

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2332
98TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 21, 2016, with recommendation that the Senate Committee Substitute do pass.

6047S.04C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 192.2260, 192.2405, 301.559, 339.100, 400.9-501, 562.014, 565.030, 565.032, 565.040, 571.020, 571.030, 571.060, 571.063, 571.070, 571.072, 579.015, and 632.520, RSMo, section 192.2410 as enacted by house revision bill no. 1299 merged with senate bill no. 491, ninety-seventh general assembly, second regular session, section 192.2475 as enacted by house revision bill no. 1299 merged with senate bill no. 491, ninety-seventh general assembly, second regular session, section 192.2475 as enacted by house revision bill no. 1299, ninety-seventh general assembly, second regular session, section 557.021 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 565.188 as enacted by senate bills nos. 556 & 311, ninety-second general assembly, first regular session, section 568.040 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 569.090 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 577.001 as enacted by senate bill no. 254, ninety-eighth general assembly, first regular session, section 577.037 as enacted by house bill no. 1371, ninety-seventh general assembly, second regular session, section 577.037 as enacted by house bill nos. 302 & 38, ninety-first general assembly, first regular session, and section 577.060 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and to enact in lieu thereof twenty-six new sections relating to restructuring the Missouri criminal code, with penalty provisions, an effective date for certain sections, and an emergency clause for a certain section.

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

Section A. Sections 192.2260, 192.2405, 301.559, 339.100, 400.9-501,

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

2 562.014, 565.030, 565.032, 565.040, 571.020, 571.030, 571.060, 571.063, 571.070,
3 571.072, 579.015, and 632.520, RSMo, section 192.2410 as enacted by house
4 revision bill no. 1299 merged with senate bill no. 491, ninety-seventh general
5 assembly, second regular session, section 192.2475 as enacted by house revision
6 bill no. 1299 merged with senate bill no. 491, ninety-seventh general assembly,
7 second regular session, section 192.2475 as enacted by house revision bill no.
8 1299, ninety-seventh general assembly, second regular session, section 557.021
9 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular
10 session, section 565.188 as enacted by senate bills nos. 556 & 311, ninety-second
11 general assembly, first regular session, section 568.040 as enacted by senate bill
12 no. 491, ninety-seventh general assembly, second regular session, section 569.090
13 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular
14 session, section 577.001 as enacted by senate bill no. 254, ninety-eighth general
15 assembly, first regular session, section 577.037 as enacted by house bill no. 1371,
16 ninety-seventh general assembly, second regular session, section 577.037 as
17 enacted by house bill nos. 302 & 38, ninety-first general assembly, first regular
18 session, and section 577.060 as enacted by senate bill no. 491, ninety-seventh
19 general assembly, second regular session, are repealed and twenty-six new
20 sections enacted in lieu thereof, to be known as sections 192.2260, 192.2405,
21 192.2410, 192.2475, 301.559, 339.100, 400.9-501, 557.021, 562.014, 565.030,
22 565.032, 565.040, 565.188, 568.040, 569.090, 571.020, 571.030, 571.060, 571.063,
23 571.070, 571.072, 577.001, 577.037, 577.060, 579.015, and 632.520, to read as
24 follows:

192.2260. 1. Any person who violates any provision of sections 192.2200
2 to 192.2260, or who, for himself or for any other person, makes materially false
3 statements in order to obtain a certificate or license, or the renewal thereof,
4 issued pursuant to sections 192.2200 to 192.2260, shall be guilty of a class A
5 misdemeanor. Any person violating this subsection wherein abuse or neglect of
6 a participant of the program has occurred is guilty of a class [D] E felony.

7 2. Any person who is convicted pursuant to this section shall, in addition
8 to all other penalties provided by law, have any license issued to him under
9 sections 192.2200 to 192.2260 revoked, and shall not operate, nor hold any license
10 to operate, any adult day care program, or other entity governed by the provisions
11 of sections 192.2200 to 192.2260 for a period of three years after such conviction.

192.2405. 1. The following persons shall be required to immediately
2 report or cause a report to be made to the department under sections 192.2400
3 to 192.2470:

4 (1) Any person having reasonable cause to suspect that an eligible adult
5 presents a likelihood of suffering serious physical harm and is in need of

6 protective services; and

7 (2) Any adult day care worker, chiropractor, Christian Science
8 practitioner, coroner, dentist, embalmer, employee of the departments of social
9 services, mental health, or health and senior services, employee of a local area
10 agency on aging or an organized area agency on aging program, **emergency**
11 **medical technician, firefighter, first responder**, funeral director, home
12 health agency, home health agency employee, hospital and clinic personnel
13 engaged in the care or treatment of others, in-home services owner or provider,
14 in-home services operator or employee, law enforcement officer, long-term care
15 facility administrator or employee, medical examiner, medical resident or intern,
16 mental health professional, minister, nurse, nurse practitioner, optometrist, other
17 health practitioner, peace officer, pharmacist, physical therapist, physician,
18 physician's assistant, podiatrist, probation or parole officer, psychologist, social
19 worker, or other person with the responsibility for the care of [a person sixty
20 years of age or older] **an eligible adult** who has reasonable cause to suspect
21 that [such a person] **the eligible adult** has been subjected to abuse or neglect
22 or observes [such a person] **the eligible adult** being subjected to conditions or
23 circumstances which would reasonably result in abuse or
24 neglect. Notwithstanding any other provision of this section, a duly ordained
25 minister, clergy, religious worker, or Christian Science practitioner while
26 functioning in his or her ministerial capacity shall not be required to report
27 concerning a privileged communication made to him or her in his or her
28 professional capacity.

29 2. Any other person who becomes aware of circumstances that may
30 reasonably be expected to be the result of, or result in, abuse or neglect of [a
31 person sixty years of age or older] **an eligible adult** may report to the
32 department.

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

192.2410. 1. A report made under section 192.2405 shall be made orally
2 or in writing. It shall include, if known:

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

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

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

9 (4) Other relevant information.

10 2. Reports regarding persons determined not to be eligible adults as

11 defined in section 192.2400 shall be referred to the appropriate state or local
12 authorities.

13 3. The department shall maintain a statewide toll-free phone number for
14 receipt of reports.

192.2475. 1. When any adult day care worker; chiropractor; Christian
2 Science practitioner; coroner; dentist; embalmer; **emergency medical**
3 **technician**; employee of the departments of social services, mental health, or
4 health and senior services; employee of a local area agency on aging or an
5 organized area agency on aging program; **firefighter; first responder**; funeral
6 director; home health agency or home health agency employee; hospital and clinic
7 personnel engaged in examination, care, or treatment of persons; in-home services
8 owner, provider, operator, or employee; law enforcement officer; long-term care
9 facility administrator or employee; medical examiner; medical resident or intern;
10 mental health professional; minister; nurse; nurse practitioner; optometrist; other
11 health practitioner; peace officer; pharmacist; physical therapist; physician;
12 physician's assistant; podiatrist; probation or parole officer; psychologist; or social
13 worker has reasonable cause to believe that an in-home services client has been
14 abused or neglected, as a result of in-home services, he or she shall immediately
15 report or cause a report to be made to the department. If the report is made by
16 a physician of the in-home services client, the department shall maintain contact
17 with the physician regarding the progress of the investigation.

18 2. [When a report of deteriorating physical condition resulting in possible
19 abuse or neglect of an in-home services client is received by the department, the
20 client's case manager and the department nurse shall be notified. The client's
21 case manager shall investigate and immediately report the results of the
22 investigation to the department nurse. The department may authorize the
23 in-home services provider nurse to assist the case manager with the investigation.

24 3. If requested, local area agencies on aging shall provide volunteer
25 training to those persons listed in subsection 1 of this section regarding the
26 detection and report of abuse and neglect pursuant to this section.

27 4.] Any person required in subsection 1 of this section to report or cause
28 a report to be made to the department who fails to do so within a reasonable time
29 after the act of abuse or neglect is guilty of a class A misdemeanor.

30 [5.] 3. The report shall contain the names and addresses of the in-home
31 services provider agency, the in-home services employee, the in-home services
32 client, the home health agency, the home health agency employee, information
33 regarding the nature of the abuse or neglect, the name of the complainant, and
34 any other information which might be helpful in an investigation.

35 [6.] 4. In addition to those persons required to report under subsection

36 1 of this section, any other person having reasonable cause to believe that an
37 in-home services client or home health patient has been abused or neglected by
38 an in-home services employee or home health agency employee may report such
39 information to the department.

40 [7.] 5. If the investigation indicates possible abuse or neglect of an
41 in-home services client or home health patient, the investigator shall refer the
42 complaint together with his or her report to the department director or his or her
43 designee for appropriate action. If, during the investigation or at its completion,
44 the department has reasonable cause to believe that immediate action is
45 necessary to protect the in-home services client or home health patient from
46 abuse or neglect, the department or the local prosecuting attorney may, or the
47 attorney general upon request of the department shall, file a petition for
48 temporary care and protection of the in-home services client or home health
49 patient in a circuit court of competent jurisdiction. The circuit court in which the
50 petition is filed shall have equitable jurisdiction to issue an ex parte order
51 granting the department authority for the temporary care and protection of the
52 in-home services client or home health patient, for a period not to exceed thirty
53 days.

54 [8.] 6. Reports shall be confidential, as provided under section 192.2500.

55 [9.] 7. Anyone, except any person who has abused or neglected an
56 in-home services client or home health patient, who makes a report pursuant to
57 this section or who testifies in any administrative or judicial proceeding arising
58 from the report shall be immune from any civil or criminal liability for making
59 such a report or for testifying except for liability for perjury, unless such person
60 acted negligently, recklessly, in bad faith, or with malicious purpose.

61 [10.] 8. Within five working days after a report required to be made
62 under this section is received, the person making the report shall be notified in
63 writing of its receipt and of the initiation of the investigation.

64 [11.] 9. No person who directs or exercises any authority in an in-home
65 services provider agency or home health agency shall harass, dismiss or retaliate
66 against an in-home services client or home health patient, or an in-home services
67 employee or a home health agency employee because he or she or any member of
68 his or her family has made a report of any violation or suspected violation of
69 laws, standards or regulations applying to the in-home services provider agency
70 or home health agency or any in-home services employee or home health agency
71 employee which he or she has reasonable cause to believe has been committed or
72 has occurred.

73 [12.] 10. Any person who abuses or neglects an in-home services client
74 or home health patient is subject to criminal prosecution under section 565.184.

75 If such person is an in-home services employee and has been found guilty by a
76 court, and if the supervising in-home services provider willfully and knowingly
77 failed to report known abuse by such employee to the department, the supervising
78 in-home services provider may be subject to administrative penalties of one
79 thousand dollars per violation to be collected by the department and the money
80 received therefor shall be paid to the director of revenue and deposited in the
81 state treasury to the credit of the general revenue fund. Any in-home services
82 provider which has had administrative penalties imposed by the department or
83 which has had its contract terminated may seek an administrative review of the
84 department's action pursuant to chapter 621. Any decision of the administrative
85 hearing commission may be appealed to the circuit court in the county where the
86 violation occurred for a trial de novo. For purposes of this subsection, the term
87 "violation" means a determination of guilt by a court.

88 [13.] 11. The department shall establish a quality assurance and
89 supervision process for clients that requires an in-home services provider agency
90 to conduct random visits to verify compliance with program standards and verify
91 the accuracy of records kept by an in-home services employee.

92 [14.] 12. The department shall maintain the employee disqualification
93 list and place on the employee disqualification list the names of any persons who
94 have been finally determined by the department, pursuant to section 192.2490,
95 to have recklessly, knowingly or purposely abused or neglected an in-home
96 services client or home health patient while employed by an in-home services
97 provider agency or home health agency. For purposes of this section only,
98 "knowingly" and "recklessly" shall have the meanings that are ascribed to them
99 in this section. A person acts "knowingly" with respect to the person's conduct
100 when a reasonable person should be aware of the result caused by his or her
101 conduct. A person acts "recklessly" when the person consciously disregards a
102 substantial and unjustifiable risk that the person's conduct will result in serious
103 physical injury and such disregard constitutes a gross deviation from the
104 standard of care that a reasonable person would exercise in the situation.

105 [15.] 13. At the time a client has been assessed to determine the level of
106 care as required by rule and is eligible for in-home services, the department shall
107 conduct a "Safe at Home Evaluation" to determine the client's physical, mental,
108 and environmental capacity. The department shall develop the safe at home
109 evaluation tool by rule in accordance with chapter 536. The purpose of the safe
110 at home evaluation is to assure that each client has the appropriate level of
111 services and professionals involved in the client's care. The plan of service or
112 care for each in-home services client shall be authorized by a nurse. The
113 department may authorize the licensed in-home services nurse, in lieu of the

114 department nurse, to conduct the assessment of the client's condition and to
115 establish a plan of services or care. The department may use the expertise,
116 services, or programs of other departments and agencies on a case-by-case basis
117 to establish the plan of service or care. The department may, as indicated by the
118 safe at home evaluation, refer any client to a mental health professional, as
119 defined in 9 CSR 30-4.030, for evaluation and treatment as necessary.

120 [16.] 14. Authorized nurse visits shall occur at least twice annually to
121 assess the client and the client's plan of services. The provider nurse shall report
122 the results of his or her visits to the client's case manager. If the provider nurse
123 believes that the plan of service requires alteration, the department shall be
124 notified and the department shall make a client evaluation. All authorized nurse
125 visits shall be reimbursed to the in-home services provider. All authorized nurse
126 visits shall be reimbursed outside of the nursing home cap for in-home services
127 clients whose services have reached one hundred percent of the average statewide
128 charge for care and treatment in an intermediate care facility, provided that the
129 services have been preauthorized by the department.

130 [17.] 15. All in-home services clients shall be advised of their rights by
131 the department or the department's designee at the initial evaluation. The rights
132 shall include, but not be limited to, the right to call the department for any
133 reason, including dissatisfaction with the provider or services. The department
134 may contract for services relating to receiving such complaints. The department
135 shall establish a process to receive such nonabuse and neglect calls other than the
136 elder abuse and neglect hotline.

137 [18.] 16. Subject to appropriations, all nurse visits authorized in sections
138 192.2400 to 192.2475 shall be reimbursed to the in-home services provider agency.

192.2475. 1. When any adult day care worker; chiropractor; Christian
2 Science practitioner; coroner; dentist; embalmer; **emergency medical**
3 **technician**; employee of the departments of social services, mental health, or
4 health and senior services; employee of a local area agency on aging or an
5 organized area agency on aging program; **firefighter**; **first responder**; funeral
6 director; home health agency or home health agency employee; hospital and clinic
7 personnel engaged in examination, care, or treatment of persons; in-home services
8 owner, provider, operator, or employee; law enforcement officer; long-term care
9 facility administrator or employee; medical examiner; medical resident or intern;
10 mental health professional; minister; nurse; nurse practitioner; optometrist; other
11 health practitioner; peace officer; pharmacist; physical therapist; physician;
12 physician's assistant; podiatrist; probation or parole officer; psychologist; or social
13 worker has reasonable cause to believe that an in-home services client has been
14 abused or neglected, as a result of in-home services, he or she shall immediately

15 report or cause a report to be made to the department. If the report is made by
16 a physician of the in-home services client, the department shall maintain contact
17 with the physician regarding the progress of the investigation.

18 2. [When a report of deteriorating physical condition resulting in possible
19 abuse or neglect of an in-home services client is received by the department, the
20 client's case manager and the department nurse shall be notified. The client's
21 case manager shall investigate and immediately report the results of the
22 investigation to the department nurse. The department may authorize the
23 in-home services provider nurse to assist the case manager with the investigation.

24 3. If requested, local area agencies on aging shall provide volunteer
25 training to those persons listed in subsection 1 of this section regarding the
26 detection and report of abuse and neglect pursuant to this section.

27 4.] Any person required in subsection 1 of this section to report or cause
28 a report to be made to the department who fails to do so within a reasonable time
29 after the act of abuse or neglect is guilty of a class A misdemeanor.

30 [5.] 3. The report shall contain the names and addresses of the in-home
31 services provider agency, the in-home services employee, the in-home services
32 client, the home health agency, the home health agency employee, information
33 regarding the nature of the abuse or neglect, the name of the complainant, and
34 any other information which might be helpful in an investigation.

35 [6.] 4. In addition to those persons required to report under subsection
36 1 of this section, any other person having reasonable cause to believe that an
37 in-home services client or home health patient has been abused or neglected by
38 an in-home services employee or home health agency employee may report such
39 information to the department.

40 [7.] 5. If the investigation indicates possible abuse or neglect of an
41 in-home services client or home health patient, the investigator shall refer the
42 complaint together with his or her report to the department director or his or her
43 designee for appropriate action. If, during the investigation or at its completion,
44 the department has reasonable cause to believe that immediate action is
45 necessary to protect the in-home services client or home health patient from
46 abuse or neglect, the department or the local prosecuting attorney may, or the
47 attorney general upon request of the department shall, file a petition for
48 temporary care and protection of the in-home services client or home health
49 patient in a circuit court of competent jurisdiction. The circuit court in which the
50 petition is filed shall have equitable jurisdiction to issue an ex parte order
51 granting the department authority for the temporary care and protection of the
52 in-home services client or home health patient, for a period not to exceed thirty
53 days.

54 [8.] 6. Reports shall be confidential, as provided under section 192.2500.

55 [9.] 7. Anyone, except any person who has abused or neglected an
56 in-home services client or home health patient, who makes a report pursuant to
57 this section or who testifies in any administrative or judicial proceeding arising
58 from the report shall be immune from any civil or criminal liability for making
59 such a report or for testifying except for liability for perjury, unless such person
60 acted negligently, recklessly, in bad faith, or with malicious purpose.

61 [10.] 8. Within five working days after a report required to be made
62 under this section is received, the person making the report shall be notified in
63 writing of its receipt and of the initiation of the investigation.

64 [11.] 9. No person who directs or exercises any authority in an in-home
65 services provider agency or home health agency shall harass, dismiss or retaliate
66 against an in-home services client or home health patient, or an in-home services
67 employee or a home health agency employee because he or she or any member of
68 his or her family has made a report of any violation or suspected violation of
69 laws, standards or regulations applying to the in-home services provider agency
70 or home health agency or any in-home services employee or home health agency
71 employee which he or she has reasonable cause to believe has been committed or
72 has occurred.

73 [12.] 10. Any person who abuses or neglects an in-home services client
74 or home health patient is subject to criminal prosecution under section 565.180,
75 565.182, or 565.184. If such person is an in-home services employee and has been
76 found guilty by a court, and if the supervising in-home services provider willfully
77 and knowingly failed to report known abuse by such employee to the department,
78 the supervising in-home services provider may be subject to administrative
79 penalties of one thousand dollars per violation to be collected by the department
80 and the money received therefor shall be paid to the director of revenue and
81 deposited in the state treasury to the credit of the general revenue fund. Any
82 in-home services provider which has had administrative penalties imposed by the
83 department or which has had its contract terminated may seek an administrative
84 review of the department's action pursuant to chapter 621. Any decision of the
85 administrative hearing commission may be appealed to the circuit court in the
86 county where the violation occurred for a trial de novo. For purposes of this
87 subsection, the term "violation" means a determination of guilt by a court.

88 [13.] 11. The department shall establish a quality assurance and
89 supervision process for clients that requires an in-home services provider agency
90 to conduct random visits to verify compliance with program standards and verify
91 the accuracy of records kept by an in-home services employee.

92 [14.] 12. The department shall maintain the employee disqualification

93 list and place on the employee disqualification list the names of any persons who
94 have been finally determined by the department, pursuant to section 192.2490,
95 to have recklessly, knowingly or purposely abused or neglected an in-home
96 services client or home health patient while employed by an in-home services
97 provider agency or home health agency. For purposes of this section only,
98 "knowingly" and "recklessly" shall have the meanings that are ascribed to them
99 in this section. A person acts "knowingly" with respect to the person's conduct
100 when a reasonable person should be aware of the result caused by his or her
101 conduct. A person acts "recklessly" when the person consciously disregards a
102 substantial and unjustifiable risk that the person's conduct will result in serious
103 physical injury and such disregard constitutes a gross deviation from the
104 standard of care that a reasonable person would exercise in the situation.

105 [15.] 13. At the time a client has been assessed to determine the level of
106 care as required by rule and is eligible for in-home services, the department shall
107 conduct a "Safe at Home Evaluation" to determine the client's physical, mental,
108 and environmental capacity. The department shall develop the safe at home
109 evaluation tool by rule in accordance with chapter 536. The purpose of the safe
110 at home evaluation is to assure that each client has the appropriate level of
111 services and professionals involved in the client's care. The plan of service or
112 care for each in-home services client shall be authorized by a nurse. The
113 department may authorize the licensed in-home services nurse, in lieu of the
114 department nurse, to conduct the assessment of the client's condition and to
115 establish a plan of services or care. The department may use the expertise,
116 services, or programs of other departments and agencies on a case-by-case basis
117 to establish the plan of service or care. The department may, as indicated by the
118 safe at home evaluation, refer any client to a mental health professional, as
119 defined in 9 CSR 30-4.030, for evaluation and treatment as necessary.

120 [16.] 14. Authorized nurse visits shall occur at least twice annually to
121 assess the client and the client's plan of services. The provider nurse shall report
122 the results of his or her visits to the client's case manager. If the provider nurse
123 believes that the plan of service requires alteration, the department shall be
124 notified and the department shall make a client evaluation. All authorized nurse
125 visits shall be reimbursed to the in-home services provider. All authorized nurse
126 visits shall be reimbursed outside of the nursing home cap for in-home services
127 clients whose services have reached one hundred percent of the average statewide
128 charge for care and treatment in an intermediate care facility, provided that the
129 services have been preauthorized by the department.

130 [17.] 15. All in-home services clients shall be advised of their rights by
131 the department or the department's designee at the initial evaluation. The rights

132 shall include, but not be limited to, the right to call the department for any
133 reason, including dissatisfaction with the provider or services. The department
134 may contract for services relating to receiving such complaints. The department
135 shall establish a process to receive such nonabuse and neglect calls other than the
136 elder abuse and neglect hotline.

137 [18.] 16. Subject to appropriations, all nurse visits authorized in sections
138 192.2400 to 192.2475 shall be reimbursed to the in-home services provider agency.

301.559. 1. It shall be unlawful for any person to engage in business as
2 or act as a motor vehicle dealer, boat dealer, manufacturer, boat manufacturer,
3 public motor vehicle auction, wholesale motor vehicle auction or wholesale motor
4 vehicle dealer without first obtaining a license from the department as required
5 in sections 301.550 to 301.573. Any person who maintains or operates any
6 business wherein a license is required pursuant to the provisions of sections
7 301.550 to 301.573, without such license, is guilty of a class A misdemeanor. Any
8 person committing a second violation of sections 301.550 to 301.573 shall be
9 guilty of a class [D] E felony.

10 2. All dealer licenses shall expire on December thirty-first of the
11 designated license period. The department shall notify each person licensed
12 under sections 301.550 to 301.573 of the date of license expiration and the
13 amount of the fee required for renewal. The notice shall be mailed at least ninety
14 days before the date of license expiration to the licensee's last known business
15 address. The director shall have the authority to issue licenses valid for a period
16 of up to two years and to stagger the license periods for administrative efficiency
17 and equalization of workload, at the sole discretion of the director.

18 3. Every manufacturer, boat manufacturer, motor vehicle dealer,
19 wholesale motor vehicle dealer, wholesale motor vehicle auction, boat dealer or
20 public motor vehicle auction shall make application to the department for
21 issuance of a license. The application shall be on forms prescribed by the
22 department and shall be issued under the terms and provisions of sections
23 301.550 to 301.573 and require all applicants, as a condition precedent to the
24 issuance of a license, to provide such information as the department may deem
25 necessary to determine that the applicant is bona fide and of good moral
26 character, except that every application for a license shall contain, in addition to
27 such information as the department may require, a statement to the following
28 facts:

29 (1) The name and business address, not a post office box, of the applicant
30 and the fictitious name, if any, under which he intends to conduct his business;
31 and if the applicant be a partnership, the name and residence address of each
32 partner, an indication of whether the partner is a limited or general partner and

33 the name under which the partnership business is to be conducted. In the event
34 that the applicant is a corporation, the application shall list the names of the
35 principal officers of the corporation and the state in which it is
36 incorporated. Each application shall be verified by the oath or affirmation of the
37 applicant, if an individual, or in the event an applicant is a partnership or
38 corporation, then by a partner or officer;

39 (2) Whether the application is being made for registration as a
40 manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor
41 vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor
42 vehicle auction or a public motor vehicle auction;

43 (3) When the application is for a new motor vehicle franchise dealer, the
44 application shall be accompanied by a copy of the franchise agreement in the
45 registered name of the dealership setting out the appointment of the applicant as
46 a franchise holder and it shall be signed by the manufacturer, or his authorized
47 agent, or the distributor, or his authorized agent, and shall include a description
48 of the make of all motor vehicles covered by the franchise. The department shall
49 not require a copy of the franchise agreement to be submitted with each renewal
50 application unless the applicant is now the holder of a franchise from a different
51 manufacturer or distributor from that previously filed, or unless a new term of
52 agreement has been entered into;

53 (4) When the application is for a public motor vehicle auction, that the
54 public motor vehicle auction has met the requirements of section 301.561.

55 4. No insurance company, finance company, credit union, savings and loan
56 association, bank or trust company shall be required to obtain a license from the
57 department in order to sell any motor vehicle, trailer or vessel repossessed or
58 purchased by the company on the basis of total destruction or theft thereof when
59 the sale of the motor vehicle, trailer or vessel is in conformance with applicable
60 title and registration laws of this state.

61 5. No person shall be issued a license to conduct a public motor vehicle
62 auction or wholesale motor vehicle auction if such person has a violation of
63 sections 301.550 to 301.573 or other violations of chapter 301, sections 407.511
64 to 407.556, or section 578.120 which resulted in a felony conviction or finding of
65 guilt or a violation of any federal motor vehicle laws which resulted in a felony
66 conviction or finding of guilt.

339.100. 1. The commission may, upon its own motion, and shall upon
2 receipt of a written complaint filed by any person, investigate any real
3 estate-related activity of a licensee licensed under sections 339.010 to 339.180
4 and sections 339.710 to 339.860 or an individual or entity acting as or
5 representing themselves as a real estate licensee. In conducting such

6 investigation, if the questioned activity or written complaint involves an affiliated
7 licensee, the commission may forward a copy of the information received to the
8 affiliated licensee's designated broker. The commission shall have the power to
9 hold an investigatory hearing to determine whether there is a probability of a
10 violation of sections 339.010 to 339.180 and sections 339.710 to 339.860. The
11 commission shall have the power to issue a subpoena to compel the production of
12 records and papers bearing on the complaint. The commission shall have the
13 power to issue a subpoena and to compel any person in this state to come before
14 the commission to offer testimony or any material specified in the
15 subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section
16 shall be served in the same manner as subpoenas in a criminal case. The fees
17 and mileage of witnesses shall be the same as that allowed in the circuit court in
18 civil cases.

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

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

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

34 (3) Failing within a reasonable time to account for or to remit any moneys,
35 valuable documents or other property, coming into his or her possession, which
36 belongs to others;

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

41 (5) Failure to timely deliver a duplicate original of any and all
42 instruments to any party or parties executing the same where the instruments
43 have been prepared by the licensee or under his or her supervision or are within
44 his or her control, including, but not limited to, the instruments relating to the

45 employment of the licensee or to any matter pertaining to the consummation of
46 a lease, listing agreement or the purchase, sale, exchange or lease of property, or
47 any type of real estate transaction in which he or she may participate as a
48 licensee;

49 (6) Acting for more than one party in a transaction without the knowledge
50 of all parties for whom he or she acts, or accepting a commission or valuable
51 consideration for services from more than one party in a real estate transaction
52 without the knowledge of all parties to the transaction;

53 (7) Paying a commission or valuable consideration to any person for acts
54 or services performed in violation of sections 339.010 to 339.180 and sections
55 339.710 to 339.860;

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

58 (9) Having been finally adjudicated and been found guilty of the violation
59 of any state or federal statute which governs the sale or rental of real property
60 or the conduct of the real estate business as defined in subsection 1 of section
61 339.010;

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

65 (11) Representing a real estate broker other than the broker with whom
66 associated without the express written consent of the broker with whom
67 associated;

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

72 (13) Using prizes, money, gifts or other valuable consideration as
73 inducement to secure customers or clients to purchase, lease, sell or list property
74 when the awarding of such prizes, money, gifts or other valuable consideration
75 is conditioned upon the purchase, lease, sale or listing; or soliciting, selling or
76 offering for sale real property by offering free lots, or conducting lotteries or
77 contests, or offering prizes for the purpose of influencing a purchaser or
78 prospective purchaser of real property;

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

81 (15) Violation of, or attempting to violate, directly or indirectly, or
82 assisting or enabling any person to violate, any provision of sections 339.010 to
83 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant

84 to sections 339.010 to 339.180 and sections 339.710 to 339.860;

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

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

89 (18) Been finally adjudicated and found guilty, or entered a plea of guilty
90 or nolo contendere, in a criminal prosecution under the laws of this state or any
91 other state or of the United States, for any offense reasonably related to the
92 qualifications, functions or duties of any profession licensed or regulated under
93 this chapter, for any offense an essential element of which is fraud, dishonesty
94 or an act of violence, or for any offense involving moral turpitude, whether or not
95 sentence is imposed;

96 (19) Any other conduct which constitutes untrustworthy, improper or
97 fraudulent business dealings, demonstrates bad faith or incompetence,
98 misconduct, or gross negligence;

99 (20) Disciplinary action against the holder of a license or other right to
100 practice any profession regulated under sections 339.010 to 339.180 and sections
101 339.710 to 339.860 granted by another state, territory, federal agency, or country
102 upon grounds for which revocation, suspension, or probation is authorized in this
103 state;

104 (21) Been found by a court of competent jurisdiction of having used any
105 controlled substance, as defined in chapter 195, to the extent that such use
106 impairs a person's ability to perform the work of any profession licensed or
107 regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860;

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

110 (23) Assisting or enabling any person to practice or offer to practice any
111 profession licensed or regulated under sections 339.010 to 339.180 and sections
112 339.710 to 339.860 who is not registered and currently eligible to practice under
113 sections 339.010 to 339.180 and sections 339.710 to 339.860;

114 (24) Use of any advertisement or solicitation which is knowingly false,
115 misleading or deceptive to the general public or persons to whom the
116 advertisement or solicitation is primarily directed;

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

121 (26) Engaging in, committing, or assisting any person in engaging in or
122 committing mortgage fraud, as defined in section 443.930.

123 3. After the filing of such complaint, the proceedings will be conducted in
124 accordance with the provisions of law relating to the administrative hearing
125 commission. A finding of the administrative hearing commissioner that the
126 licensee has performed or attempted to perform one or more of the foregoing acts
127 shall be grounds for the suspension or revocation of his license by the
128 commission, or the placing of the licensee on probation on such terms and
129 conditions as the real estate commission shall deem appropriate, or the
130 imposition of a civil penalty by the commission not to exceed two thousand five
131 hundred dollars for each offense. Each day of a continued violation shall
132 constitute a separate offense.

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

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

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

146 (2) Any of the following sexual offenses: rape in the first degree, forcible
147 rape, rape, statutory rape in the first degree, statutory rape in the second degree,
148 rape in the second degree, sexual assault, sodomy in the first degree, forcible
149 sodomy, statutory sodomy in the first degree, statutory sodomy in the second
150 degree, child molestation in the first degree, child molestation in the second
151 degree, sodomy in the second degree, deviate sexual assault, sexual misconduct
152 involving a child, sexual misconduct in the first degree under section 566.090 as
153 it existed prior to August 28, 2013, sexual abuse under section 566.100 as it
154 existed prior to August 28, 2013, sexual abuse in the first or second degree,
155 enticement of a child, or attempting to entice a child;

156 (3) Any of the following offenses against the family and related offenses:
157 incest, abandonment of a child in the first degree, abandonment of a child in the
158 second degree, endangering the welfare of a child in the first degree, abuse of a
159 child, using a child in a sexual performance, promoting sexual performance by a
160 child, or trafficking in children;

161 (4) Any of the following offenses involving child pornography and related

162 offenses: promoting obscenity in the first degree, promoting obscenity in the
163 second degree when the penalty is enhanced to a class [D] E felony, promoting
164 child pornography in the first degree, promoting child pornography in the second
165 degree, possession of child pornography in the first degree, possession of child
166 pornography in the second degree, furnishing child pornography to a minor,
167 furnishing pornographic materials to minors, or coercing acceptance of obscene
168 material; and

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

170 6. A person whose license was revoked under subsection 5 of this section
171 may appeal such revocation to the administrative hearing commission. Notice of
172 such appeal must be received by the administrative hearing commission within
173 ninety days of mailing, by certified mail, the notice of revocation. Failure of a
174 person whose license was revoked to notify the administrative hearing
175 commission of his or her intent to appeal waives all rights to appeal the
176 revocation. Upon notice of such person's intent to appeal, a hearing shall be held
177 before the administrative hearing commission.

400.9-501. (a) Except as otherwise provided in subsection (b), if the local
2 law of this state governs perfection of a security interest or agricultural lien, the
3 office in which to file a financing statement to perfect the security interest or
4 agricultural lien is:

5 (1) The office designated for the filing or recording of a record of a
6 mortgage on the related real property, if:

7 (A) The collateral is as-extracted collateral or timber to be cut; or

8 (B) The financing statement is filed as a fixture filing and the collateral
9 is goods that are or are to become fixtures; or

10 (2) The office of the secretary of state in all other cases, including a case
11 in which the collateral is goods that are or are to become fixtures and the
12 financing statement is not filed as a fixture filing.

13 (b) The office in which to file a financing statement to perfect a security
14 interest in collateral, including fixtures, of a transmitting utility is the office of
15 the secretary of state. The financing statement also constitutes a fixture filing
16 as to the collateral indicated in the financing statement which is or is to become
17 fixtures.

18 (c) A person shall not knowingly or intentionally file, attempt to file, or
19 record any document related to real property with a recorder of deeds under
20 chapter 59 or a financing statement with the secretary of state under subdivision
21 (2) of subsection (a) or subsection (b) of this section, with the intent that such
22 document or statement be used to harass or defraud any other person or
23 knowingly or intentionally file, attempt to file, or record such a document or

24 statement that is materially false or fraudulent.

25 (1) A person who violates this subsection shall be guilty of a class [D] E
26 felony.

27 (2) If a person is convicted of a violation under this subsection, the court
28 may order restitution.

29 (d) In the alternative to the provisions of sections 428.105 through
30 428.135, if a person files a false or fraudulent financing statement with the
31 secretary of state under subdivision (2) of subsection (a) or subsection (b) of this
32 section, a debtor named in that financing statement may file an action against
33 the person that filed the financing statement seeking appropriate equitable relief,
34 actual damages, or punitive damages, including, but not limited to, reasonable
35 attorney fees.

557.021. 1. Any offense defined outside this code which is declared to be
2 a misdemeanor without specification of the penalty therefor is a class A
3 misdemeanor.

4 2. Any offense defined outside this code which is declared to be a felony
5 without specification of the penalty therefor is a class E felony.

6 3. For the purpose of applying the extended term provisions of section
7 558.016 and the minimum prison term provisions of section 558.019 and for
8 determining the penalty for attempts and conspiracies, offenses defined outside
9 of this code shall be classified as follows:

10 (1) If the offense is a felony:

11 (a) It is a class A felony if the authorized penalty includes death, life
12 imprisonment or imprisonment for a term of twenty years or more;

13 (b) It is a class B felony if the maximum term of imprisonment authorized
14 exceeds ten years but is less than twenty years;

15 (c) It is a class C felony if the maximum term of imprisonment authorized
16 is ten years;

17 (d) It is a class D felony if the maximum term of imprisonment **exceeds**
18 **four years but** is less than ten years;

19 (e) It is a class E felony if the maximum term of imprisonment is four
20 years **or less**;

21 (2) If the offense is a misdemeanor:

22 (a) It is a class A misdemeanor if the authorized imprisonment exceeds
23 six months in jail;

24 (b) It is a class B misdemeanor if the authorized imprisonment exceeds
25 thirty days but is not more than six months;

26 (c) It is a class C misdemeanor if the authorized imprisonment is thirty
27 days or less;

28 (d) It is a class D misdemeanor if it includes a mental state as an element
29 of the offense and there is no authorized imprisonment;

30 (e) It is an infraction if there is no authorized imprisonment.

562.014. 1. Guilt for an offense may be based upon a conspiracy to
2 commit an offense when a person, with the purpose of promoting or facilitating
3 the commission of an offense, agrees with another person or persons that they or
4 one or more of them will engage in conduct which constitutes such offense.

5 2. It is no defense to a prosecution for conspiring to commit an offense
6 that a person, who knows that a person with whom he or she conspires to commit
7 an offense has conspired with another person or persons to commit the same
8 offense, does not know the identity of such other person or persons.

9 3. If a person conspires to commit a number of offenses, he or she can be
10 found guilty of only one offense **of conspiracy** so long as such multiple offenses
11 are the object of the same agreement.

12 4. No person may be convicted of an offense based upon a conspiracy to
13 commit an offense unless an overt act in pursuance of such conspiracy is alleged
14 and proved to have been done by him or her or by a person with whom he or she
15 conspired.

16 5. (1) No person shall be convicted of an offense based upon a conspiracy
17 to commit an offense if, after conspiring to commit the offense, he or she
18 prevented the accomplishment of the objectives of the conspiracy under
19 circumstances manifesting a renunciation of his or her criminal purpose.

20 (2) The defendant shall have the burden of injecting the issue of
21 renunciation of criminal purpose under subdivision (1) of this subsection.

22 6. For the purpose of time limitations on prosecutions:

23 (1) A conspiracy to commit an offense is a continuing course of conduct
24 which terminates when the offense or offenses which are its object are committed
25 or the agreement that they be committed is abandoned by the defendant and by
26 those with whom he or she conspired;

27 (2) If an individual abandons the agreement, the conspiracy is terminated
28 as to him or her only if he or she advises those with whom he or she has
29 conspired of his or her abandonment or he or she informs the law enforcement
30 authorities of the existence of the conspiracy and of his or her participation in it.

31 7. A person shall not be charged, convicted or sentenced on the basis of
32 the same course of conduct of both the actual commission of an offense and a
33 conspiracy to commit that offense.

34 8. Unless otherwise set forth in the statute creating the offense, when
35 guilt for a felony or misdemeanor is based upon a conspiracy to commit that
36 offense, the felony or misdemeanor shall be classified one step lower than the

37 class provided for the felony or misdemeanor in the statute creating the offense.

565.030. 1. Where murder in the first degree is charged but not
2 submitted or where the state waives the death penalty, the submission to the
3 trier and all subsequent proceedings in the case shall proceed as in all other
4 criminal cases [with a single stage trial in which guilt and punishment are
5 submitted together].

6 2. Where murder in the first degree is submitted to the trier without a
7 waiver of the death penalty, the trial shall proceed in two stages before the same
8 trier. At the first stage the trier shall decide only whether the defendant is guilty
9 or not guilty of any submitted offense. The issue of punishment shall not be
10 submitted to the trier at the first stage. If an offense is charged other than
11 murder in the first degree in a count together with a count of murder in the first
12 degree, the trial judge shall assess punishment on any such offense according to
13 law, after the defendant is found guilty of such offense and after he finds the
14 defendant to be a prior offender pursuant to chapter 558.

15 3. If murder in the first degree is submitted and the death penalty was
16 not waived but the trier finds the defendant guilty of a lesser homicide, a second
17 stage of the trial shall proceed [at which the only issue shall be the punishment
18 to be assessed and declared. No further evidence shall be received. If the trier
19 is a jury it shall be instructed on the law] **as in all other criminal cases**. The
20 attorneys may then argue as in other criminal cases the issue of punishment,
21 after which the trier shall assess and declare the punishment as in all other
22 criminal cases.

23 4. If the trier at the first stage of a trial where the death penalty was not
24 waived finds the defendant guilty of murder in the first degree, a second stage of
25 the trial shall proceed at which the only issue shall be the punishment to be
26 assessed and declared. Evidence in aggravation and mitigation of punishment,
27 including but not limited to evidence supporting any of the aggravating or
28 mitigating circumstances listed in subsection 2 or 3 of section 565.032, may be
29 presented subject to the rules of evidence at criminal trials. Such evidence may
30 include, within the discretion of the court, evidence concerning the murder victim
31 and the impact of the [crime] **offense** upon the family of the victim and
32 others. Rebuttal and surrebuttal evidence may be presented. The state shall be
33 the first to proceed. If the trier is a jury it shall be instructed on the law. The
34 attorneys may then argue the issue of punishment to the jury, and the state shall
35 have the right to open and close the argument. The trier shall assess and declare
36 the punishment at life imprisonment without eligibility for probation, parole, or
37 release except by act of the governor:

38 (1) If the trier finds by a preponderance of the evidence that the

39 defendant is intellectually disabled; or

40 (2) If the trier does not find beyond a reasonable doubt at least one of the
41 statutory aggravating circumstances set out in subsection 2 of section 565.032;
42 or

43 (3) If the trier concludes that there is evidence in mitigation of
44 punishment, including but not limited to evidence supporting the statutory
45 mitigating circumstances listed in subsection 3 of section 565.032, which is
46 sufficient to outweigh the evidence in aggravation of punishment found by the
47 trier; or

48 (4) If the trier decides under all of the circumstances not to assess and
49 declare the punishment at death. If the trier is a jury it shall be so instructed.
50 If the trier assesses and declares the punishment at death it shall, in its findings
51 or verdict, set out in writing the aggravating circumstance or circumstances listed
52 in subsection 2 of section 565.032 which it found beyond a reasonable doubt. If
53 the trier is a jury it shall be instructed before the case is submitted that if it is
54 unable to decide or agree upon the punishment the court shall assess and declare
55 the punishment at life imprisonment without eligibility for probation, parole, or
56 release except by act of the governor or death. The court shall follow the same
57 procedure as set out in this section whenever it is required to determine
58 punishment for murder in the first degree.

59 5. Upon written agreement of the parties and with leave of the court, the
60 issue of the defendant's intellectual disability may be taken up by the court and
61 decided prior to trial without prejudicing the defendant's right to have the issue
62 submitted to the trier of fact as provided in subsection 4 of this section.

63 6. As used in this section, the terms "intellectual disability" or
64 "intellectually disabled" refer to a condition involving substantial limitations in
65 general functioning characterized by significantly subaverage intellectual
66 functioning with continual extensive related deficits and limitations in two or
67 more adaptive behaviors such as communication, self-care, home living, social
68 skills, community use, self-direction, health and safety, functional academics,
69 leisure and work, which conditions are manifested and documented before
70 eighteen years of age.

71 7. The provisions of this section shall only govern offenses committed on
72 or after August 28, 2001.

565.032. 1. In all cases of murder in the first degree for which the death
2 penalty is authorized, the judge in a jury-waived trial shall consider, or [he] shall
3 include in his **or her** instructions to the jury for it to consider:

4 (1) Whether a statutory aggravating circumstance or circumstances
5 enumerated in subsection 2 of this section is established by the evidence beyond

6 a reasonable doubt; and

7 (2) If a statutory aggravating circumstance or circumstances is proven
8 beyond a reasonable doubt, whether the evidence as a whole justifies a sentence
9 of death or a sentence of life imprisonment without eligibility for probation,
10 parole, or release except by act of the governor. In determining the issues
11 enumerated in subdivisions (1) and (2) of this subsection, the trier shall consider
12 all evidence which it finds to be in aggravation or mitigation of punishment,
13 including evidence received during the first stage of the trial and evidence
14 supporting any of the statutory aggravating or mitigating circumstances set out
15 in subsections 2 and 3 of this section. If the trier is a jury, it shall not be
16 instructed upon any specific evidence which may be in aggravation or mitigation
17 of punishment, but shall be instructed that each juror shall consider any evidence
18 which he **or she** considers to be aggravating or mitigating.

19 2. Statutory aggravating circumstances for a murder in the first degree
20 offense shall be limited to the following:

21 (1) The offense was committed by a person with a prior record of
22 conviction for murder in the first degree, or the offense was committed by a
23 person who has one or more serious assaultive criminal convictions;

24 (2) The murder in the first degree offense was committed while the
25 offender was engaged in the commission or attempted commission of another
26 unlawful homicide;

27 (3) The offender by his **or her** act of murder in the first degree knowingly
28 created a great risk of death to more than one person by means of a weapon or
29 device which would normally be hazardous to the lives of more than one person;

30 (4) The offender committed the offense of murder in the first degree for
31 himself **or herself** or another, for the purpose of receiving money or any other
32 thing of monetary value from the victim of the murder or another;

33 (5) The murder in the first degree was committed against a judicial
34 officer, former judicial officer, prosecuting attorney or former prosecuting
35 attorney, circuit attorney or former circuit attorney, assistant prosecuting
36 attorney or former assistant prosecuting attorney, assistant circuit attorney or
37 former assistant circuit attorney, peace officer or former peace officer, elected
38 official or former elected official during or because of the exercise of his official
39 duty;

40 (6) The offender caused or directed another to commit murder in the first
41 degree or committed murder in the first degree as an agent or employee of
42 another person;

43 (7) The murder in the first degree was outrageously or wantonly vile,
44 horrible or inhuman in that it involved torture, or depravity of mind;

45 (8) The murder in the first degree was committed against any peace
46 officer, or fireman while engaged in the performance of his **or her** official duty;

47 (9) The murder in the first degree was committed by a person in, or who
48 has escaped from, the lawful custody of a peace officer or place of lawful
49 confinement;

50 (10) The murder in the first degree was committed for the purpose of
51 avoiding, interfering with, or preventing a lawful arrest or custody in a place of
52 lawful confinement, of himself **or herself** or another;

53 (11) The murder in the first degree was committed while the defendant
54 was engaged in the perpetration or was aiding or encouraging another person to
55 perpetrate or attempt to perpetrate a felony of any degree of rape, sodomy,
56 burglary, robbery, kidnapping, or any felony offense in chapter 195 **or 579**;

57 (12) The murdered individual was a witness or potential witness in any
58 past or pending investigation or past or pending prosecution, and was killed as
59 a result of his **or her** status as a witness or potential witness;

60 (13) The murdered individual was an employee of an institution or facility
61 of the department of corrections of this state or local correction agency and was
62 killed in the course of performing his **or her** official duties, or the murdered
63 individual was an inmate of such institution or facility;

64 (14) The murdered individual was killed as a result of the hijacking of an
65 airplane, train, ship, bus or other public conveyance;

66 (15) The murder was committed for the purpose of concealing or
67 attempting to conceal any felony offense defined in chapter 195 **or 579**;

68 (16) The murder was committed for the purpose of causing or attempting
69 to cause a person to refrain from initiating or aiding in the prosecution of a felony
70 offense defined in chapter 195 **or 579**;

71 (17) The murder was committed during the commission of [a crime] **an**
72 **offense** which is part of a pattern of criminal street gang activity as defined in
73 section 578.421.

74 3. Statutory mitigating circumstances shall include the following:

75 (1) The defendant has no significant history of prior criminal activity;

76 (2) The murder in the first degree was committed while the defendant was
77 under the influence of extreme mental or emotional disturbance;

78 (3) The victim was a participant in the defendant's conduct or consented
79 to the act;

80 (4) The defendant was an accomplice in the murder in the first degree
81 committed by another person and his **or her** participation was relatively minor;

82 (5) The defendant acted under extreme duress or under the substantial
83 domination of another person;

84 (6) The capacity of the defendant to appreciate the criminality of his **or**
85 **her** conduct or to conform his **or her** conduct to the requirements of law was
86 substantially impaired;

87 (7) The age of the defendant at the time of the [crime] **offense**.

565.040. 1. In the event that the death penalty provided in this chapter
2 is held to be unconstitutional, any person convicted of murder in the first degree
3 shall be sentenced by the court to life imprisonment without eligibility for
4 probation, parole, or release except by act of the governor, with the exception that
5 when a specific aggravating circumstance found in a case is held to be
6 unconstitutional or invalid for another reason, the supreme court of Missouri is
7 further authorized to remand the case for resentencing or retrial of the
8 punishment pursuant to subsection 5 of section [565.036] **565.035**.

9 2. In the event that any death sentence imposed pursuant to this chapter
10 is held to be unconstitutional, the trial court which previously sentenced the
11 defendant to death shall cause the defendant to be brought before the court and
12 shall sentence the defendant to life imprisonment without eligibility for
13 probation, parole, or release except by act of the governor, with the exception that
14 when a specific aggravating circumstance found in a case is held to be
15 inapplicable, unconstitutional or invalid for another reason, the supreme court
16 of Missouri is further authorized to remand the case for retrial of the punishment
17 pursuant to subsection 5 of section 565.035.

565.188. 1. When any adult day care worker; chiropractor; Christian
2 Science practitioner; coroner; dentist; embalmer; employee of the departments of
3 social services, mental health, or health and senior services; employee of a local
4 area agency on aging or an organized area agency on aging program; **emergency**
5 **medical technician, firefighter, first responder**; funeral director; home
6 health agency or home health agency employee; hospital and clinic personnel
7 engaged in examination, care, or treatment of persons; in-home services owner,
8 provider, operator, or employee; law enforcement officer; long-term care facility
9 administrator or employee; medical examiner; medical resident or intern; mental
10 health professional; minister; nurse; nurse practitioner; optometrist; other health
11 practitioner; peace officer; pharmacist; physical therapist; physician; physician's
12 assistant; podiatrist; probation or parole officer; psychologist; social worker; or
13 other person with responsibility for the care of [a person sixty years of age or
14 older] **an eligible adult as defined under section 192.2400** has reasonable
15 cause to suspect that [such a person] **the eligible adult** has been subjected to
16 abuse or neglect or observes [such a person] **the eligible adult** being subjected
17 to conditions or circumstances which would reasonably result in abuse or neglect,
18 he or she shall immediately report or cause a report to be made to the department

19 in accordance with the provisions of sections 192.2400 to 192.2470. Any other
20 person who becomes aware of circumstances which may reasonably be expected
21 to be the result of or result in abuse or neglect may report to the department.

22 2. Any person who knowingly fails to make a report as required in
23 subsection 1 of this section is guilty of a class A misdemeanor.

24 3. Any person who purposely files a false report of elder abuse or neglect
25 is guilty of a class A misdemeanor.

26 4. Every person who has been previously convicted of or pled guilty to
27 making a false report to the department and who is subsequently convicted of
28 making a false report under subsection 3 of this section is guilty of a class D
29 felony.

30 5. Evidence of prior convictions of false reporting shall be heard by the
31 court, out of the hearing of the jury, prior to the submission of the case to the
32 jury, and the court shall determine the existence of the prior convictions.

568.040. 1. A person commits the offense of nonsupport if he or she
2 knowingly fails to provide adequate support for his or her spouse; a parent
3 commits the offense of nonsupport if such parent knowingly fails to provide
4 adequate support which such parent is legally obligated to provide for his or her
5 child or stepchild who is not otherwise emancipated by operation of law.

6 2. For purposes of this section:

7 (1) "Child" means any biological or adoptive child, or any child whose
8 paternity has been established under chapter 454, or chapter 210, or any child
9 whose relationship to the defendant has been determined, by a court of law in a
10 proceeding for dissolution or legal separation, to be that of child to parent;

11 (2) "Good cause" means any substantial reason why the defendant is
12 unable to provide adequate support. Good cause does not exist if the defendant
13 purposely maintains his inability to support;

14 (3) "Support" means food, clothing, lodging, and medical or surgical
15 attention;

16 (4) It shall not constitute a failure to provide medical and surgical
17 attention, if nonmedical remedial treatment recognized and permitted under the
18 laws of this state is provided.

19 3. Inability to provide support for good cause shall be an affirmative
20 defense under this section. A defendant who raises such affirmative defense has
21 the burden of proving the defense by a preponderance of the evidence.

22 4. The defendant shall have the burden of injecting the issues raised by
23 subdivision (4) of subsection 2 [and subsection 3] of this section.

24 5. The offense of criminal nonsupport is a class A misdemeanor, unless
25 the total arrearage is in excess of an aggregate of twelve monthly payments due

26 under any order of support issued by any court of competent jurisdiction or any
27 authorized administrative agency, in which case it is a class E felony.

28 6. If at any time an offender convicted of criminal nonsupport is placed
29 on probation or parole, there may be ordered as a condition of probation or parole
30 that the offender commence payment of current support as well as satisfy the
31 arrearages. Arrearages may be satisfied first by making such lump sum payment
32 as the offender is capable of paying, if any, as may be shown after examination
33 of the offender's financial resources or assets, both real, personal, and mixed, and
34 second by making periodic payments. Periodic payments toward satisfaction of
35 arrears when added to current payments due may be in such aggregate sums as
36 is not greater than fifty percent of the offender's adjusted gross income after
37 deduction of payroll taxes, medical insurance that also covers a dependent spouse
38 or children, and any other court- or administrative-ordered support, only. If the
39 offender fails to pay the current support and arrearages as ordered, the court may
40 revoke probation or parole and then impose an appropriate sentence within the
41 range for the class of offense that the offender was convicted of as provided by
42 law, unless the offender proves good cause for the failure to pay as required
43 under subsection 3 of this section.

44 7. During any period that a nonviolent offender is incarcerated for
45 criminal nonsupport, if the offender is ready, willing, and able to be gainfully
46 employed during said period of incarceration, the offender, if he or she meets the
47 criteria established by the department of corrections, may be placed on work
48 release to allow the offender to satisfy his or her obligation to pay
49 support. Arrearages shall be satisfied as outlined in the collection agreement.

50 8. Beginning August 28, 2009, every nonviolent first- and second-time
51 offender then incarcerated for criminal nonsupport, who has not been previously
52 placed on probation or parole for conviction of criminal nonsupport, may be
53 considered for parole, under the conditions set forth in subsection 6 of this
54 section, or work release, under the conditions set forth in subsection 7 of this
55 section.

56 9. Beginning January 1, 1991, every prosecuting attorney in any county
57 which has entered into a cooperative agreement with the child support
58 enforcement service of the family support division of the department of social
59 services shall report to the division on a quarterly basis the number of charges
60 filed and the number of convictions obtained under this section by the prosecuting
61 attorney's office on all IV-D cases. The division shall consolidate the reported
62 information into a statewide report by county and make the report available to
63 the general public.

64 10. Persons accused of committing the offense of nonsupport of the child

65 shall be prosecuted:

66 (1) In any county in which the child resided during the period of time for
67 which the defendant is charged; or

68 (2) In any county in which the defendant resided during the period of time
69 for which the defendant is charged.

569.090. 1. A person commits the offense of tampering in the second
2 degree if he or she:

3 (1) Tamper with property of another for the purpose of causing
4 substantial inconvenience to that person or to another; or

5 (2) Unlawfully rides in or upon another's automobile, airplane, motorcycle,
6 motorboat or other motor-propelled vehicle; or

7 (3) Tamper or makes connection with property of a utility; or

8 (4) Tamper with, or causes to be tampered with, any meter or other
9 property of an electric, gas, steam or water utility, the effect of which tampering
10 is either:

11 (a) To prevent the proper measuring of electric, gas, steam or water
12 service; or

13 (b) To permit the diversion of any electric, gas, steam or water service.

14 2. In any prosecution under subdivision (4) of subsection 1, proof that a
15 meter or any other property of a utility has been tampered with, and the person
16 or persons accused received the use or direct benefit of the electric, gas, steam or
17 water service, with one or more of the effects described in subdivision (4) of
18 subsection 1, shall be sufficient to support an inference which the trial court may
19 submit to the trier of fact, from which the trier of fact may conclude that there
20 has been a violation of such subdivision by the person or persons who use or
21 receive the direct benefit of the electric, gas, steam or water service.

22 3. Tampering in the second degree is a class A misdemeanor unless:

23 (1) Committed as a second or subsequent violation of subdivision (4) of
24 subsection 1, in which case it is a class E felony; or

25 (2) The defendant has a prior conviction or has previously been found
26 guilty pursuant to paragraph (a) of subdivision (3) of subsection [3] 5 of section
27 570.030, or subdivision (2) of subsection 1 of this section, in which case it is a
28 class D felony.

571.020. 1. A person commits [a crime] **an offense** if such person
2 knowingly possesses, manufactures, transports, repairs, or sells:

3 (1) An explosive weapon;

4 (2) An explosive, incendiary or poison substance or material with the
5 purpose to possess, manufacture or sell an explosive weapon;

6 (3) A gas gun;

7 (4) A bullet or projectile which explodes or detonates upon impact because
8 of an independent explosive charge after having been shot from a firearm; or

9 (5) Knuckles; or

10 (6) Any of the following in violation of federal law:

11 (a) A machine gun;

12 (b) A short-barreled rifle or shotgun;

13 (c) A firearm silencer; or

14 (d) A switchblade knife.

15 2. A person does not commit [a crime] **an offense** pursuant to this
16 section if his **or her** conduct involved any of the items in subdivisions (1) to (5)
17 of subsection 1, the item was possessed in conformity with any applicable federal
18 law, and the conduct:

19 (1) Was incident to the performance of official duty by the Armed Forces,
20 National Guard, a governmental law enforcement agency, or a penal institution;
21 or

22 (2) Was incident to engaging in a lawful commercial or business
23 transaction with an organization enumerated in subdivision (1) of this section; or

24 (3) Was incident to using an explosive weapon in a manner reasonably
25 related to a lawful industrial or commercial enterprise; or

26 (4) Was incident to displaying the weapon in a public museum or
27 exhibition; or

28 (5) Was incident to using the weapon in a manner reasonably related to
29 a lawful dramatic performance.

30 3. [A crime] **An offense** pursuant to subdivision (1), (2), (3) or (6) of
31 subsection 1 of this section is a class [C] **D** felony; a crime pursuant to
32 subdivision (4) or (5) of subsection 1 of this section is a class A misdemeanor.

571.030. 1. A person commits the [crime] **offense** of unlawful use of
2 weapons if he or she knowingly:

3 (1) Carries concealed upon or about his or her person a knife, a firearm,
4 a blackjack or any other weapon readily capable of lethal use; or

5 (2) Sets a spring gun; or

6 (3) Discharges or shoots a firearm into a dwelling house, a railroad train,
7 boat, aircraft, or motor vehicle as defined in section 302.010, or any building or
8 structure used for the assembling of people; or

9 (4) Exhibits, in the presence of one or more persons, any weapon readily
10 capable of lethal use in an angry or threatening manner; or

11 (5) Has a firearm or projectile weapon readily capable of lethal use on his
12 or her person, while he or she is intoxicated, and handles or otherwise uses such
13 firearm or projectile weapon in either a negligent or unlawful manner or

14 discharges such firearm or projectile weapon unless acting in self-defense; or

15 (6) Discharges a firearm within one hundred yards of any occupied
16 schoolhouse, courthouse, or church building; or

17 (7) Discharges or shoots a firearm at a mark, at any object, or at random,
18 on, along or across a public highway or discharges or shoots a firearm into any
19 outbuilding; or

20 (8) Carries a firearm or any other weapon readily capable of lethal use
21 into any church or place where people have assembled for worship, or into any
22 election precinct on any election day, or into any building owned or occupied by
23 any agency of the federal government, state government, or political subdivision
24 thereof; or

25 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined
26 in section 301.010, discharges or shoots a firearm at any person, or at any other
27 motor vehicle, or at any building or habitable structure, unless the person was
28 lawfully acting in self-defense; or

29 (10) Carries a firearm, whether loaded or unloaded, or any other weapon
30 readily capable of lethal use into any school, onto any school bus, or onto the
31 premises of any function or activity sponsored or sanctioned by school officials or
32 the district school board; or

33 (11) Possesses a firearm while also knowingly in possession of a controlled
34 substance that is sufficient for a felony violation of section 195.202.

35 2. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not
36 apply to the persons described in this subsection, regardless of whether such uses
37 are reasonably associated with or are necessary to the fulfillment of such person's
38 official duties except as otherwise provided in this subsection. Subdivisions (3),
39 (4), (6), (7), and (9) of subsection 1 of this section shall not apply to or affect any
40 of the following persons, when such uses are reasonably associated with or are
41 necessary to the fulfillment of such person's official duties, except as otherwise
42 provided in this subsection:

43 (1) All state, county and municipal peace officers who have completed the
44 training required by the police officer standards and training commission
45 pursuant to sections 590.030 to 590.050 and who possess the duty and power of
46 arrest for violation of the general criminal laws of the state or for violation of
47 ordinances of counties or municipalities of the state, whether such officers are on
48 or off duty, and whether such officers are within or outside of the law
49 enforcement agency's jurisdiction, or all qualified retired peace officers, as defined
50 in subsection 12 of this section, and who carry the identification defined in
51 subsection 13 of this section, or any person summoned by such officers to assist
52 in making arrests or preserving the peace while actually engaged in assisting

53 such officer;

54 (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails
55 and other institutions for the detention of persons accused or convicted of crime;

56 (3) Members of the Armed Forces or National Guard while performing
57 their official duty;

58 (4) Those persons vested by Article V, Section 1 of the Constitution of
59 Missouri with the judicial power of the state and those persons vested by Article
60 III of the Constitution of the United States with the judicial power of the United
61 States, the members of the federal judiciary;

62 (5) Any person whose bona fide duty is to execute process, civil or
63 criminal;

64 (6) Any federal probation officer or federal flight deck officer as defined
65 under the federal flight deck officer program, 49 U.S.C. Section 44921 regardless
66 of whether such officers are on duty, or within the law enforcement agency's
67 jurisdiction;

68 (7) Any state probation or parole officer, including supervisors and
69 members of the board of probation and parole;

70 (8) Any corporate security advisor meeting the definition and fulfilling the
71 requirements of the regulations established by the department of public safety
72 under section 590.750;

73 (9) Any coroner, deputy coroner, medical examiner, or assistant medical
74 examiner;

75 (10) Any prosecuting attorney or assistant prosecuting attorney, circuit
76 attorney or assistant circuit attorney, or any person appointed by a court to be
77 a special prosecutor who has completed the firearms safety training course
78 required under subsection 2 of section 571.111;

79 (11) Any member of a fire department or fire protection district who is
80 employed on a full-time basis as a fire investigator and who has a valid concealed
81 carry endorsement issued prior to August 28, 2013, or a valid concealed carry
82 permit under section 571.111 when such uses are reasonably associated with or
83 are necessary to the fulfillment of such person's official duties; and

84 (12) Upon the written approval of the governing body of a fire department
85 or fire protection district, any paid fire department or fire protection district chief
86 who is employed on a full-time basis and who has a valid concealed carry
87 endorsement issued prior to August 28, 2013, or a valid concealed carry permit,
88 when such uses are reasonably associated with or are necessary to the fulfillment
89 of such person's official duties.

90 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not
91 apply when the actor is transporting such weapons in a nonfunctioning state or

92 in an unloaded state when ammunition is not readily accessible or when such
93 weapons are not readily accessible. Subdivision (1) of subsection 1 of this section
94 does not apply to any person nineteen years of age or older or eighteen years of
95 age or older and a member of the United States Armed Forces, or honorably
96 discharged from the United States Armed Forces, transporting a concealable
97 firearm in the passenger compartment of a motor vehicle, so long as such
98 concealable firearm is otherwise lawfully possessed, nor when the actor is also in
99 possession of an exposed firearm or projectile weapon for the lawful pursuit of
100 game, or is in his or her dwelling unit or upon premises over which the actor has
101 possession, authority or control, or is traveling in a continuous journey peaceably
102 through this state. Subdivision (10) of subsection 1 of this section does not apply
103 if the firearm is otherwise lawfully possessed by a person while traversing school
104 premises for the purposes of transporting a student to or from school, or
105 possessed by an adult for the purposes of facilitation of a school-sanctioned
106 firearm-related event or club event.

107 4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not
108 apply to any person who has a valid concealed carry permit issued pursuant to
109 sections 571.101 to 571.121, a valid concealed carry endorsement issued before
110 August 28, 2013, or a valid permit or endorsement to carry concealed firearms
111 issued by another state or political subdivision of another state.

112 5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this
113 section shall not apply to persons who are engaged in a lawful act of defense
114 pursuant to section 563.031.

115 6. Notwithstanding any provision of this section to the contrary, the state
116 shall not prohibit any state employee from having a firearm in the employee's
117 vehicle on the state's property provided that the vehicle is locked and the firearm
118 is not visible. This subsection shall only apply to the state as an employer when
119 the state employee's vehicle is on property owned or leased by the state and the
120 state employee is conducting activities within the scope of his or her
121 employment. For the purposes of this subsection, "state employee" means an
122 employee of the executive, legislative, or judicial branch of the government of the
123 state of Missouri.

124 7. Nothing in this section shall make it unlawful for a student to actually
125 participate in school-sanctioned gun safety courses, student military or ROTC
126 courses, or other school-sponsored or club-sponsored firearm-related events,
127 provided the student does not carry a firearm or other weapon readily capable of
128 lethal use into any school, onto any school bus, or onto the premises of any other
129 function or activity sponsored or sanctioned by school officials or the district
130 school board.

131 8. Unlawful use of weapons is a class [D] E felony unless committed
132 pursuant to subdivision (6), (7), or (8) of subsection 1 of this section, in which
133 cases it is a class B misdemeanor, or subdivision (5) or (10) of subsection 1 of this
134 section, in which case it is a class A misdemeanor if the firearm is unloaded and
135 a class [D] E felony if the firearm is loaded, or subdivision (9) of subsection 1 of
136 this section, in which case it is a class B felony, except that if the violation of
137 subdivision (9) of subsection 1 of this section results in injury or death to another
138 person, it is a class A felony.

139 9. Violations of subdivision (9) of subsection 1 of this section shall be
140 punished as follows:

141 (1) For the first violation a person shall be sentenced to the maximum
142 authorized term of imprisonment for a class B felony;

143 (2) For any violation by a prior offender as defined in section 558.016, a
144 person shall be sentenced to the maximum authorized term of imprisonment for
145 a class B felony without the possibility of parole, probation or conditional release
146 for a term of ten years;

147 (3) For any violation by a persistent offender as defined in section
148 558.016, a person shall be sentenced to the maximum authorized term of
149 imprisonment for a class B felony without the possibility of parole, probation, or
150 conditional release;

151 (4) For any violation which results in injury or death to another person,
152 a person shall be sentenced to an authorized disposition for a class A felony.

153 10. Any person knowingly aiding or abetting any other person in the
154 violation of subdivision (9) of subsection 1 of this section shall be subject to the
155 same penalty as that prescribed by this section for violations by other persons.

156 11. Notwithstanding any other provision of law, no person who pleads
157 guilty to or is found guilty of a felony violation of subsection 1 of this section shall
158 receive a suspended imposition of sentence if such person has previously received
159 a suspended imposition of sentence for any other firearms- or weapons-related
160 felony offense.

161 12. As used in this section "qualified retired peace officer" means an
162 individual who:

163 (1) Retired in good standing from service with a public agency as a peace
164 officer, other than for reasons of mental instability;

165 (2) Before such retirement, was authorized by law to engage in or
166 supervise the prevention, detection, investigation, or prosecution of, or the
167 incarceration of any person for, any violation of law, and had statutory powers of
168 arrest;

169 (3) Before such retirement, was regularly employed as a peace officer for

170 an aggregate of fifteen years or more, or retired from service with such agency,
171 after completing any applicable probationary period of such service, due to a
172 service-connected disability, as determined by such agency;

173 (4) Has a nonforfeitable right to benefits under the retirement plan of the
174 agency if such a plan is available;

175 (5) During the most recent twelve-month period, has met, at the expense
176 of the individual, the standards for training and qualification for active peace
177 officers to carry firearms;

178 (6) Is not under the influence of alcohol or another intoxicating or
179 hallucinatory drug or substance; and

180 (7) Is not prohibited by federal law from receiving a firearm.

181 13. The identification required by subdivision (1) of subsection 2 of this
182 section is:

183 (1) A photographic identification issued by the agency from which the
184 individual retired from service as a peace officer that indicates that the individual
185 has, not less recently than one year before the date the individual is carrying the
186 concealed firearm, been tested or otherwise found by the agency to meet the
187 standards established by the agency for training and qualification for active peace
188 officers to carry a firearm of the same type as the concealed firearm; or

189 (2) A photographic identification issued by the agency from which the
190 individual retired from service as a peace officer; and

191 (3) A certification issued by the state in which the individual resides that
192 indicates that the individual has, not less recently than one year before the date
193 the individual is carrying the concealed firearm, been tested or otherwise found
194 by the state to meet the standards established by the state for training and
195 qualification for active peace officers to carry a firearm of the same type as the
196 concealed firearm.

571.060. 1. A person commits the [crime] **offense** of unlawful transfer
2 of weapons if he:

3 (1) Knowingly sells, leases, loans, gives away or delivers a firearm or
4 ammunition for a firearm to any person who, under the provisions of section
5 571.070, is not lawfully entitled to possess such;

6 (2) Knowingly sells, leases, loans, gives away or delivers a blackjack to a
7 person less than eighteen years old without the consent of the child's custodial
8 parent or guardian, or recklessly, as defined in section 562.016, sells, leases,
9 loans, gives away or delivers any firearm to a person less than eighteen years old
10 without the consent of the child's custodial parent or guardian; provided, that this
11 does not prohibit the delivery of such weapons to any peace officer or member of
12 the Armed Forces or National Guard while performing his official duty; or

13 (3) Recklessly, as defined in section 562.016, sells, leases, loans, gives
14 away or delivers a firearm or ammunition for a firearm to a person who is
15 intoxicated.

16 2. Unlawful transfer of weapons under subdivision (1) of subsection 1 of
17 this section is a class [D] E felony; unlawful transfer of weapons under
18 subdivisions (2) and (3) of subsection 1 of this section is a class A misdemeanor.

571.063. 1. As used in this section the following terms shall mean:

2 (1) "Ammunition", any cartridge, shell, or projectile designed for use in a
3 firearm;

4 (2) "Licensed dealer", a person who is licensed under 18 U.S.C. Section
5 923 to engage in the business of dealing in firearms;

6 (3) "Materially false information", any information that portrays an illegal
7 transaction as legal or a legal transaction as illegal;

8 (4) "Private seller", a person who sells or offers for sale any firearm, as
9 defined in section 571.010, or ammunition.

10 2. A person commits the crime of fraudulent purchase of a firearm if such
11 person:

12 (1) Knowingly solicits, persuades, encourages or entices a licensed dealer
13 or private seller of firearms or ammunition to transfer a firearm or ammunition
14 under circumstances which the person knows would violate the laws of this state
15 or the United States; or

16 (2) Provides to a licensed dealer or private seller of firearms or
17 ammunition what the person knows to be materially false information with intent
18 to deceive the dealer or seller about the legality of a transfer of a firearm or
19 ammunition; or

20 (3) Willfully procures another to violate the provisions of subdivision (1)
21 or (2) of this subsection.

22 3. Fraudulent purchase of a firearm is a class [D] E felony.

23 4. This section shall not apply to criminal investigations conducted by the
24 United States Bureau of Alcohol, Tobacco, Firearms and Explosives, authorized
25 agents of such investigations, or to a peace officer, as defined in section 542.261,
26 acting at the explicit direction of the United States Bureau of Alcohol, Tobacco,
27 Firearms and Explosives.

571.070. 1. A person commits the [crime] offense of unlawful possession
2 of a firearm if such person knowingly has any firearm in his or her possession
3 and:

4 (1) Such person has been convicted of a felony under the laws of this
5 state, or of a crime under the laws of any state or of the United States which, if
6 committed within this state, would be a felony; or

7 (2) Such person is a fugitive from justice, is habitually in an intoxicated
8 or drugged condition, or is currently adjudged mentally incompetent.

9 2. Unlawful possession of a firearm is a class [C] **D** felony.

10 3. The provisions of subdivision (1) of subsection 1 of this section shall not
11 apply to the possession of an antique firearm.

571.072. 1. A person commits the [crime] **offense** of unlawful possession
2 of an explosive weapon if he or she has any explosive weapon in his or her
3 possession and:

4 (1) He or she has pled guilty to or has been convicted of a dangerous
5 felony, as defined in section 556.061, or of an attempt to commit a dangerous
6 felony, or of [a crime] **an offense** under the laws of any state or of the United
7 States which, if committed within this state, would be a dangerous felony, or
8 confined therefor in this state or elsewhere during the five-year period
9 immediately preceding the date of such possession; or

10 (2) He or she is a fugitive from justice, is habitually in an intoxicated or
11 drugged condition, or is currently adjudged mentally incompetent.

12 2. Unlawful possession of an explosive weapon is a class [C] **D** felony.

577.001. As used in this chapter, the following terms mean:

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

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

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

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

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

12 (b) [Has been found guilty of one] **Two** or more intoxication-related
13 boating offenses committed on separate occasions where at least one of the
14 intoxication-related [traffic] **boating** offenses is an offense committed in violation
15 of any state law, county or municipal ordinance, any federal offense, or any
16 military offense in which the defendant was operating a vessel while intoxicated
17 and another person was injured or killed;

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

23 control;

24 (4) "Court", any circuit, associate circuit, or municipal court, including
25 traffic court, but not any juvenile court or drug court;

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

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

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

35 (c) Two or more intoxication-related traffic offenses committed on separate
36 occasions where both intoxication-related traffic offenses were offenses committed
37 in violation of any state law, county or municipal ordinance, any federal offense,
38 or any military offense in which the defendant was operating a vehicle while
39 intoxicated and another person was injured or killed;

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

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

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

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

52 (7) "Continuous alcohol monitoring", automatically testing breath, blood,
53 or transdermal alcohol concentration levels and tampering attempts at least once
54 every hour, regardless of the location of the person who is being monitored, and
55 regularly transmitting the data. Continuous alcohol monitoring shall be
56 considered an electronic monitoring service under subsection 3 of section 217.690;

57 (8) "Controlled substance", a drug, substance, or immediate precursor in
58 schedules I to V listed in section 195.017;

59 (9) "Drive", "driving", "operates" or "operating", means physically driving
60 or operating a vehicle or vessel;

61 (10) "Flight crew member", the pilot in command, copilots, flight

62 engineers, and flight navigators;

63 (11) "Habitual offender", a person who has been found guilty of:

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

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

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

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

80 a. Cause the death of any person not a passenger in the vehicle operated
81 by the defendant, including the death of an individual that results from the
82 defendant's vehicle leaving a highway, as defined by section 301.010, or the
83 highway's right-of-way; or

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

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

88 (12) "Habitual boating offender", a person who has been found guilty of:

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

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

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

100 (d) While boating while intoxicated, the defendant acted with criminal

101 negligence to:

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

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

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

109 (13) "Intoxicated" or "intoxicated condition", when a person is under the
110 influence of alcohol, a controlled substance, or drug, or any combination thereof;

111 (14) "Intoxication-related boating offense", operating a vessel while
112 intoxicated; boating while intoxicated; operating a vessel with excessive blood
113 alcohol content or an offense in which the defendant was operating a vessel while
114 intoxicated and another person was injured or killed in violation of any state law,
115 county or municipal ordinance, any federal offense, or any military offense;

116 (15) "Intoxication-related traffic offense", driving while intoxicated,
117 driving with excessive blood alcohol content, **driving under the influence of**
118 **alcohol or drugs in violation of a county or municipal ordinance**, or an
119 offense in which the defendant was operating a vehicle while intoxicated and
120 another person was injured or killed in violation of any state law, county or
121 municipal ordinance, any federal offense, or any military offense;

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

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

128 (18) "Persistent offender", a person who has been found guilty of:

129 (a) Two or more intoxication-related traffic offenses committed on
130 separate occasions; **or**

131 (b) **One intoxication-related traffic offense committed in**
132 **violation of any state law, county or municipal ordinance, federal**
133 **offense, or military offense in which the defendant was operating a**
134 **vehicle while intoxicated and another person was injured or killed;**

135 (19) "Persistent boating offender", a person who has been found guilty of:

136 (a) Two or more intoxication-related boating offenses committed on
137 separate occasions; **or**

138 (b) **One intoxication-related boating offense committed in**
139 **violation of any state law, county or municipal ordinance, federal**

140 **offense, or military offense in which the defendant was operating a**
141 **vessel while intoxicated and another person was injured or killed;**

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

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

577.037. 1. Upon the trial of any person for any criminal offense or
2 violations of county or municipal ordinances, or in any license suspension or
3 revocation proceeding pursuant to the provisions of chapter 302, arising out of
4 acts alleged to have been committed by any person while operating a vehicle,
5 vessel, or aircraft, or acting as a flight crew member of any aircraft, while in an
6 intoxicated condition or with an excessive blood alcohol content, the amount of
7 alcohol in the person's blood at the time of the act, as shown by any chemical
8 analysis of the person's blood, breath, saliva, or urine, is admissible in evidence
9 and the provisions of subdivision (5) of section 491.060 shall not prevent the
10 admissibility or introduction of such evidence if otherwise admissible.

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

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

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

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

29 3. Percent by weight of alcohol in the blood shall be based upon grams of

30 alcohol per one hundred milliliters of blood or grams of alcohol per two hundred
31 ten liters of breath.

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

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

40 **6. For any criminal offense or violations of county or municipal**
41 **ordinances, or in any license suspension or revocation proceeding**
42 **pursuant to the provisions of chapter 302, arising out of acts alleged to**
43 **have been committed by any person while operating a vehicle, vessel,**
44 **or aircraft, or acting as a flight crew member of any aircraft, while in**
45 **an intoxicated condition or with an excessive blood alcohol content**
46 **occurring on or between the dates of December 30, 2012, and April 4,**
47 **2014, notwithstanding any other provision of law or regulation, a**
48 **relevant chemical analysis of a person's breath shall be admissible in**
49 **all proceedings after the effective date of this act, if the standard**
50 **simulator solutions used to verify and calibrate evidential breath**
51 **analyzers, had a vapor concentration within five percent of the**
52 **following values:**

53 (1) 0.10%;

54 (2) 0.08%; or

55 (3) 0.04%;

56 and otherwise was in accordance with methods and standards approved
57 by the state department of health and senior services. This provision
58 is a procedural rule and applies to all actions in progress whether
59 commenced before or after the effective date of this act. Such chemical
60 breath analysis shall be admissible in all proceedings after the effective
61 date of this act even if the offense occurred before the effective date of
62 this act.

63 7. It is the intent of the legislature to reverse, overturn, and
64 abrogate earlier case law interpretations related to the admissibility
65 of chemical breath analyses to include, but not be limited to, holdings
66 in *Stiers v. Dir. of Revenue*, No. SC4840 (Mo. Jan. 12, 2016); and *Stiers*
67 *v. Dir. of Revenue*, ED 101407, 2015 WL 343310 (Mo.App. E.D. Jan. 27,
68 2015).

577.037. 1. Upon the trial of any person for violation of any of the provisions of section 565.024, or section 565.060, or section 577.010 or 577.012, or upon the trial of any criminal action or violations of county or municipal ordinances or in any license suspension or revocation proceeding pursuant to the provisions of chapter 302 arising out of acts alleged to have been committed by any person while driving a motor vehicle while in an intoxicated condition, the amount of alcohol in the person's blood at the time of the act alleged as shown by any chemical analysis of the person's blood, breath, saliva or urine is admissible in evidence and the provisions of subdivision (5) of section 491.060 shall not prevent the admissibility or introduction of such evidence if otherwise admissible. If there was eight-hundredths of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.

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

3. The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was intoxicated.

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

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

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

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

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

42 **6. For any criminal offense or violations of county or municipal**
43 **ordinances, or in any license suspension or revocation proceeding**
44 **pursuant to the provisions of chapter 302, arising out of acts alleged to**
45 **have been committed by any person while operating a vehicle, vessel,**
46 **or aircraft, or acting as a flight crew member of any aircraft, while in**
47 **an intoxicated condition or with an excessive blood alcohol content**
48 **occurring on or between the dates of December 30, 2012, and April 4,**
49 **2014, notwithstanding any other provision of law or regulation, a**
50 **relevant chemical analysis of a person's breath shall be admissible in**
51 **all proceedings after the effective date of this act, if the standard**
52 **simulator solutions used to verify and calibrate evidential breath**
53 **analyzers, had a vapor concentration within five percent of the**
54 **following values:**

55 (1) 0.10%;

56 (2) 0.08%; or

57 (3) 0.04%;

58 and otherwise was in accordance with methods and standards approved
59 by the state department of health and senior services. This provision
60 is a procedural rule and applies to all actions in progress whether
61 commenced before or after the effective date of this act. Such chemical
62 breath analysis shall be admissible in all proceedings after the effective
63 date of this act even if the offense occurred before the effective date of
64 this act.

65 **7. It is the intent of the legislature to reverse, overturn, and**
66 **abrogate earlier case law interpretations related to the admissibility**
67 **of chemical breath analyses to include, but not be limited to, holdings**
68 **in Stiers v. Dir. of Revenue, No. SC4840 (Mo. Jan. 12, 2016); and Stiers**
69 **v. Dir. of Revenue, ED 101407, 2015 WL 343310 (Mo.App. E.D. Jan. 27,**
70 **2015).**

577.060. 1. A person commits the offense of leaving the scene of an
2 accident when:

3 (1) Being the operator of a vehicle or a vessel involved in an accident
4 resulting in injury or death or damage to property of another person; and

5 (2) Having knowledge of such accident he or she leaves the place of the
6 injury, damage or accident without stopping and giving the following information
7 to the other party or to a law enforcement officer, or if no law enforcement officer
8 is in the vicinity, then to the nearest law enforcement agency:

- 9 (a) His or her name;
10 (b) His or her residence, including city and street number;
11 (c) The registration or license number for his or her vehicle or vessel; and
12 (d) His or her operator's license number, if any.

13 2. For the purposes of this section, all law enforcement officers shall have
14 jurisdiction, when invited by an injured person, to enter the premises of any
15 privately owned property for the purpose of investigating an accident and
16 performing all necessary duties regarding such accident.

17 3. The offense of leaving the scene of an accident is:

- 18 (1) A class A misdemeanor; or
19 (2) A class E felony if:
20 (a) Physical injury was caused to another party; or
21 (b) Damage in excess of one thousand dollars was caused to the property
22 of another person; or
23 (c) The defendant has previously been found guilty of any offense **in**
24 **violation of this section;** or committed in another jurisdiction which, if
25 committed in this state, would be a violation of an offense in this section.

26 4. A law enforcement officer who investigates or receives information of
27 an accident involving an all-terrain vehicle and also involving the loss of life or
28 serious physical injury shall make a written report of the investigation or
29 information received and such additional facts relating to the accident as may
30 come to his or her knowledge, mail the information to the department of public
31 safety, and keep a record thereof in his or her office.

32 5. The provisions of this section shall not apply to the operation of
33 all-terrain vehicles when property damage is sustained in sanctioned all-terrain
34 vehicle races, derbies and rallies.

579.015. 1. A person commits the offense of possession of a controlled
2 substance if he or she knowingly possesses a controlled substance, except as
3 authorized by this chapter or chapter 195.

4 2. The offense of possession of any controlled substance except thirty-five
5 grams or less of marijuana or any synthetic cannabinoid is a class D felony.

6 3. The offense of possession of more than ten grams but **thirty-five**
7 **grams or** less [than thirty-six grams] of marijuana or any synthetic cannabinoid
8 is a class A misdemeanor.

9 4. The offense of possession of not more than ten grams of marijuana or
10 any synthetic cannabinoid is a class D misdemeanor. If the defendant has
11 previously been found guilty of any offense of the laws related to controlled
12 substances of this state, or of the United States, or any state, territory, or
13 district, the offense is a class A misdemeanor. Prior findings of guilt shall be

14 pleaded and proven in the same manner as required by section 558.021.

15 5. In any complaint, information, or indictment, and in any action or
16 proceeding brought for the enforcement of any provision of this chapter or chapter
17 195, it shall not be necessary to include any exception, excuse, proviso, or
18 exemption contained in this chapter or chapter 195, and the burden of proof of
19 any such exception, excuse, proviso or exemption shall be upon the defendant.

632.520. 1. For purposes of this section, the following terms mean:

2 (1) "Employee of the department of mental health", a person who is an
3 employee of the department of mental health, an employee or contracted employee
4 of a subcontractor of the department of mental health, or an employee or
5 contracted employee of a subcontractor of an entity responsible for confining
6 offenders as authorized by section 632.495;

7 (2) "Offender", a person ordered to the department of mental health after
8 a determination by the court that the person meets the definition of a sexually
9 violent predator, a person ordered to the department of mental health after a
10 finding of probable cause under section 632.489, or a person committed for
11 control, care, and treatment by the department of mental health under sections
12 632.480 to 632.513;

13 (3) "Secure facility", a facility operated by the department of mental
14 health or an entity responsible for confining offenders as authorized by section
15 632.495.

16 2. No offender shall knowingly commit violence to an employee of the
17 department of mental health or to another offender housed in a secure
18 facility. Violation of this subsection shall be a class B felony.

19 3. No offender shall knowingly damage any building or other property
20 owned or operated by the department of mental health. Violation of this
21 subsection shall be a class **[C] D** felony.

Section B. The repeal and reenactment of sections 192.2260, 301.559,
2 339.100, 400.9-501, 565.032, 571.020, 571.030, 571.060, 571.063, 571.070, 571.072,
3 and 632.520 of this act shall become effective on January 1, 2017.

Section C. Because of the need to protect the public from the danger of
2 intoxication related offenses in this state and to hold accountable those who
3 endanger their fellow citizens, the repeal and reenactment of the second
4 occurrence of section 577.037 of this act is deemed necessary for the immediate
5 preservation of the public health, welfare, peace and safety, and is hereby
6 declared to be an emergency act within the meaning of the constitution, the
7 repeal and reenactment of the second occurrence of section 577.037 of this act
8 shall be in full force and effect upon its passage and approval.

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