

FIRST REGULAR SESSION

# SENATE BILL NO. 46

99TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR LIBLA.

Pre-filed December 1, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

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## AN ACT

To repeal sections 217.703, 556.061, 565.002, 565.023, 565.024, 565.027, 565.050, 565.052, and 565.054, RSMo, and to enact in lieu thereof nine new sections relating to certain crimes against emergency services providers, with penalty provisions.

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

Section A. Sections 217.703, 556.061, 565.002, 565.023, 565.024, 565.027, 565.050, 565.052, and 565.054, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 217.703, 556.061, 565.002, 565.023, 565.024, 565.027, 565.050, 565.052, and 565.054, to read as follows:

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

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

(2) On probation, parole, or conditional release for an offense listed in chapter 579, or an offense previously listed in chapter 195, or for a class D or E felony, excluding the offenses of stalking in the first degree, rape in the second degree, sexual assault, sodomy in the second degree, deviate sexual assault, assault in the second degree under subdivision (2) of subsection 1 of section 565.052, sexual misconduct involving a child, endangering the welfare of a child in the first degree under subdivision (2) of subsection 1 of section 568.045, incest, invasion of privacy, abuse of a child, and any offense of aggravated stalking or assault in the second degree under subdivision (2) of subsection 1 of section 565.060 as such offenses existed prior to January 1, 2017;

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

16 (3) Supervised by the board; and

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

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

21 (1) Involuntary manslaughter in the second degree;

22 (2) Assault in the second degree except under subdivision (2) of subsection  
23 1 of section 565.052 or section 565.060 as it existed prior to January 1, 2017;

24 (3) Domestic assault in the second degree;

25 (4) Assault in the third degree when the victim is a special victim, **law**  
26 **enforcement officer, or emergency personnel as such terms are defined**  
27 **under section 565.002** or assault of a law enforcement officer in the second  
28 degree as it existed prior to January 1, 2017;

29 (5) Statutory rape in the second degree;

30 (6) Statutory sodomy in the second degree;

31 (7) Endangering the welfare of a child in the first degree under  
32 subdivision (1) of subsection 1 of section 568.045; or

33 (8) Any case in which the defendant is found guilty of a felony offense  
34 under chapter 571;

35 the sentencing court may, upon its own motion or a motion of the prosecuting or  
36 circuit attorney, make a finding that the offender is ineligible to earn compliance  
37 credits because the nature and circumstances of the offense or the history and  
38 character of the offender indicate that a longer term of probation, parole, or  
39 conditional release is necessary for the protection of the public or the guidance  
40 of the offender. The motion may be made any time prior to the first month in  
41 which the person may earn compliance credits under this section. The offender's  
42 ability to earn credits shall be suspended until the court or board makes its  
43 finding. If the court or board finds that the offender is eligible for earned  
44 compliance credits, the credits shall begin to accrue on the first day of the next  
45 calendar month following the issuance of the decision.

46 3. Earned compliance credits shall reduce the term of probation, parole,  
47 or conditional release by thirty days for each full calendar month of compliance  
48 with the terms of supervision. Credits shall begin to accrue for eligible offenders  
49 after the first full calendar month of supervision or on October 1, 2012, if the  
50 offender began a term of probation, parole, or conditional release before  
51 September 1, 2012.

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

56           5. Credits shall not accrue during any calendar month in which a  
57 violation report has been submitted or a motion to revoke or motion to suspend  
58 has been filed, and shall be suspended pending the outcome of a hearing, if a  
59 hearing is held. If no hearing is held or the court or board finds that the  
60 violation did not occur, then the offender shall be deemed to be in compliance and  
61 shall begin earning credits on the first day of the next calendar month following  
62 the month in which the report was submitted or the motion was filed. All earned  
63 credits shall be rescinded if the court or board revokes the probation or parole or  
64 the court places the offender in a department program under subsection 4 of  
65 section 559.036. Earned credits shall continue to be suspended for a period of  
66 time during which the court or board has suspended the term of probation, parole,  
67 or release, and shall begin to accrue on the first day of the next calendar month  
68 following the lifting of the suspension.

69           6. Offenders who are deemed by the division to be absconders shall not  
70 earn credits. For purposes of this subsection, "absconder" shall mean an offender  
71 under supervision who has left such offender's place of residency without the  
72 permission of the offender's supervising officer for the purpose of avoiding  
73 supervision. An offender shall no longer be deemed an absconder when such  
74 offender is available for active supervision.

75           7. Notwithstanding subsection 2 of section 217.730 to the contrary, once  
76 the combination of time served in custody, if applicable, time served on probation,  
77 parole, or conditional release, and earned compliance credits satisfy the total  
78 term of probation, parole, or conditional release, the board or sentencing court  
79 shall order final discharge of the offender, so long as the offender has completed  
80 at least two years of his or her probation or parole, which shall include any time  
81 served in custody under section 217.718 and sections 559.036 and 559.115.

82           8. The award or rescission of any credits earned under this section shall  
83 not be subject to appeal or any motion for postconviction relief.

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

88           10. No less than sixty days before the date of final discharge, the division  
89 shall notify the sentencing court, the board, and, for probation cases, the circuit  
90 or prosecuting attorney of the impending discharge. If the sentencing court, the  
91 board, or the circuit or prosecuting attorney upon receiving such notice does not  
92 take any action under subsection 5 of this section, the offender shall be  
93 discharged under subsection 7 of this section.

94           11. Any offender who was sentenced prior to January 1, 2017, to an  
95 offense that was eligible for earned compliance credits under subsection 1 or 2 of  
96 this section at the time of sentencing shall continue to remain eligible for earned  
97 compliance credits so long as the offender meets all the other requirements  
98 provided under this section.

          556.061. In this code, unless the context requires a different definition,  
2 the following terms shall mean:

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

6           (2) "Affirmative defense":

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

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

11          (3) "Burden of injecting the issue":

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

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

16          (4) "Commercial film and photographic print processor", any person who  
17 develops exposed photographic film into negatives, slides or prints, or who makes  
18 prints from negatives or slides, for compensation. The term commercial film and  
19 photographic print processor shall include all employees of such persons but shall  
20 not include a person who develops film or makes prints for a public agency;

21          (5) "Computer", the box that houses the central processing unit (CPU),  
22 along with any internal storage devices, such as internal hard drives, and  
23 internal communication devices, such as internal modems capable of sending or  
24 receiving electronic mail or fax cards, along with any other hardware stored or  
25 housed internally. Thus, computer refers to hardware, software and data

26 contained in the main unit. Printers, external modems attached by cable to the  
27 main unit, monitors, and other external attachments will be referred to  
28 collectively as peripherals and discussed individually when appropriate. When  
29 the computer and all peripherals are referred to as a package, the term "computer  
30 system" is used. Information refers to all the information on a computer system  
31 including both software applications and data;

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

34 (7) "Computer hardware", all equipment which can collect, analyze, create,  
35 display, convert, store, conceal or transmit electronic, magnetic, optical or similar  
36 computer impulses or data. Hardware includes, but is not limited to, any data  
37 processing devices, such as central processing units, memory typewriters and  
38 self-contained laptop or notebook computers; internal and peripheral storage  
39 devices, transistor-like binary devices and other memory storage devices, such as  
40 floppy disks, removable disks, compact disks, digital video disks, magnetic tape,  
41 hard drive, optical disks and digital memory; local area networks, such as two or  
42 more computers connected together to a central computer server via cable or  
43 modem; peripheral input or output devices, such as keyboards, printers, scanners,  
44 plotters, video display monitors and optical readers; and related communication  
45 devices, such as modems, cables and connections, recording equipment, RAM or  
46 ROM units, acoustic couplers, automatic dialers, speed dialers, programmable  
47 telephone dialing or signaling devices and electronic tone-generating devices; as  
48 well as any devices, mechanisms or parts that can be used to restrict access to  
49 computer hardware, such as physical keys and locks;

50 (8) "Computer network", two or more interconnected computers or  
51 computer systems;

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

54 (10) "Computer software", digital information which can be interpreted by  
55 a computer and any of its related components to direct the way they  
56 work. Software is stored in electronic, magnetic, optical or other digital  
57 form. The term commonly includes programs to run operating systems and  
58 applications, such as word processing, graphic, or spreadsheet programs, utilities,  
59 compilers, interpreters and communications programs;

60 (11) "Computer-related documentation", written, recorded, printed or  
61 electronically stored material which explains or illustrates how to configure or

62 use computer hardware, software or other related items;

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

65 (13) "Confinement":

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

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

70 b. The person is released on bail, bond, or recognizance, personal or  
71 otherwise; or

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

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

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

77 b. The person is under sentence to serve a term of confinement which is  
78 not continuous, or is serving a sentence under a work-release program, and in  
79 either such case is not being held in a place of confinement or is not being held  
80 under guard by a person having the legal power and duty to transport the person  
81 to or from a place of confinement;

82 (14) "Consent": consent or lack of consent may be expressed or  
83 implied. Assent does not constitute consent if:

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

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

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

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

94 (16) "Criminal negligence", failure to be aware of a substantial and  
95 unjustifiable risk that circumstances exist or a result will follow, and such failure  
96 constitutes a gross deviation from the standard of care which a reasonable person  
97 would exercise in the situation;

98           (17) "Custody", a person is in custody when he or she has been arrested  
99 but has not been delivered to a place of confinement;

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

103          (19) "Dangerous felony", the felonies of arson in the first degree, assault  
104 in the first degree, attempted rape in the first degree if physical injury results,  
105 attempted forcible rape if physical injury results, attempted sodomy in the first  
106 degree if physical injury results, attempted forcible sodomy if physical injury  
107 results, rape in the first degree, forcible rape, sodomy in the first degree, forcible  
108 sodomy, assault in the second degree if the victim of such assault is a special  
109 victim, **law enforcement officer, or emergency personnel as such terms**  
110 **are defined [in subdivision (14) of] under** section 565.002, kidnapping in the  
111 first degree, kidnapping, murder in the second degree, assault of a law  
112 enforcement officer in the first degree, domestic assault in the first degree, elder  
113 abuse in the first degree, robbery in the first degree, statutory rape in the first  
114 degree when the victim is a child less than twelve years of age at the time of the  
115 commission of the act giving rise to the offense, statutory sodomy in the first  
116 degree when the victim is a child less than twelve years of age at the time of the  
117 commission of the act giving rise to the offense, child molestation in the first or  
118 second degree, abuse of a child if the child dies as a result of injuries sustained  
119 from conduct chargeable under section 568.060, child kidnapping, parental  
120 kidnapping committed by detaining or concealing the whereabouts of the child for  
121 not less than one hundred twenty days under section 565.153, and an  
122 "intoxication-related traffic offense" or "intoxication-related boating offense" if the  
123 person is found to be a "habitual offender" or "habitual boating offender" as such  
124 terms are defined in section 577.001;

125          (20) "Dangerous instrument", any instrument, article or substance, which,  
126 under the circumstances in which it is used, is readily capable of causing death  
127 or other serious physical injury;

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

133          (22) "Deadly weapon", any firearm, loaded or unloaded, or any weapon

134 from which a shot, readily capable of producing death or serious physical injury,  
135 may be discharged, or a switchblade knife, dagger, billy club, blackjack or metal  
136 knuckles;

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

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

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

145 (26) "Felony", an offense so designated or an offense for which persons  
146 found guilty thereof may be sentenced to death or imprisonment for a term of  
147 more than one year;

148 (27) "Forcible compulsion" either:

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

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

152 (28) "Incapacitated", a temporary or permanent physical or mental  
153 condition in which a person is unconscious, unable to appraise the nature of his  
154 or her conduct, or unable to communicate unwillingness to an act;

155 (29) "Infraction", a violation defined by this code or by any other statute  
156 of this state if it is so designated or if no sentence other than a fine, or fine and  
157 forfeiture or other civil penalty, is authorized upon conviction;

158 (30) "Inhabitable structure", a vehicle, vessel or structure:

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

160 (b) Where people assemble for purposes of business, government,  
161 education, religion, entertainment, or public transportation; or

162 (c) Which is used for overnight accommodation of persons.

163 Any such vehicle, vessel, or structure is inhabitable regardless of whether a  
164 person is actually present.

165 If a building or structure is divided into separately occupied units, any unit not  
166 occupied by the actor is an inhabitable structure of another;

167 (31) "Knowingly", when used with respect to:

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



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

172 (32) "Law enforcement officer", any public servant having both the power  
173 and duty to make arrests for violations of the laws of this state, and federal law  
174 enforcement officers authorized to carry firearms and to make arrests for  
175 violations of the laws of the United States;

176 (33) "Misdemeanor", an offense so designated or an offense for which  
177 persons found guilty thereof may be sentenced to imprisonment for a term of  
178 which the maximum is one year or less;

179 (34) "Of another", property that any entity, including but not limited to  
180 any natural person, corporation, limited liability company, partnership,  
181 association, governmental subdivision or instrumentality, other than the actor,  
182 has a possessory or proprietary interest therein, except that property shall not  
183 be deemed property of another who has only a security interest therein, even if  
184 legal title is in the creditor pursuant to a conditional sales contract or other  
185 security arrangement;

186 (35) "Offense", any felony or misdemeanor;

187 (36) "Physical injury", slight impairment of any function of the body or  
188 temporary loss of use of any part of the body;

189 (37) "Place of confinement", any building or facility and the grounds  
190 thereof wherein a court is legally authorized to order that a person charged with  
191 or convicted of a crime be held;

192 (38) "Possess" or "possessed", having actual or constructive possession of  
193 an object with knowledge of its presence. A person has actual possession if such  
194 person has the object on his or her person or within easy reach and convenient  
195 control. A person has constructive possession if such person has the power and  
196 the intention at a given time to exercise dominion or control over the object either  
197 directly or through another person or persons. Possession may also be sole or  
198 joint. If one person alone has possession of an object, possession is sole. If two  
199 or more persons share possession of an object, possession is joint;

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

202 (40) "Public servant", any person employed in any way by a government  
203 of this state who is compensated by the government by reason of such person's  
204 employment, any person appointed to a position with any government of this  
205 state, or any person elected to a position with any government of this state. It

206 includes, but is not limited to, legislators, jurors, members of the judiciary and  
207 law enforcement officers. It does not include witnesses;

208 (41) "Purposely", when used with respect to a person's conduct or to a  
209 result thereof, means when it is his or her conscious object to engage in that  
210 conduct or to cause that result;

211 (42) "Recklessly", consciously disregarding a substantial and unjustifiable  
212 risk that circumstances exist or that a result will follow, and such disregard  
213 constitutes a gross deviation from the standard of care which a reasonable person  
214 would exercise in the situation;

215 (43) "Serious emotional injury", an injury that creates a substantial risk  
216 of temporary or permanent medical or psychological damage, manifested by  
217 impairment of a behavioral, cognitive or physical condition. Serious emotional  
218 injury shall be established by testimony of qualified experts upon the reasonable  
219 expectation of probable harm to a reasonable degree of medical or psychological  
220 certainty;

221 (44) "Serious physical injury", physical injury that creates a substantial  
222 risk of death or that causes serious disfigurement or protracted loss or  
223 impairment of the function of any part of the body;

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

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

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

233 (48) "Vessel", any boat or craft propelled by a motor or by machinery,  
234 whether or not such motor or machinery is a principal source of propulsion used  
235 or capable of being used as a means of transportation on water, or any boat or  
236 craft more than twelve feet in length which is powered by sail alone or by a  
237 combination of sail and machinery, and used or capable of being used as a means  
238 of transportation on water, but not any boat or craft having, as the only means  
239 of propulsion, a paddle or oars;

240 (49) "Voluntary act":

241 (a) A bodily movement performed while conscious as a result of effort or

determination. Possession is a voluntary act if the possessor knowingly procures or receives the thing possessed, or having acquired control of it was aware of his or her control for a sufficient time to have enabled him or her to dispose of it or terminate his or her control; or

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

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

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

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

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

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

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

(5) "Deliberation" means cool reflection for any length of time no matter how brief;

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

(7) **"Emergency personnel", any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician, assaulted in the performance of his or her official duties or as a direct result of such official duties;**

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

[(8)] (9) "Full or partial nudity", the showing of all or any part of the

26 human genitals, pubic area, buttock, or any part of the nipple of the breast of any  
27 female person, with less than a fully opaque covering;

28       [(9)] **(10) "Law enforcement officer", a law enforcement officer**  
29 **assaulted in the performance of his or her official duties or as a direct**  
30 **result of such official duties;**

31       **(11)** "Legal custody", the right to the care, custody and control of a child;

32       [(10)] **(12)** "Parent", either a biological parent or a parent by adoption;

33       [(11)] **(13)** "Person having a right of custody", a parent or legal guardian  
34 of the child;

35       [(12)] **(14)** "Photographs" or "films", the making of any photograph,  
36 motion picture film, videotape, or any other recording or transmission of the  
37 image of a person;

38       [(13)] **(15)** "Place where a person would have a reasonable expectation  
39 of privacy", any place where a reasonable person would believe that a person  
40 could disrobe in privacy, without being concerned that the person's undressing  
41 was being viewed, photographed or filmed by another;

42       [(14)] **(16)** "Special victim", any of the following:

43       (a) [A law enforcement officer assaulted in the performance of his or her  
44 official duties or as a direct result of such official duties;

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

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

51       [(d)] **(b)** An elderly person;

52       [(e)] **(c)** A person with a disability;

53       [(f)] **(d)** A vulnerable person;

54       [(g)] **(e)** Any jailer or corrections officer of the state or one of its political  
55 subdivisions assaulted in the performance of his or her official duties or as a  
56 direct result of such official duties;

57       [(h)] **(f)** A highway worker in a construction or work zone as the terms  
58 "highway worker", "construction zone", and "work zone" are defined under section  
59 304.580;

60       [(i)] **(g)** Any utility worker, meaning any employee of a utility that  
61 provides gas, heat, electricity, water, steam, telecommunications services, or

62 sewer services, whether privately, municipally, or cooperatively owned, while in  
63 the performance of his or her job duties, including any person employed under a  
64 contract;

65       [(j)] (h) Any cable worker, meaning any employee of a cable operator, as  
66 such term is defined in section 67.2677, including any person employed under  
67 contract, while in the performance of his or her job duties; and

68       [(k)] (i) Any employee of a mass transit system, including any employee  
69 of public bus or light rail companies, while in the performance of his or her job  
70 duties;

71       [(15)] (17) "Sudden passion", passion directly caused by and arising out  
72 of provocation by the victim or another acting with the victim which passion  
73 arises at the time of the offense and is not solely the result of former provocation;

74       [(16)] (18) "Trier", the judge or jurors to whom issues of fact, guilt or  
75 innocence, or the assessment and declaration of punishment are submitted for  
76 decision;

77       [(17)] (19) "Views", the looking upon of another person, with the unaided  
78 eye or with any device designed or intended to improve visual acuity, for the  
79 purpose of arousing or gratifying the sexual desire of any person.

565.023. 1. A person commits the offense of voluntary manslaughter if he  
2 or she:

3       (1) Causes the death of another person under circumstances that would  
4 constitute murder in the second degree under subdivision (1) of subsection 1 of  
5 section 565.021, except that he or she caused the death under the influence of  
6 sudden passion arising from adequate cause; or

7       (2) Knowingly assists another in the commission of self-murder.

8       2. The defendant shall have the burden of injecting the issue of influence  
9 of sudden passion arising from adequate cause under subdivision (1) of subsection  
10 1 of this section.

11       3. The offense of voluntary manslaughter is a class B felony **unless the**  
12 **victim of such manslaughter is a law enforcement officer or emergency**  
13 **personnel as such terms are defined under section 565.002, in which**  
14 **case it is a class A felony.**

565.024. 1. A person commits the offense of involuntary manslaughter in  
2 the first degree if he or she recklessly causes the death of another person.

3       2. The offense of involuntary manslaughter in the first degree is a class  
4 C felony **unless the victim of such manslaughter is a law enforcement**

5 **officer or emergency personnel as such terms are defined under section**  
6 **565.002, in which case it is a class B felony.**

565.027. 1. A person commits the offense of involuntary manslaughter in  
2 the second degree if he or she acts with criminal negligence to cause the death of  
3 any person.

4 2. The offense of involuntary manslaughter in the second degree is a class  
5 E felony **unless the victim of such manslaughter is a law enforcement**  
6 **officer or emergency personnel as such terms are defined under section**  
7 **565.002, in which case it is a class D felony.**

565.050. 1. A person commits the offense of assault in the first degree if  
2 he or she attempts to kill or knowingly causes or attempts to cause serious  
3 physical injury to another person.

4 2. The offense of assault in the first degree is a class B felony unless in  
5 the course thereof the person inflicts serious physical injury on the victim, or if  
6 the victim of such assault is a special victim, **law enforcement officer, or**  
7 **emergency personnel** as [the term "special victim" is] **such terms are defined**  
8 under section 565.002, in which case it is a class A felony.

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

3 (1) Attempts to kill or knowingly causes or attempts to cause serious  
4 physical injury to another person under the influence of sudden passion arising  
5 out of adequate cause; or

6 (2) Attempts to cause or knowingly causes physical injury to another  
7 person by means of a deadly weapon or dangerous instrument; or

8 (3) Recklessly causes serious physical injury to another person; or

9 (4) Recklessly causes physical injury to another person by means of  
10 discharge of a firearm.

11 2. The defendant shall have the burden of injecting the issue of influence  
12 of sudden passion arising from adequate cause under subdivision (1) of subsection  
13 1 of this section.

14 3. The offense of assault in the second degree is a class D felony, unless  
15 the victim of such assault is a special victim, as the term "special victim" is  
16 defined under section 565.002, in which case it is a class B felony, **or unless the**  
17 **victim of such assault is a law enforcement officer or emergency**  
18 **personnel as such terms are defined under section 565.002, in which**  
19 **case it is a class A felony.**

565.054. 1. A person commits the offense of assault in the third degree  
2 if he or she knowingly causes physical injury to another person.

3 2. The offense of assault in the third degree is a class E felony, unless the  
4 victim of such assault is a special victim, as the term "special victim" is defined  
5 under section 565.002, in which case it is a class D felony, **or unless the victim**  
6 **of such assault is a law enforcement officer or emergency personnel as**  
7 **such terms are defined under section 565.002, in which case it is a class**  
8 **C felony.**

✓

Unofficial

Bill

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