each full calendar month of compliance
44 with the terms of supervision. Credits shall begin to
45 accrue for eligible offenders after the first full
46 calendar month of supervision or on October 1, 2012, if
47 the offender began a term of probation, parole, or
48 conditional release before September 1, 2012.
49 4. For the purposes of this section, the term
50 "compliance" shall mean the absence of an initial
51 violation report submitted by a probation or parole

1 officer during a calendar month, or a motion to revoke
2 or motion to suspend filed by a prosecuting or circuit
3 attorney, against the offender.

4 5. Credits shall not accrue during any calendar
5 month in which a violation report has been submitted or
6 a motion to revoke or motion to suspend has been filed,
7 and shall be suspended pending the outcome of a
8 hearing, if a hearing is held. If no hearing is held
9 or the court or board finds that the violation did not
10 occur, then the offender shall be deemed to be in
11 compliance and shall begin earning credits on the first
12 day of the next calendar month following the month in
13 which the report was submitted or the motion was filed.
14 All earned credits shall be rescinded if the court or
15 board revokes the probation or parole or the court
16 places the offender in a department program under
17 subsection 4 of section 559.036. Earned credits shall
18 continue to be suspended for a period of time during
19 which the court or board has suspended the term of
20 probation, parole, or release, and shall begin to
21 accrue on the first day of the next calendar month
22 following the lifting of the suspension.

23 6. Offenders who are deemed by the division to be
24 absconders shall not earn credits. For purposes of
25 this subsection, "absconder" shall mean an offender
26 under supervision who has left such offender's place of
27 residency without the permission of the offender's
28 supervising officer for the purpose of avoiding
29 supervision. An offender shall no longer be deemed an
30 absconder when such offender is available for active
31 supervision.

32 7. Notwithstanding subsection 2 of section
33 217.730 to the contrary, once the combination of time
34 served in custody, if applicable, time served on
35 probation, parole, or conditional release, and earned
36 compliance credits satisfy the total term of probation,
37 parole, or conditional release, the board or sentencing
38 court shall order final discharge of the offender, so
39 long as the offender has completed at least two years
40 of his or her probation or parole, which shall include
41 any time served in custody under section 217.718 and
42 sections 559.036 and 559.115.

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

46 9. At least twice a year, the division shall
47 calculate the number of months the offender has
48 remaining on his or her term of probation, parole, or
49 conditional release, taking into consideration any
50 earned compliance credits, and notify the offender of
51 the length of the remaining term.

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

10
11 [260.211. 1. A person commits the offense of
12 criminal disposition of demolition waste if he
13 purposely or knowingly disposes of or causes the
14 disposal of more than two thousand pounds or four
15 hundred cubic feet of such waste on property in this
16 state other than in a solid waste processing facility
17 or solid waste disposal area having a permit as
18 required by section 260.205; provided that, this
19 subsection shall not prohibit the use or require a
20 solid waste permit for the use of solid wastes in
21 normal farming operations or in the processing or
22 manufacturing of other products in a manner that will
23 not create a public nuisance or adversely affect public
24 health and shall not prohibit the disposal of or
25 require a solid waste permit for the disposal by an
26 individual of solid wastes resulting from his or her
27 own residential activities on property owned or
28 lawfully occupied by him or her when such wastes do not
29 thereby create a public nuisance or adversely affect
30 the public health. Demolition waste shall not include
31 clean fill or vegetation. Criminal disposition of
32 demolition waste is a class [D] E felony. In addition
33 to other penalties prescribed by law, a person
34 convicted of criminal disposition of demolition waste
35 is subject to a fine not to exceed twenty thousand
36 dollars, except as provided below. The magnitude of
37 the fine shall reflect the seriousness or potential
38 seriousness of the threat to human health and the
39 environment posed by the violation, but shall not
40 exceed twenty thousand dollars, except that if a court
41 of competent jurisdiction determines that the person
42 responsible for illegal disposal of demolition waste
43 under this subsection did so for remuneration as a part
44 of an ongoing commercial activity, the court shall set
45 a fine which reflects the seriousness or potential
46 threat to human health and the environment which at
47 least equals the economic gain obtained by the person,
48 and such fine may exceed the maximum established
49 herein.

50 2. Any person who purposely or knowingly disposes
51 of or causes the disposal of more than two thousand

1 pounds or four hundred cubic feet of his or her
2 personal construction or demolition waste on his or her
3 own property shall be guilty of a class [C] D
4 misdemeanor. If such person receives any amount of
5 money, goods, or services in connection with permitting
6 any other person to dispose of construction or
7 demolition waste on his or her property, such person
8 shall be guilty of a class [D] E felony.

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

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

23 5. The prosecutor of any county or circuit
24 attorney of any city not within a county may, by
25 information or indictment, institute a prosecution for
26 any violation of the provisions of this section.

27 6. Any person shall be guilty of conspiracy as
28 defined in section 564.016 if he or she knows or should
29 have known that his or her agent or employee has
30 committed the acts described in sections 260.210 to
31 260.212 while engaged in the course of employment.]

32
33 [260.212. 1. A person commits the offense of
34 criminal disposition of solid waste if he purposely or
35 knowingly disposes of or causes the disposal of more
36 than five hundred pounds or one hundred cubic feet of
37 commercial or residential solid waste on property in
38 this state other than a solid waste processing facility
39 or solid waste disposal area having a permit as
40 required by section 260.205; provided that, this
41 subsection shall not prohibit the use or require a
42 solid waste permit for the use of solid wastes in
43 normal farming operations or in the processing or
44 manufacturing of other products in a manner that will
45 not create a public nuisance or adversely affect public
46 health and shall not prohibit the disposal of or
47 require a solid waste permit for the disposal by an
48 individual of solid wastes resulting from his or her
49 own residential activities on property owned or
50 lawfully occupied by him or her when such wastes do not
51 thereby create a public nuisance or adversely affect

1 the public health. Criminal disposition of solid waste
2 is a class [D] E felony. In addition to other
3 penalties prescribed by law, a person convicted of
4 criminal disposition of solid waste is subject to a
5 fine, and the magnitude of the fine shall reflect the
6 seriousness or potential seriousness of the threat to
7 human health and the environment posed by the
8 violation, but shall not exceed twenty thousand
9 dollars, except that if a court of competent
10 jurisdiction determines that the person responsible for
11 illegal disposal of solid waste under this subsection
12 did so for remuneration as a part of an ongoing
13 commercial activity, the court shall set a fine which
14 reflects the seriousness or potential threat to human
15 health and the environment which at least equals the
16 economic gain obtained by the person, and such fine may
17 exceed the maximum established herein.

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

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

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

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

42
43 [476.055. 1. There is hereby established in the
44 state treasury the "Statewide Court Automation Fund".
45 All moneys collected pursuant to section 488.027, as
46 well as gifts, contributions, devises, bequests, and
47 grants received relating to automation of judicial
48 record keeping, and moneys received by the judicial
49 system for the dissemination of information and sales
50 of publications developed relating to automation of
51 judicial record keeping, shall be credited to the fund.

1 Moneys credited to this fund may only be used for the
2 purposes set forth in this section and as appropriated
3 by the general assembly. Any unexpended balance
4 remaining in the statewide court automation fund at the
5 end of each biennium shall not be subject to the
6 provisions of section 33.080 requiring the transfer of
7 such unexpended balance to general revenue; except
8 that, any unexpended balance remaining in the fund on
9 September 1, 2018, shall be transferred to general
10 revenue.

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

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

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

47 5. The court automation committee shall not
48 require any circuit court to change any operating
49 system in such court, unless the committee provides all
50 necessary personnel, funds and equipment necessary to
51 effectuate the required changes. No judicial circuit

1 or county may be reimbursed for any costs incurred
2 pursuant to this subsection unless such judicial
3 circuit or county has the approval of the court
4 automation committee prior to incurring the specific
5 cost.

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

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

- 22 (1) The chair of the house budget committee;
- 23 (2) The chair of the senate appropriations
24 committee;
- 25 (3) The chair of the house judiciary committee;
- 26 and
- 27 (4) The chair of the senate judiciary committee[;
- 28 (5) One member of the minority party of the house
29 appointed by the speaker of the house of
30 representatives; and
- 31 (6) One member of the minority party of the
32 senate appointed by the president pro tempore of the
33 senate.

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

39 [9.] 8. Section 488.027 shall expire on September
40 1, 2018. The court automation committee established
41 pursuant to this section may continue to function until
42 completion of its duties prescribed by this section,
43 but shall complete its duties prior to September 1,
44 2020.

45 10. This section shall expire on September 1,
46 2020.]

47
48 [[566.135.] 545.940. 1. Pursuant to a motion
49 filed by the prosecuting attorney or circuit attorney
50 with notice given to the defense attorney and for good

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

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

39
40 [556.061. In this code, unless the context
41 requires a different definition, the following [shall
42 apply] terms shall mean:

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

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

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

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

4 [(2)] (3) "Burden of injecting the issue" [has
5 the meaning specified in section 556.051] ;

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

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

11 [(3)] (4) "Commercial film and photographic
12 print processor", any person who develops exposed
13 photographic film into negatives, slides or prints, or
14 who makes prints from negatives or slides, for
15 compensation. The term commercial film and
16 photographic print processor shall include all
17 employees of such persons but shall not include a
18 person who develops film or makes prints for a public
19 agency;

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

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

39 (7) "Computer hardware", all equipment which can
40 collect, analyze, create, display, convert, store,
41 conceal or transmit electronic, magnetic, optical or
42 similar computer impulses or data. Hardware includes,
43 but is not limited to, any data processing devices,
44 such as central processing units, memory typewriters
45 and self-contained laptop or notebook computers;
46 internal and peripheral storage devices, transistor-
47 like binary devices and other memory storage devices,
48 such as floppy disks, removable disks, compact disks,
49 digital video disks, magnetic tape, hard drive, optical
50 disks and digital memory; local area networks, such as
51 two or more computers connected together to a central

1 computer server via cable or modem; peripheral input or
2 output devices, such as keyboards, printers, scanners,
3 plotters, video display monitors and optical readers;
4 and related communication devices, such as modems,
5 cables and connections, recording equipment, RAM or ROM
6 units, acoustic couplers, automatic dialers, speed
7 dialers, programmable telephone dialing or signaling
8 devices and electronic tone-generating devices; as well
9 as any devices, mechanisms or parts that can be used to
10 restrict access to computer hardware, such as physical
11 keys and locks;

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

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

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

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

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

33 **[(4)] (13) "Confinement":**

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

37 a. A court orders the person's release; or
38 b. The person is released on bail, bond, or
39 recognizance, personal or otherwise; or
40 c. A public servant having the legal power and
41 duty to confine the person authorizes his release
42 without guard and without condition that he return to
43 confinement;

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

45 a. The person is on probation or parole,
46 temporary or otherwise; or
47 b. The person is under sentence to serve a term
48 of confinement which is not continuous, or is serving a
49 sentence under a work-release program, and in either
50 such case is not being held in a place of confinement
51 or is not being held under guard by a person having the

1 legal power and duty to transport the person to or from
2 a place of confinement;

3 [(5)] (14) "Consent": consent or lack of
4 consent may be expressed or implied. Assent does not
5 constitute consent if:

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

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

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

17 (15) "Controlled substance", a drug substance, or
18 immediate precursor in schedules I through V as defined
19 in chapter 195;

20 [(6)] (16) "Criminal negligence" [has the
21 meaning specified in section 562.016] , failure to be
22 aware of a substantial and unjustifiable risk that
23 circumstances exist or a result will follow, and such
24 failure constitutes a gross deviation from the standard
25 of care which a reasonable person would exercise in the
26 situation;

27 [(7)] (17) "Custody", a person is in custody
28 when [the person] he or she has been arrested but has
29 not been delivered to a place of confinement;

30 (18) "Damage", when used in relation to a
31 computer system or network, means any alteration,
32 deletion, or destruction of any part of the computer
33 system or network;

34 [(8)] (19) "Dangerous felony" [means] , the
35 felonies of arson in the first degree, assault in the
36 first degree, attempted rape in the first degree if
37 physical injury results, attempted forcible rape if
38 physical injury results, attempted sodomy in the first
39 degree if physical injury results, attempted forcible
40 sodomy if physical injury results, rape in the first
41 degree, forcible rape, sodomy in the first degree,
42 forcible sodomy, assault in the second degree if the
43 victim of such assault is a special victim as defined
44 in subdivision (14) of section 565.002, kidnapping in
45 the first degree, kidnapping, murder in the second
46 degree, assault of a law enforcement officer in the
47 first degree, domestic assault in the first degree,
48 elder abuse in the first degree, robbery in the first
49 degree, statutory rape in the first degree when the
50 victim is a child less than twelve years of age at the

1 time of the commission of the act giving rise to the
2 offense, statutory sodomy in the first degree when the
3 victim is a child less than twelve years of age at the
4 time of the commission of the act giving rise to the
5 offense, [and,] child molestation in the first or
6 second degree, abuse of a child if the child dies as a
7 result of injuries sustained from conduct chargeable
8 under section 568.060, child kidnapping, [and] parental
9 kidnapping committed by detaining or concealing the
10 whereabouts of the child for not less than one hundred
11 twenty days under section 565.153, and an
12 "intoxication-related traffic offense" or
13 "intoxication-related boating offense" if the person is
14 found to be a "habitual offender" as such terms are
15 defined in section 577.001;

16 [(9)] (20) "Dangerous instrument" [means] , any
17 instrument, article or substance, which, under the
18 circumstances in which it is used, is readily capable
19 of causing death or other serious physical injury;

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

27 [(10)] (22) "Deadly weapon" [means] , any
28 firearm, loaded or unloaded, or any weapon from which a
29 shot, readily capable of producing death or serious
30 physical injury, may be discharged, or a switchblade
31 knife, dagger, billy club, blackjack or metal knuckles;

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

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

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

44 [(11)] (26) "Felony" [has the meaning specified
45 in section 556.016] , an offense so designated or an
46 offense for which persons found guilty thereof may be
47 sentenced to death or imprisonment for a term of more
48 than one year;

49 [(12)] (27) "Forcible compulsion" [means] either:

50 (a) Physical force that overcomes reasonable

1 resistance; or

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

5 [(13)] (28) "Incapacitated" [means that] , a
6 temporary or permanent physical or mental condition [,
7 temporary or permanent,] in which a person is
8 unconscious, unable to appraise the nature of [such
9 person's] his or her conduct, or unable to communicate
10 unwillingness to an act;

11 [(14)] (29) "Infraction" [has the meaning
12 specified in section 556.021] , a violation defined by
13 this code or by any other statute of this state if it
14 is so designated or if no sentence other than a fine,
15 or fine and forfeiture or other civil penalty, is
16 authorized upon conviction;

17 [(15)] (30) "Inhabitable structure" [has the
18 meaning specified in section 569.010] , a vehicle,
19 vessel or structure:

20 (a) Where any person lives or carries on business
21 or other calling; or

22 (b) Where people assemble for purposes of
23 business, government, education, religion,
24 entertainment, or public transportation; or

25 (c) Which is used for overnight accommodation of
26 persons. Any such vehicle, vessel, or structure is
27 "inhabitable" regardless of whether a person is
28 actually present.

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

32 [(16)] (31) "Knowingly" [has the meaning
33 specified in section 562.016] , when used with respect
34 to:

35 (a) Conduct or attendant circumstances, means a
36 person is aware of the nature of his or her conduct or
37 that those circumstances exist; or

38 (b) A result of conduct, means a person is aware
39 that his or her conduct is practically certain to cause
40 that result;

41 [(17)] (32) "Law enforcement officer" [means] ,
42 any public servant having both the power and duty to
43 make arrests for violations of the laws of this state,
44 and federal law enforcement officers authorized to
45 carry firearms and to make arrests for violations of
46 the laws of the United States;

47 [(18)] (33) "Misdemeanor" [has the meaning
48 specified in section 556.016] , an offense so
49 designated or an offense for which persons found guilty
50 thereof may be sentenced to imprisonment for a term of

1 which the maximum is one year or less;

2 (34) "Of another", property that any entity,
3 including but not limited to any natural person,
4 corporation, limited liability company, partnership,
5 association, governmental subdivision or
6 instrumentality, other than the actor, has a possessory
7 or proprietary interest therein, except that property
8 shall not be deemed property of another who has only a
9 security interest therein, even if legal title is in
10 the creditor pursuant to a conditional sales contract
11 or other security arrangement;

12 [(19)] (35) "Offense" [means] any felony[,] or
13 misdemeanor [or infraction];

14 [(20)] (36) "Physical injury" [means physical
15 pain, illness, or any impairment of physical condition]
16 , slight impairment of any function of the body or
17 temporary loss of use of any part of the body;

18 [(21)] (37) "Place of confinement" [means] any
19 building or facility and the grounds thereof wherein a
20 court is legally authorized to order that a person
21 charged with or convicted of a crime be held;

22 [(22)] (38) "Possess" or "possessed" [means] any
23 having actual or constructive possession of an object
24 with knowledge of its presence. A person has actual
25 possession if such person has the object on his or her
26 person or within easy reach and convenient control. A
27 person has constructive possession if such person has
28 the power and the intention at a given time to exercise
29 dominion or control over the object either directly or
30 through another person or persons. Possession may also
31 be sole or joint. If one person alone has possession
32 of an object, possession is sole. If two or more
33 persons share possession of an object, possession is
34 joint;

35 (39) "Property", anything of value, whether real
36 or personal, tangible or intangible, in possession or
37 in action;

38 [(23)] (40) "Public servant" [means] any person
39 employed in any way by a government of this state who
40 is compensated by the government by reason of such
41 person's employment, any person appointed to a position
42 with any government of this state, or any person
43 elected to a position with any government of this
44 state. It includes, but is not limited to,
45 legislators, jurors, members of the judiciary and law
46 enforcement officers. It does not include witnesses;

47 [(24)] (41) "Purposely" [has the meaning
48 specified in section 562.016] , when used with respect
49 to a person's conduct or to a result thereof, means
50 when it is his or her conscious object to engage in

1 that conduct or to cause that result;

2 [(25)] (42) "Recklessly" [has the meaning
3 specified in section 562.016] , consciously
4 disregarding a substantial and unjustifiable risk that
5 circumstances exist or that a result will follow, and
6 such disregard constitutes a gross deviation from the
7 standard of care which a reasonable person would
8 exercise in the situation;

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

12 (27)] (43) "Serious emotional injury", an injury
13 that creates a substantial risk of temporary or
14 permanent medical or psychological damage, manifested
15 by impairment of a behavioral, cognitive or physical
16 condition. Serious emotional injury shall be
17 established by testimony of qualified experts upon the
18 reasonable expectation of probable harm to a reasonable
19 degree of medical or psychological certainty;

20 [(28)] (44) "Serious physical injury" [means] ,
21 physical injury that creates a substantial risk of
22 death or that causes serious disfigurement or
23 protracted loss or impairment of the function of any
24 part of the body;

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

31 (30) "Sexual contact" means any touching of the
32 genitals or anus of any person, or the breast of any
33 female person, or any such touching through the
34 clothing, for the purpose of arousing or gratifying
35 sexual desire of any person;

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

39 (45) "Services", when used in relation to a
40 computer system or network, means use of a computer,
41 computer system, or computer network and includes, but
42 is not limited to, computer time, data processing, and
43 storage or retrieval functions;

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

49 (47) "Vehicle", a self-propelled mechanical
50 device designed to carry a person or persons, excluding

1 vessels or aircraft;

2 (48) "Vessel", any boat or craft propelled by a
3 motor or by machinery, whether or not such motor or
4 machinery is a principal source of propulsion used or
5 capable of being used as a means of transportation on
6 water, or any boat or craft more than twelve feet in
7 length which is powered by sail alone or by a
8 combination of sail and machinery, and used or capable
9 of being used as a means of transportation on water,
10 but not any boat or craft having, as the only means of
11 propulsion, a paddle or oars;

12 [(32)] (49) "Voluntary act" [has the meaning
13 specified in section 562.011] :

14 (a) A bodily movement performed while conscious
15 as a result of effort or determination. Possession is
16 a voluntary act if the possessor knowingly procures or
17 receives the thing possessed, or having acquired
18 control of it was aware of his or her control for a
19 sufficient time to have enabled him or her to dispose
20 of it or terminate his or her control; or

21 (b) An omission to perform an act of which the
22 actor is physically capable. A person is not guilty of
23 an offense based solely upon an omission to perform an
24 act unless the law defining the offense expressly so
25 provides, or a duty to perform the omitted act is
26 otherwise imposed by law;

27 (50) "Vulnerable person", any person in the
28 custody, care, or control of the department of mental
29 health who is receiving services from an operated,
30 funded, licensed, or certified program.]

31
32 [558.019. 1. This section shall not be construed
33 to affect the powers of the governor under article IV,
34 section 7, of the Missouri Constitution. This statute
35 shall not affect those provisions of section 565.020,
36 section [558.018] 566.125, or section 571.015, which
37 set minimum terms of sentences, or the provisions of
38 section 559.115, relating to probation.

39 2. The provisions of subsections 2 to 5 of this
40 section shall be applicable to all classes of felonies
41 except those set forth in chapter [195] 579, and those
42 otherwise excluded in subsection 1 of this section.
43 For the purposes of this section, "prison commitment"
44 means and is the receipt by the department of
45 corrections of an offender after sentencing. For
46 purposes of this section, prior prison commitments to
47 the department of corrections shall not include
48 [commitment to a regimented discipline program
49 established pursuant to section 217.378] an offender's
50 first incarceration prior to release on probation under

1 section 217.362 or an offender's incarceration prior to
2 release on probation under section 559.115. Other
3 provisions of the law to the contrary notwithstanding,
4 any offender who has [pleaded guilty to or has] been
5 found guilty of a felony other than a dangerous felony
6 as defined in section 556.061 and is committed to the
7 department of corrections shall be required to serve
8 the following minimum prison terms:

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

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

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

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

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

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

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

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

6 6. (1) A sentencing advisory commission is
7 hereby created to consist of eleven members. One
8 member shall be appointed by the speaker of the house.
9 One member shall be appointed by the president pro tem
10 of the senate. One member shall be the director of the
11 department of corrections. Six members shall be
12 appointed by and serve at the pleasure of the governor
13 from among the following: the public defender
14 commission; private citizens; a private member of the
15 Missouri Bar; the board of probation and parole; and a
16 prosecutor. Two members shall be appointed by the
17 supreme court, one from a metropolitan area and one
18 from a rural area. All members shall be appointed to a
19 four-year term. All members of the sentencing
20 commission appointed prior to August 28, 1994, shall
21 continue to serve on the sentencing advisory commission
22 at the pleasure of the governor.

23 (2) The commission shall study sentencing
24 practices in the circuit courts throughout the state
25 for the purpose of determining whether and to what
26 extent disparities exist among the various circuit
27 courts with respect to the length of sentences imposed
28 and the use of probation for offenders convicted of the
29 same or similar [crimes] offenses and with similar
30 criminal histories. The commission shall also study
31 and examine whether and to what extent sentencing
32 disparity among economic and social classes exists in
33 relation to the sentence of death and if so, the
34 reasons therefor, if sentences are comparable to other
35 states, if the length of the sentence is appropriate,
36 and the rate of rehabilitation based on sentence. It
37 shall compile statistics, examine cases, draw
38 conclusions, and perform other duties relevant to the
39 research and investigation of disparities in death
40 penalty sentencing among economic and social classes.

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

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

50 (5) The members of the commission shall not
51 receive compensation for their duties on the

1 commission, but shall be reimbursed for actual and
2 necessary expenses incurred in the performance of these
3 duties and for which they are not reimbursed by reason
4 of their other paid positions.

5 (6) The circuit and associate circuit courts of
6 this state, the office of the state courts
7 administrator, the department of public safety, and the
8 department of corrections shall cooperate with the
9 commission by providing information or access to
10 information needed by the commission. The office of
11 the state courts administrator will provide needed
12 staffing resources.

13 7. Courts shall retain discretion to lower or
14 exceed the sentence recommended by the commission as
15 otherwise allowable by law, and to order restorative
16 justice methods, when applicable.

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

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

24 (2) Offender treatment programs;

25 (3) Mandatory community service;

26 (4) Work release programs in local facilities;
27 and

28 (5) Community-based residential and
29 nonresidential programs.

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

32 10. Pursuant to subdivision (1) of subsection 8
33 of this section, the court may order the assessment and
34 payment of a designated amount of restitution to a
35 county law enforcement restitution fund established by
36 the county commission pursuant to section 50.565. Such
37 contribution shall not exceed three hundred dollars for
38 any charged offense. Any restitution moneys deposited
39 into the county law enforcement restitution fund
40 pursuant to this section shall only be expended
41 pursuant to the provisions of section 50.565.

42 11. A judge may order payment to a restitution
43 fund only if such fund had been created by ordinance or
44 resolution of a county of the state of Missouri prior
45 to sentencing. A judge shall not have any direct
46 supervisory authority or administrative control over
47 any fund to which the judge is ordering a [defendant]
48 person to make payment.

49 12. A [defendant] person who fails to make a
50 payment to a county law enforcement restitution fund
51 may not have his or her probation revoked solely for

1 failing to make such payment unless the judge, after
2 evidentiary hearing, makes a finding supported by a
3 preponderance of the evidence that the [defendant]
4 person either willfully refused to make the payment or
5 that the [defendant] person willfully, intentionally,
6 and purposefully failed to make sufficient bona fide
7 efforts to acquire the resources to pay.

8 13. Nothing in this section shall be construed to
9 allow the sentencing advisory commission to issue
10 recommended sentences in specific cases pending in the
11 courts of this state.]
12

13 [559.036. 1. A term of probation commences on
14 the day it is imposed. Multiple terms of Missouri
15 probation, whether imposed at the same time or at
16 different times, shall run concurrently. Terms of
17 probation shall also run concurrently with any federal
18 or other state jail, prison, probation or parole term
19 for another offense to which the defendant is or
20 becomes subject during the period, unless otherwise
21 specified by the Missouri court.

22 2. The court may terminate a period of probation
23 and discharge the defendant at any time before
24 completion of the specific term fixed under section
25 559.016 if warranted by the conduct of the defendant
26 and the ends of justice. The court may extend the term
27 of the probation, but no more than one extension of any
28 probation may be ordered except that the court may
29 extend the term of probation by one additional year by
30 order of the court if the defendant admits he or she
31 has violated the conditions of probation or is found by
32 the court to have violated the conditions of his or her
33 probation. Total time on any probation term, including
34 any extension shall not exceed the maximum term
35 established in section 559.016. Procedures for
36 termination, discharge and extension may be established
37 by rule of court.

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

44 4. (1) Unless the defendant consents to the
45 revocation of probation, if a continuation,
46 modification, enlargement or extension is not
47 appropriate under this section, the court shall order
48 placement of the offender in one of the department of
49 corrections' one hundred twenty-day programs so long
50 as:

51 (a) The underlying offense for the probation is a

1 class [C or] D or E felony or an offense listed in
2 chapter [195] 579 or an offense previously listed in
3 chapter 195; except that, the court may, upon its own
4 motion or a motion of the prosecuting or circuit
5 attorney, make a finding that an offender is not
6 eligible if the underlying offense is involuntary
7 manslaughter in the first degree, involuntary
8 manslaughter in the second degree, [aggravated]
9 stalking in the first degree, assault in the second
10 degree, sexual assault, rape in the second degree,
11 domestic assault in the second degree, assault [of a
12 law enforcement officer in the second degree] in the
13 third degree when the victim is a special victim,
14 statutory rape in the second degree, statutory sodomy
15 in the second degree, deviate sexual assault, sodomy in
16 the second degree, sexual misconduct involving a child,
17 incest, endangering the welfare of a child in the first
18 degree under subdivision (1) or (2) of subsection 1 of
19 section 568.045, abuse of a child, invasion of privacy
20 [or] , any case in which the defendant is found guilty
21 of a felony offense under chapter 571, or an offense of
22 aggravated stalking or assault of a law enforcement
23 officer in the second degree as such offenses existed
24 prior to January 1, 2017;

25 (b) The probation violation is not the result of
26 the defendant being an absconder or being found guilty
27 of, pleading guilty to, or being arrested on suspicion
28 of any felony, misdemeanor, or infraction. For
29 purposes of this subsection, "absconder" shall mean an
30 offender under supervision who has left such offender's
31 place of residency without the permission of the
32 offender's supervising officer for the purpose of
33 avoiding supervision;

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

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

41 (2) Upon receiving the order, the department of
42 corrections shall conduct an assessment of the offender
43 and place such offender in the appropriate one hundred
44 twenty-day program under subsection 3 of section
45 559.115.

46 (3) Notwithstanding any of the provisions of
47 subsection 3 of section 559.115 to the contrary, once
48 the defendant has successfully completed the program
49 under this subsection, the court shall release the
50 defendant to continue to serve the term of probation,

1 which shall not be modified, enlarged, or extended
2 based on the same incident of violation. Time served
3 in the program shall be credited as time served on any
4 sentence imposed for the underlying offense.

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

23 6. Probation shall not be revoked without giving
24 the probationer notice and an opportunity to be heard
25 on the issues of whether such probationer violated a
26 condition of probation and, if a condition was
27 violated, whether revocation is warranted under all the
28 circumstances. Not less than five business days prior
29 to the date set for a hearing on the violation, except
30 for a good cause shown, the judge shall inform the
31 probationer that he or she may have the right to
32 request the appointment of counsel if the probationer
33 is unable to retain counsel. If the probationer
34 requests counsel, the judge shall determine whether
35 counsel is necessary to protect the probationer's due
36 process rights. If the judge determines that counsel
37 is not necessary, the judge shall state the grounds for
38 the decision in the record.

39 7. The prosecuting or circuit attorney may file a
40 motion to revoke probation or at any time during the
41 term of probation, the court may issue a notice to the
42 probationer to appear to answer a charge of a
43 violation, and the court may issue a warrant of arrest
44 for the violation. Such notice shall be personally
45 served upon the probationer. The warrant shall
46 authorize the return of the probationer to the custody
47 of the court or to any suitable detention facility
48 designated by the court. Upon the filing of the
49 prosecutor's or circuit attorney's motion or on the
50 court's own motion, the court may immediately enter an
51 order suspending the period of probation and may order

1 a warrant for the defendant's arrest. The probation
2 shall remain suspended until the court rules on the
3 prosecutor's or circuit attorney's motion, or until the
4 court otherwise orders the probation reinstated.

5 8. The power of the court to revoke probation
6 shall extend for the duration of the term of probation
7 designated by the court and for any further period
8 which is reasonably necessary for the adjudication of
9 matters arising before its expiration, provided that
10 some affirmative manifestation of an intent to conduct
11 a revocation hearing occurs prior to the expiration of
12 the period and that every reasonable effort is made to
13 notify the probationer and to conduct the hearing prior
14 to the expiration of the period.]
15

16 [559.106. 1. Notwithstanding any statutory
17 provision to the contrary, when a court grants
18 probation to an offender who has [pleaded guilty to or
19 has] been found guilty of an offense in:

20 (1) Section 566.030, 566.032, 566.060, [or]
21 566.062, [based on an act committed on or after August
22 28, 2006, or the offender has pleaded guilty to or has
23 been found guilty of an offense under section] 566.067,
24 566.083, 566.100, 566.151, 566.212, 566.213, 568.020,
25 568.080, or 568.090, based on an act committed on or
26 after August 28, 2006[,] ; or

27 (2) Section 566.068, 566.069, 566.210, 566.211,
28 573.200, or 573.205 based on an act committed on or
29 after January 1, 2017,

30 against a victim who was less than fourteen years [old]
31 of age and the offender is a prior sex offender as
32 defined in subsection 2 of this section, the court
33 shall order that the offender be supervised by the
34 board of probation and parole for the duration of his
35 or her natural life.

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

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

50 4. In appropriate cases as determined by a risk

1 assessment, the court may terminate the probation of an
2 offender who is being supervised under this section
3 when the offender is sixty-five years of age or older.]
4

5 [559.115. 1. Neither probation nor parole shall
6 be granted by the circuit court between the time the
7 transcript on appeal from the offender's conviction has
8 been filed in appellate court and the disposition of
9 the appeal by such court.

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

24 3. The court may recommend placement of an
25 offender in a department of corrections one hundred
26 twenty-day program under this subsection or order such
27 placement under subsection 4 of section 559.036. Upon
28 the recommendation or order of the court, the
29 department of corrections shall assess each offender to
30 determine the appropriate one hundred twenty-day
31 program in which to place the offender, which may
32 include placement in the shock incarceration program or
33 institutional treatment program. When the court
34 recommends and receives placement of an offender in a
35 department of corrections one hundred twenty-day
36 program, the offender shall be released on probation if
37 the department of corrections determines that the
38 offender has successfully completed the program except
39 as follows. Upon successful completion of a program
40 under this subsection, the board of probation and
41 parole shall advise the sentencing court of an
42 offender's probationary release date thirty days prior
43 to release. The court shall follow the recommendation
44 of the department unless the court determines that
45 probation is not appropriate. If the court determines
46 that probation is not appropriate, the court may order
47 the execution of the offender's sentence only after
48 conducting a hearing on the matter within ninety to one
49 hundred twenty days from the date the offender was
50 delivered to the department of corrections. If the
51 department determines the offender has not successfully

1 completed a one hundred twenty-day program under this
2 subsection, the offender shall be removed from the
3 program and the court shall be advised of the removal.
4 The department shall report on the offender's
5 participation in the program and may provide
6 recommendations for terms and conditions of an
7 offender's probation. The court shall then have the
8 power to grant probation or order the execution of the
9 offender's sentence.

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

24 5. Except when the offender has been found to be
25 a predatory sexual offender pursuant to section
26 [558.018] 566.125, the court shall request the
27 department of corrections to conduct a sexual offender
28 assessment if the defendant [has pleaded guilty to or]
29 has been found guilty of sexual abuse when classified
30 as a class B felony. Upon completion of the
31 assessment, the department shall provide to the court a
32 report on the offender and may provide recommendations
33 for terms and conditions of an offender's probation.
34 The assessment shall not be considered a one hundred
35 twenty-day program as provided under subsection 3 of
36 this section. The process for granting probation to an
37 offender who has completed the assessment shall be as
38 provided under subsections 2 and 6 of this section.

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

1 7. An offender's [first] incarceration under this
2 section prior to release on probation shall not be
3 considered a previous prison commitment for the purpose
4 of determining a minimum prison term under the
5 provisions of section 558.019.

6 8. Notwithstanding any other provision of law,
7 probation may not be granted pursuant to this section
8 to offenders who have been convicted of murder in the
9 second degree pursuant to section 565.021; forcible
10 rape pursuant to section 566.030 as it existed prior to
11 August 28, 2013; rape in the first degree under section
12 566.030; forcible sodomy pursuant to section 566.060 as
13 it existed prior to August 28, 2013; sodomy in the
14 first degree under section 566.060; statutory rape in
15 the first degree pursuant to section 566.032; statutory
16 sodomy in the first degree pursuant to section 566.062;
17 child molestation in the first degree pursuant to
18 section 566.067 when classified as a class A felony;
19 abuse of a child pursuant to section 568.060 when
20 classified as a class A felony; or an offender who has
21 been found to be a predatory sexual offender pursuant
22 to section [558.018] 566.125; or any offense in which
23 there exists a statutory prohibition against either
24 probation or parole.]

25
26 [559.633. 1. Upon [a plea of guilty or] a
27 finding of [guilty for a commission of] guilt for a
28 felony offense pursuant to chapter [195] 579, except
29 for those offenses in which there exists a statutory
30 prohibition against either probation or parole, when
31 placing the person on probation, the court shall order
32 the person to begin a required educational assessment
33 and community treatment program within the first sixty
34 days of probation as a condition of probation. Persons
35 who are placed on probation after a period of
36 incarceration pursuant to section 559.115 may not be
37 required to participate in a required educational
38 assessment and community treatment program.

39 2. The fees for the required educational
40 assessment and community treatment program, or a
41 portion of such fees, to be determined by the
42 department of corrections, shall be paid by the person
43 receiving the assessment. Any person who is assessed
44 shall pay, in addition to any fee charged for the
45 assessment, a supplemental fee of sixty dollars. The
46 administrator of the program shall remit to the
47 department of corrections the supplemental fees for all
48 persons assessed, less two percent for administrative
49 costs. The supplemental fees received by the
50 department of corrections pursuant to this section

1 shall be deposited in the correctional substance abuse
2 earnings fund created pursuant to section 559.635.]

3
4 [565.002. As used in this chapter, unless a
5 different meaning is otherwise plainly required the
6 following terms mean:

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

11 (2) "Child", a person under seventeen years of
12 age;

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

14 (4) "Course of conduct", a pattern of conduct
15 composed of two or more acts, which may include
16 communication by any means, over a period of time,
17 however short, evidencing a continuity of purpose.
18 Constitutionally protected activity is not included
19 within the meaning of course of conduct. Such
20 constitutionally protected activity includes picketing
21 or other organized protests;

22 [(3)] (5) "Deliberation" means cool reflection
23 for any length of time no matter how brief;

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

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

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

34 (6) "Domestic victim", a household or family
35 member as the term "family" or "household member" is
36 defined in section 455.010, including any child who is
37 a member of the household or family;

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

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

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

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

50 (11) "Person having a right of custody", a parent

1 or legal guardian of the child;

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

6 (13) "Place where a person would have a
7 reasonable expectation of privacy", any place where a
8 reasonable person would believe that a person could
9 disrobe in privacy, without being concerned that the
10 person's undressing was being viewed, photographed or
11 filmed by another;

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

13 (a) A law enforcement officer assaulted in the
14 performance of official duties or as a direct result of
15 such official duties;

16 (b) Emergency personnel, any paid or volunteer
17 firefighter, emergency room or trauma center personnel,
18 or emergency medical technician, assaulted in the
19 performance of official duties or as a direct result of
20 such official duties;

21 (c) A probation and parole officer assaulted in
22 the performance of official duties or as a direct
23 result of such official duties;

24 (d) An elderly person;

25 (e) A person with a disability;

26 (f) A vulnerable person;

27 (g) Any jailer or corrections officer of the
28 state or one of its political subdivisions assaulted in
29 the performance of official duties or as a direct
30 result of such official duties;

31 (h) A highway worker in a construction or work
32 zone as the terms "highway worker", "construction
33 zone", and "work zone" are defined under section
34 304.580;

35 (i) Any utility worker, meaning any employee of a
36 utility that provides gas, heat, electricity, water,
37 steam, telecommunications services, or sewer services,
38 whether privately, municipally, or cooperatively owned,
39 while in the performance of his or her job duties,
40 including any person employed under a contract;

41 (j) Any cable worker, meaning any employee of a
42 cable operator, as such term is defined in section
43 67.2677, including any person employed under contract,
44 while in the performance of his or her job duties; and

45 (k) Any employee of a mass transit system,
46 including any employee of public bus or light rail
47 companies, while in the performance of his or her job
48 duties;

49 [(7)] (15) "Sudden passion" [means] , passion
50 directly caused by and arising out of provocation by
51 the victim or another acting with the victim which

1 passion arises at the time of the offense and is not
2 solely the result of former provocation;

3 [(8)] (16) "Trier" [means] , the judge or jurors
4 to whom issues of fact, guilt or innocence, or the
5 assessment and declaration of punishment are submitted
6 for decision;

7 (17) "Views", the looking upon of another person,
8 with the unaided eye or with any device designed or
9 intended to improve visual acuity, for the purpose of
10 arousing or gratifying the sexual desire of any
11 person.]
12

13 [565.073. 1. A person commits the [crime]
14 offense of domestic assault in the second degree if the
15 act involves a [family or household member, including
16 any child who is a member of the family or household,
17 as defined in section 455.010] domestic victim, as the
18 term "domestic victim" is defined under section
19 565.002, and he or she:

20 (1) [Attempts to cause or] Knowingly causes
21 physical injury to such family or household member by
22 any means, including but not limited to, [by] use of a
23 deadly weapon or dangerous instrument, or by choking or
24 strangulation; or

25 (2) Recklessly causes serious physical injury to
26 such family or household member; or

27 (3) Recklessly causes physical injury to such
28 family or household member by means of any deadly
29 weapon.

30 2. The offense of domestic assault in the second
31 degree is a class [C] D felony.]
32

33 [566.147. 1. Any person who, since July 1, 1979,
34 has been or hereafter has [pleaded guilty or nolo
35 contendere to, or been convicted of, or] been found
36 guilty of:

37 (1) Violating any of the provisions of this
38 chapter or the provisions of [subsection 2 of] section
39 568.020, incest; section 568.045, endangering the
40 welfare of a child in the first degree; [subsection 2
41 of section 568.080] section 573.200, use of a child in
42 a sexual performance; section [568.090] 573.205,
43 promoting a sexual performance by a child; section
44 573.023, sexual exploitation of a minor; section
45 573.025, promoting child pornography in the first
46 degree; section 573.035, promoting child pornography in
47 the second degree; section 573.037, possession of child
48 pornography, or section 573.040, furnishing
49 pornographic material to minors; or

50 (2) Any offense in any other [state or foreign

1 country, or under federal, tribal, or military]
2 jurisdiction which, if committed in this state, would
3 be a violation listed in this section; shall not reside
4 within one thousand feet of any public school as
5 defined in section 160.011, any private school giving
6 instruction in a grade or grades not higher than the
7 twelfth grade, or any child care facility that is
8 licensed under chapter 210, or any child care facility
9 as defined in section 210.201 that is exempt from state
10 licensure but subject to state regulation under section
11 210.252 and holds itself out to be a child care
12 facility, where the school or facility is in existence
13 at the time the individual begins to reside at the
14 location.

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

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

32 4. Violation of the provisions of subsection 1 of
33 this section is a class [D] E felony except that the
34 second or any subsequent violation is a class B felony.
35 Violation of the provisions of subsection 2 of this
36 section is a class A misdemeanor except that the second
37 or subsequent violation is a class [D] E felony.]
38

39 [566.148. 1. Any person who has [pleaded guilty
40 or nolo contendere to, or been convicted of, or] been
41 found guilty of:

42 (1) Violating any of the provisions of this
43 chapter or the provisions of [subsection 2 of] section
44 568.020, incest; section 568.045, endangering the
45 welfare of a child in the first degree; [subsection 2
46 of section 568.080] section 573.200, use of a child in
47 a sexual performance; section [568.090] 573.205,
48 promoting a sexual performance by a child; section
49 573.023, sexual exploitation of a minor; section
50 573.025, promoting child pornography in the first

1 degree; section 573.035, promoting child pornography in
2 the second degree; section 573.037, possession of child
3 pornography, or section 573.040, furnishing
4 pornographic material to minors; or

5 (2) Any offense in any other [state or foreign
6 country, or under federal, tribal, or military]
7 jurisdiction which, if committed in this state, would
8 be a violation listed in this section; shall not
9 knowingly be physically present in or loiter within
10 five hundred feet of or to approach, contact, or
11 communicate with any child under eighteen years of age
12 in any child care facility building, on the real
13 property comprising any child care facility when
14 persons under the age of eighteen are present in the
15 building, on the grounds, or in the conveyance, unless
16 the offender is a parent, legal guardian, or custodian
17 of a student present in the building or on the grounds.

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

25 3. [Any person who violates] Violation of the
26 provisions of this section is [guilty of] a class A
27 misdemeanor.]

28
29 [566.149. 1. Any person who has [pleaded guilty
30 or nolo contendere to, or been convicted of, or] been
31 found guilty of:

32 (1) Violating any of the provisions of this
33 chapter or the provisions [of subsection 2] of section
34 568.020, incest; section 568.045, endangering the
35 welfare of a child in the first degree; [subsection 2
36 of section 568.080] section 573.200, use of a child in
37 a sexual performance; section [568.090] 573.205,
38 promoting a sexual performance by a child; section
39 573.023, sexual exploitation of a minor; section
40 573.025, promoting child pornography; or section
41 573.040, furnishing pornographic material to minors; or

42 (2) Any offense in any other [state or foreign
43 country, or under tribal, federal, or military]
44 jurisdiction which, if committed in this state, would
45 be a violation listed in this section; shall not be
46 present in or loiter within five hundred feet of any
47 school building, on real property comprising any
48 school, or in any conveyance owned, leased, or
49 contracted by a school to transport students to or from
50 school or a school-related activity when persons under

1 the age of eighteen are present in the building, on the
2 grounds, or in the conveyance, unless the offender is a
3 parent, legal guardian, or custodian of a student
4 present in the building and has met the conditions set
5 forth in subsection 2 of this section.

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

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

35 [577.001. [1.] As used in this chapter, [the
36 term "court" means any circuit, associate circuit, or
37 municipal court, including traffic court, but not any
38 juvenile court or drug court. 2. As used in this
39 chapter, the term "drive", "driving", "operates" or
40 "operating" means physically driving or operating a
41 motor vehicle.

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

46 4. As used in this chapter, the term "law
47 enforcement officer" or "arresting officer" includes
48 the definition of law enforcement officer in
49 subdivision (17) of section 556.061 and military
50 policemen conducting traffic enforcement operations on
51 a federal military installation under military

1 jurisdiction in the state of Missouri.

2 5. As used in this chapter, "substance abuse
3 traffic offender program" means a program certified by
4 the division of alcohol and drug abuse of the
5 department of mental health to provide education or
6 rehabilitation services pursuant to a professional
7 assessment screening to identify the individual needs
8 of the person who has been referred to the program as
9 the result of an alcohol- or drug-related traffic
10 offense. Successful completion of such a program
11 includes participation in any education or
12 rehabilitation program required to meet the needs
13 identified in the assessment screening. The assignment
14 recommendations based upon such assessment shall be
15 subject to judicial review as provided in subsection 7
16 of section 577.041] the following terms mean:

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

19 (a) Three or more intoxication-related traffic
20 offenses committed on separate occasions; or

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

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

31 (a) Three or more intoxication-related boating
32 offenses; or

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

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

50 (4) "Court", any circuit, associate circuit, or
51 municipal court, including traffic court, but not any

1 juvenile court or drug court;

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

4 (a) Four or more intoxication-related traffic
5 offenses committed on separate occasions; or

6 (b) Three or more intoxication-related traffic
7 offenses committed on separate occasions where at least
8 one of the intoxication-related traffic offenses is an
9 offense committed in violation of any state law, county
10 or municipal ordinance, any federal offense, or any
11 military offense in which the defendant was operating a
12 vehicle while intoxicated and another person was
13 injured or killed; or

14 (c) Two or more intoxication-related traffic
15 offenses committed on separate occasions where both
16 intoxication-related traffic offenses were offenses
17 committed in violation of any state law, county or
18 municipal ordinance, any federal offense, or any
19 military offense in which the defendant was operating a
20 vehicle while intoxicated and another person was
21 injured or killed;

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

24 (a) Four or more intoxication-related boating
25 offenses; or

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

34 (c) Two or more intoxication-related boating
35 offenses committed on separate occasions where both
36 intoxication-related boating offenses were offenses
37 committed in violation of any state law, county or
38 municipal ordinance, any federal offense, or any
39 military offense in which the defendant was operating a
40 vessel while intoxicated and another person was injured
41 or killed;

42 (7) "Controlled substance", a drug, substance, or
43 immediate precursor in schedules I to V listed in
44 section 195.017;

45 (8) "Drive", "driving", "operates" or
46 "operating", means physically driving or operating a
47 vehicle or vessel;

48 (9) "Flight crew member", the pilot in command,
49 copilots, flight engineers, and flight navigators;

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

1 (a) Five or more intoxication-related traffic
2 offenses committed on separate occasions; or

3 (b) Four or more intoxication-related traffic
4 offenses committed on separate occasions where at least
5 one of the intoxication-related traffic offenses is an
6 offense committed in violation of any state law, county
7 or municipal ordinance, any federal offense, or any
8 military offense in which the defendant was operating a
9 vehicle while intoxicated and another person was
10 injured or killed; or

11 (c) Three or more intoxication-related traffic
12 offenses committed on separate occasions where at least
13 two of the intoxication-related traffic offenses were
14 offenses committed in violation of any state law,
15 county or municipal ordinance, any federal offense, or
16 any military offense in which the defendant was
17 operating a vehicle while intoxicated and another
18 person was injured or killed;

19 (11) "Habitual boating offender", a person who
20 has been found guilty of:

21 (a) Five or more intoxication-related boating
22 offenses; or

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

31 (c) Three or more intoxication-related boating
32 offenses committed on separate occasions where at least
33 two of the intoxication-related boating offenses were
34 offenses committed in violation of any state law,
35 county or municipal ordinance, any federal offense, or
36 any military offense in which the defendant was
37 operating a vessel while intoxicated and another person
38 was injured or killed;

39 (12) "Intoxicated" or "intoxicated condition",
40 when a person is under the influence of alcohol, a
41 controlled substance, or drug, or any combination
42 thereof;

43 (13) "Intoxication-related boating offense",
44 operating a vessel while intoxicated; boating while
45 intoxicated; operating a vessel with excessive blood
46 alcohol content or an offense in which the defendant
47 was operating a vessel while intoxicated and another
48 person was injured or killed in violation of any state
49 law, county or municipal ordinance, any federal
50 offense, or any military offense;

51 (14) "Intoxication-related traffic offense",

1 driving while intoxicated, driving with excessive blood
2 alcohol content or an offense in which the defendant
3 was operating a vehicle while intoxicated and another
4 person was injured or killed in violation of any state
5 law, county or municipal ordinance, any federal
6 offense, or any military offense;

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

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

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

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

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

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

33
34 [577.010. 1. A person commits the [crime]
35 offense of ["]driving while intoxicated["] if he or she
36 operates a [motor] vehicle while in an intoxicated [or
37 drugged] condition.

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

45 (1) A class B misdemeanor;

46 (2) A class A misdemeanor if:

47 (a) The defendant is a prior offender; or

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

50 (3) A class E felony if:

1 (a) The defendant is a persistent offender; or
2 (b) While driving while intoxicated, the
3 defendant acts with criminal negligence to cause
4 physical injury to another person;
5 (4) A class D felony if:
6 (a) The defendant is an aggravated offender;
7 (b) While driving while intoxicated, the
8 defendant acts with criminal negligence to cause
9 physical injury to a law enforcement officer or
10 emergency personnel; or
11 (c) While driving while intoxicated, the
12 defendant acts with criminal negligence to cause
13 serious physical injury to another person;
14 (5) A class C felony if:
15 (a) The defendant is a chronic offender;
16 (b) While driving while intoxicated, the
17 defendant acts with criminal negligence to cause
18 serious physical injury to a law enforcement officer or
19 emergency personnel; or
20 (c) While driving while intoxicated, the
21 defendant acts with criminal negligence to cause the
22 death of another person;
23 (6) A class B felony if:
24 (a) The defendant is a habitual offender;
25 (b) While driving while intoxicated, the
26 defendant acts with criminal negligence to cause the
27 death of a law enforcement officer or emergency
28 personnel; or
29 (c) While driving while intoxicated, the
30 defendant acts with criminal negligence to cause the
31 death of two or more persons unless it is a second or
32 subsequent violation of this subsection, in which case
33 it is a class A felony.

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

47 (1) Unless such person shall be placed on
48 probation for a minimum of two years; or
49 (2) In a circuit where a DWI court or docket
50 created under section 478.007 or other court-ordered
51 treatment program is available, and where the offense

1 was committed with fifteen-hundredths of one percent or
2 more by weight of alcohol in such person's blood,
3 unless the individual participates and successfully
4 completes a program under such DWI court or docket or
5 other court-ordered treatment program.

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

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

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

18 5. A person found guilty of the offense of
19 driving while intoxicated:

20 (1) As a prior offender, persistent offender,
21 aggravated offender, chronic offender, or habitual
22 offender shall not be granted a suspended imposition of
23 sentence or be sentenced to pay a fine in lieu of a
24 term of imprisonment, section 557.011 to the contrary
25 notwithstanding;

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

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

34 (b) The offender participates in and successfully
35 completes a program established under section 478.007
36 or other court-ordered treatment program, if available,
37 and as part of either program, the offender performs at
38 least thirty days of community service under the
39 supervision of the court;

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

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

48 (b) The offender participates in and successfully
49 completes a program established under section 478.007
50 or other court-ordered treatment program, if available,
51 and as part of either program, the offender performs at

1 least sixty days of community service under the
2 supervision of the court;

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

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

9
10 [577.013. 1. A person commits the offense of
11 boating while intoxicated if he or she operates a
12 vessel while in an intoxicated condition.

13 2. The offense of boating while intoxicated is:

14 (1) A class B misdemeanor;

15 (2) A class A misdemeanor if:

16 (a) The defendant is a prior boating offender; or

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

19 (3) A class E felony if:

20 (a) The defendant is a persistent boating
21 offender; or

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

25 (4) A class D felony if:

26 (a) The defendant is an aggravated boating
27 offender;

28 (b) While boating while intoxicated, the
29 defendant acts with criminal negligence to cause
30 physical injury to a law enforcement officer or
31 emergency personnel; or

32 (c) While boating while intoxicated, the
33 defendant acts with criminal negligence to cause
34 serious physical injury to another person;

35 (5) A class C felony if:

36 (a) The defendant is a chronic boating offender;

37 (b) While boating while intoxicated, the
38 defendant acts with criminal negligence to cause
39 serious physical injury to a law enforcement officer or
40 emergency personnel; or

41 (c) While boating while intoxicated, the
42 defendant acts with criminal negligence to cause the
43 death of another person;

44 (6) A class B felony if:

45 (a) The defendant is a habitual boating offender;

46 (b) While boating while intoxicated, the
47 defendant acts with criminal negligence to cause the
48 death of a law enforcement officer or emergency
49 personnel; or

50 (c) While boating while intoxicated, the
51 defendant acts with criminal negligence to cause the

1 death of two or more persons unless it is a second or
2 subsequent violation of this subsection, in which case
3 it is a class A felony.

4 3. Notwithstanding the provisions of subsection 2
5 of this section, a person found guilty of the offense
6 of boating while intoxicated as a first offense shall
7 not be granted a suspended imposition of sentence:

8 (1) Unless such person shall be placed on
9 probation for a minimum of two years; or

10 (2) In a circuit where a DWI court or docket
11 created under section 478.007 or other court-ordered
12 treatment program is available, and where the offense
13 was committed with fifteen-hundredths of one percent or
14 more by weight of alcohol in such person's blood,
15 unless the individual participates in and successfully
16 completes a program under such DWI court or docket or
17 other court-ordered treatment program.

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

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

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

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

32 (1) As a prior boating offender, persistent
33 boating offender, aggravated boating offender, chronic
34 boating offender or habitual boating offender shall not
35 be granted a suspended imposition of sentence or be
36 sentenced to pay a fine in lieu of a term of
37 imprisonment, section 557.011 to the contrary
38 notwithstanding;

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

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

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

50 (3) As a persistent offender shall not be
51 eligible for parole or probation until he or she has

1 served a minimum of thirty days imprisonment:

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

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

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

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

16
17 [577.020. 1. Any person who operates a [motor]
18 vehicle upon the public highways of this state, a
19 vessel, or any aircraft, or acts as a flight crew
20 member of an aircraft shall be deemed to have given
21 consent [to], subject to the provisions of sections
22 577.019 to 577.041, to a chemical test or tests of the
23 person's breath, blood, saliva, or urine for the
24 purpose of determining the alcohol or drug content of
25 the person's blood pursuant to the following
26 circumstances:

27 (1) If the person is arrested for any offense
28 arising out of acts which the arresting officer had
29 reasonable grounds to believe were committed while the
30 person was [driving a motor] operating a vehicle or a
31 vessel while in an intoxicated [or drugged] condition;
32 [or]

33 (2) If the person is detained for any offense of
34 operating an aircraft while intoxicated under section
35 577.015 or operating an aircraft with excessive blood
36 alcohol content under section 577.016;

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

44 [(3)] (4) If the person is under the age of
45 twenty-one, has been stopped by a law enforcement
46 officer, and the law enforcement officer has reasonable
47 grounds to believe that such person has committed a
48 violation of the traffic laws of the state, or any
49 political subdivision of the state, and such officer
50 has reasonable grounds to believe, after making such

1 stop, that such person has a blood alcohol content of
2 two-hundredths of one percent or greater;

3 [(4)] (5) If the person is under the age of
4 twenty-one, has been stopped at a sobriety checkpoint
5 or roadblock and the law enforcement officer has
6 reasonable grounds to believe that such person has a
7 blood alcohol content of two-hundredths of one percent
8 or greater; or

9 [(5)] (6) If the person, while operating a
10 [motor] vehicle, has been involved in a [motor vehicle]
11 collision or accident which resulted in a fatality or a
12 readily apparent serious physical injury as defined in
13 section 565.002, or has been arrested as evidenced by
14 the issuance of a uniform traffic ticket for the
15 violation of any state law or county or municipal
16 ordinance with the exception of equipment violations
17 contained in [chapter] chapters 306 and 307, or similar
18 provisions contained in county or municipal
19 ordinances[; or] .

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

24 The test shall be administered at the direction of the
25 law enforcement officer whenever the person has been
26 [arrested or] stopped, detained, or arrested for any
27 reason.

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

32 3. To be considered valid, chemical analysis of
33 the person's breath, blood, saliva, or urine [to be
34 considered valid pursuant to the provisions of sections
35 577.019 to 577.041] shall be performed, according to
36 methods approved by the state department of health and
37 senior services, by licensed medical personnel or by a
38 person possessing a valid permit issued by the state
39 department of health and senior services for this
40 purpose.

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

1 5. The person tested may have a physician, or a
2 qualified technician, chemist, registered nurse, or
3 other qualified person at the choosing and expense of
4 the person to be tested, administer a test in addition
5 to any administered at the direction of a law
6 enforcement officer. The failure or inability to
7 obtain an additional test by a person shall not
8 preclude the admission of evidence relating to the test
9 taken at the direction of a law enforcement officer.

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

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

16 (2) The time of the collection of the blood [or]
17 breath [sample] or urine sample analyzed;

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

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

22 (5) If the test was administered by means of a
23 breath-testing instrument, the date [of performance] of
24 the most recent [required] maintenance of such
25 instrument. Full information does not include manuals,
26 schematics, or software of the instrument used to test
27 the person or any other material that is not in the
28 actual possession of the state. Additionally, full
29 information does not include information in the
30 possession of the manufacturer of the test instrument.

31 7. Any person given a chemical test of the
32 person's breath pursuant to subsection 1 of this
33 section or a field sobriety test may be videotaped
34 during any such test at the direction of the law
35 enforcement officer. Any such video recording made
36 during the chemical test pursuant to this subsection or
37 a field sobriety test shall be admissible as evidence
38 at [either] any trial of such person for [either] a
39 violation of any state law or county or municipal
40 ordinance, [or] and at any license revocation or
41 suspension proceeding held pursuant to the provisions
42 of chapter 302.]

43
44 [577.037. 1. Upon the trial of any person for
45 [violation of any of the provisions of section 565.024,
46 or section 565.060, or section 577.010 or 577.012, or
47 upon the trial of any criminal action] any criminal
48 offense or violations of county or municipal
49 ordinances, or in any license suspension or revocation
50 proceeding pursuant to the provisions of chapter 302,

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

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

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

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

40 (3) There is substantial evidence of intoxication
41 from physical observations of witnesses or admissions
42 of the defendant.

43 3. Percent by weight of alcohol in the blood
44 shall be based upon grams of alcohol per one hundred
45 milliliters of blood or grams of alcohol per two
46 hundred ten liters of breath.

47 [3.] 4. The foregoing provisions of this section
48 shall not be construed as limiting the introduction of
49 any other competent evidence bearing upon the question
50 of whether the person was intoxicated.

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

8 [5. Any charge alleging a violation of section
9 577.010 or 577.012 or any county or municipal ordinance
10 prohibiting driving while intoxicated or driving under
11 the influence of alcohol shall be dismissed with
12 prejudice if a chemical analysis of the defendant's
13 breath, blood, saliva, or urine performed in accordance
14 with sections 577.020 to 577.041 and rules promulgated
15 thereunder by the state department of health and senior
16 services demonstrate that there was less than
17 eight-hundredths of one percent of alcohol in the
18 defendant's blood unless one or more of the following
19 considerations cause the court to find a dismissal
20 unwarranted:

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

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

30 (3) There is substantial evidence of intoxication
31 from physical observations of witnesses or admissions
32 of the defendant.]]

33
34 [577.041. 1. If a person [under arrest, or who
35 has been stopped pursuant to] detained, stopped, or
36 arrested under subdivision [(2) or] (3) or (4) of
37 subsection 1 of section 577.020, refuses upon the
38 request of the officer to submit to any test allowed
39 pursuant to section 577.020, then evidence of the
40 refusal shall be admissible in [a] any proceeding
41 [pursuant to section 565.024, 565.060, or 565.082, or
42 section 577.010 or 577.012] related to the acts
43 resulting in such detention, stop, or arrest.

44 2. The request of the officer to submit to any
45 chemical test shall include the reasons of the officer
46 for requesting the person to submit to a test and also
47 shall inform the person that evidence of refusal to
48 take the test may be used against such person [and that
49 the person's] . If such person was operating a vehicle
50 prior to such detention, stop, or arrest, he or she

1 shall further be informed that his or her license shall
2 be immediately revoked upon refusal to take the test.

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

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

25 (1) That the officer has:

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

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

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

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

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

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

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

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

1 3. Upon receipt of the officer's report, the
2 director shall revoke the license of the person
3 refusing to take the test for a period of one year; or
4 if the person is a nonresident, such person's operating
5 permit or privilege shall be revoked for one year; or
6 if the person is a resident without a license or permit
7 to operate a motor vehicle in this state, an order
8 shall be issued denying the person the issuance of a
9 license or permit for a period of one year.

10 4. If a person's license has been revoked because
11 of the person's refusal to submit to a chemical test,
12 such person may petition for a hearing before a circuit
13 division or associate division of the court in the
14 county in which the arrest or stop occurred. The
15 person may request such court to issue an order staying
16 the revocation until such time as the petition for
17 review can be heard. If the court, in its discretion,
18 grants such stay, it shall enter the order upon a form
19 prescribed by the director of revenue and shall send a
20 copy of such order to the director. Such order shall
21 serve as proof of the privilege to operate a motor
22 vehicle in this state and the director shall maintain
23 possession of the person's license to operate a motor
24 vehicle until termination of any revocation pursuant to
25 this section. Upon the person's request the clerk of
26 the court shall notify the prosecuting attorney of the
27 county and the prosecutor shall appear at the hearing
28 on behalf of the director of revenue. At the hearing
29 the court shall determine only:

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

32 (2) Whether or not the officer had:

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

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

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

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

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

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

4 7. No person who has had a license to operate a
5 motor vehicle suspended or revoked pursuant to the
6 provisions of this section shall have that license
7 reinstated until such person has participated in and
8 successfully completed a substance abuse traffic
9 offender program defined in section 577.001, or a
10 program determined to be comparable by the department
11 of mental health or the court. Assignment
12 recommendations, based upon the needs assessment as
13 described in subdivision (24) of section 302.010, shall
14 be delivered in writing to the person with written
15 notice that the person is entitled to have such
16 assignment recommendations reviewed by the court if the
17 person objects to the recommendations. The person may
18 file a motion in the associate division of the circuit
19 court of the county in which such assignment was given,
20 on a printed form provided by the state courts
21 administrator, to have the court hear and determine
22 such motion pursuant to the provisions of chapter 517.
23 The motion shall name the person or entity making the
24 needs assessment as the respondent and a copy of the
25 motion shall be served upon the respondent in any
26 manner allowed by law. Upon hearing the motion, the
27 court may modify or waive any assignment recommendation
28 that the court determines to be unwarranted based upon
29 a review of the needs assessment, the person's driving
30 record, the circumstances surrounding the offense, and
31 the likelihood of the person committing a like offense
32 in the future, except that the court may modify but may
33 not waive the assignment to an education or
34 rehabilitation program of a person determined to be a
35 prior or persistent offender as defined in section
36 577.023, or of a person determined to have operated a
37 motor vehicle with fifteen-hundredths of one percent or
38 more by weight in such person's blood. Compliance with
39 the court determination of the motion shall satisfy the
40 provisions of this section for the purpose of
41 reinstating such person's license to operate a motor
42 vehicle. The respondent's personal appearance at any
43 hearing conducted pursuant to this subsection shall not
44 be necessary unless directed by the court.

45 8. The fees for the substance abuse traffic
46 offender program, or a portion thereof to be determined
47 by the division of alcohol and drug abuse of the
48 department of mental health, shall be paid by the
49 person enrolled in the program. Any person who is
50 enrolled in the program shall pay, in addition to any
51 fee charged for the program, a supplemental fee to be

1 determined by the department of mental health for the
2 purposes of funding the substance abuse traffic
3 offender program defined in section 302.010 and section
4 577.001. The administrator of the program shall remit
5 to the division of alcohol and drug abuse of the
6 department of mental health on or before the fifteenth
7 day of each month the supplemental fee for all persons
8 enrolled in the program, less two percent for
9 administrative costs. Interest shall be charged on any
10 unpaid balance of the supplemental fees due the
11 division of alcohol and drug abuse pursuant to this
12 section and shall accrue at a rate not to exceed the
13 annual rates established pursuant to the provisions of
14 section 32.065, plus three percentage points. The
15 supplemental fees and any interest received by the
16 department of mental health pursuant to this section
17 shall be deposited in the mental health earnings fund
18 which is created in section 630.053.

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

34 10. Any person who has had a license to operate a
35 motor vehicle revoked under this section and who has a
36 prior alcohol-related enforcement contact, as defined
37 in section 302.525, shall be required to file proof
38 with the director of revenue that any motor vehicle
39 operated by the person is equipped with a functioning,
40 certified ignition interlock device as a required
41 condition of license reinstatement. Such ignition
42 interlock device shall further be required to be
43 maintained on all motor vehicles operated by the person
44 for a period of not less than six months immediately
45 following the date of reinstatement. If the monthly
46 monitoring reports show that the ignition interlock
47 device has registered any confirmed blood alcohol
48 concentration readings above the alcohol setpoint
49 established by the department of transportation or that
50 the person has tampered with or circumvented the
51 ignition interlock device, then the period for which

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

7 11. The revocation period of any person whose
8 license and driving privilege has been revoked under
9 this section and who has filed proof of financial
10 responsibility with the department of revenue in
11 accordance with chapter 303 and is otherwise eligible,
12 shall be terminated by a notice from the director of
13 revenue after one year from the effective date of the
14 revocation. Unless proof of financial responsibility
15 is filed with the department of revenue, the revocation
16 shall remain in effect for a period of two years from
17 its effective date. If the person fails to maintain
18 proof of financial responsibility in accordance with
19 chapter 303, the person's license and driving privilege
20 shall be rerevoked and the person shall be guilty of a
21 class A misdemeanor.]]

22
23 [579.060. 1. A person commits the offense of
24 unlawful sale or distribution of over-the-counter
25 methamphetamine precursor drugs if he or she:

26 (1) Knowingly sells, distributes, dispenses, or
27 otherwise provides any number of packages of any drug
28 product containing detectable amounts of ephedrine,
29 phenylpropanolamine, or pseudoephedrine, or any of
30 their salts, optical isomers, or salts of optical
31 isomers, in a total amount greater than nine grams to
32 the same individual within a thirty-day period, unless
33 the amount is dispensed, sold, or distributed pursuant
34 to a valid prescription; or

35 (2) Knowingly dispenses or offers drug products
36 that are not excluded from Schedule V in subsection 17
37 or 18 of section 195.017 and that contain detectable
38 amounts of ephedrine, phenylpropanolamine, or
39 pseudoephedrine, or any of their salts, optical
40 isomers, or salts of optical isomers, without ensuring
41 that such products are located behind a pharmacy
42 counter where the public is not permitted and that such
43 products are dispensed by a registered pharmacist or
44 pharmacy technician under subsection 11 of section
45 195.017; or

46 (3) Holds a retail sales license issued under
47 chapter 144 and knowingly sells or dispenses packages
48 that do not conform to the packaging requirements of
49 section 195.418.

50 2. A pharmacist, intern pharmacist, or registered
51 pharmacy technician commits the offense of unlawful

1 sale or distribution of over-the-counter
2 methamphetamine precursor drugs if he or she:

3 (1) Knowingly sells, distributes, dispenses, or
4 otherwise provides any number of packages of any drug
5 product containing detectable amounts of ephedrine,
6 phenylpropanolamine, or pseudoephedrine, or any of
7 their salts or optical isomers, or salts of optical
8 isomers, in a total amount greater than three and six-
9 tenth grams to the same individual within a twenty-four
10 hour period, unless the amount is dispensed, sold, or
11 distributed pursuant to a valid prescription; or

12 (2) Knowingly fails to submit information under
13 subsection 13 of section 195.017 and subsection 5 of
14 section 195.417 about the sales of any compound,
15 mixture, or preparation of products containing
16 detectable amounts of ephedrine, phenylpropanolamine,
17 or pseudoephedrine, or any of their salts, optical
18 isomers, or salts of optical isomers, in accordance
19 with transmission methods and frequency established by
20 the department of health and senior services; or

21 (3) Knowingly fails to implement and maintain an
22 electronic log, as required by subsection 12 of section
23 195.017, of each transaction involving any detectable
24 quantity of pseudoephedrine, its salts, isomers, or
25 salts of optical isomers or ephedrine, its salts,
26 optical isomers, or salts of optical isomers; or

27 (4) Knowingly sells, distributes, dispenses or
28 otherwise provides to an individual under eighteen
29 years of age without a valid prescription any number of
30 packages of any drug product containing any detectable
31 quantity of pseudoephedrine, its salts, isomers, or
32 salts of optical isomers, or ephedrine, its salts or
33 optical isomers, or salts of optical isomers.

34 3. Any person who violates the packaging
35 requirements of section 195.418 and is considered the
36 general owner or operator of the outlet where
37 ephedrine, pseudoephedrine, or phenylpropanolamine
38 products are available for sale shall not be penalized
39 if he or she documents that an employee training
40 program was in place to provide the employee who made
41 the unlawful retail sale with information on the state
42 and federal regulations regarding ephedrine,
43 pseudoephedrine, or phenylpropanolamine.

44 4. The offense of unlawful sale or distribution
45 of over-the-counter methamphetamine precursor drugs is
46 a class A misdemeanor.]

47
48 [[195.130.] 579.105. 1. [Any room, building,
49 structure or inhabitable structure as defined in
50 section 569.010 which is used for the illegal use,
51 keeping or selling of controlled substances is a

1 "public nuisance". No person shall keep or maintain
2 such a public nuisance.

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

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

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

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

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

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

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

47 [5.] 4. Upon the conviction of the owner pursuant
48 to subsection [4] 2 of this section, the room,
49 building, structure, or inhabitable structure is
50 subject to the provisions of sections 513.600 to

1 513.645.]

2
3 Section B. The repeal and reenactment of sections 160.261,
4 167.115, 167.171, 188.030, 210.117, 211.038, 217.010, 217.703,
5 260.211, 260.212, 476.055, 556.061, 558.019, 559.036, 559.106,
6 559.115, 559.633, 565.002, 565.073, 566.147, 566.148, 566.149,
7 577.001, 577.010, 577.020, 577.037, and 577.041, the enactment of
8 sections 197.1036, 545.940, 577.013, 579.060, and 579.105, and
9 the first appearance of the repeal of sections 195.130, 476.055,
10 566.135, and 660.315 of this act shall become effective on
11 January 1, 2017.