

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1633
99TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, May 7, 2018, with recommendation that the Senate Committee Substitute do pass.

5357S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 105.478, 303.025, 400.9-501, 488.029, 556.036, 556.037, 556.046, 556.061, 576.040, 577.001, 577.010, 577.013, 577.014, 579.020, 579.065, 579.068, and 595.045, RSMo, and to enact in lieu thereof twenty-two new sections relating to criminal offenses, with penalty provisions.

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

Section A. Sections 105.478, 303.025, 400.9-501, 488.029, 556.036, 556.037, 556.046, 556.061, 576.040, 577.001, 577.010, 577.013, 577.014, 579.020, 579.065, 579.068, and 595.045, RSMo, are repealed and twenty-two new section enacted in lieu thereof, to be known as sections 105.478, 303.025, 400.9-501, 488.029, 531.070, 556.036, 556.037, 556.046, 556.061, 570.095, 576.040, 576.042, 577.001, 577.010, 577.011, 577.013, 577.014, 579.020, 579.065, 579.068, 595.045, and 595.219, to read as follows:

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

(1) [For the first offense, such person is guilty of a] **The offense is a class B misdemeanor, unless the offense involves more than seven hundred fifty dollars in value of any combination of goods or services, in which case such person shall be guilty of a class A misdemeanor;**

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

303.025. 1. No owner of a motor vehicle registered in this state, or required to be registered in this state, shall operate, register or maintain registration of a motor vehicle, or permit another person to operate such vehicle,

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

4 unless the owner maintains the financial responsibility which conforms to the
5 requirements of the laws of this state. No nonresident shall operate or permit
6 another person to operate in this state a motor vehicle registered to such
7 nonresident unless the nonresident maintains the financial responsibility which
8 conforms to the requirements of the laws of the nonresident's state of
9 residence. Furthermore, no person shall operate a motor vehicle owned by
10 another with the knowledge that the owner has not maintained financial
11 responsibility unless such person has financial responsibility which covers the
12 person's operation of the other's vehicle; however, no owner or nonresident shall
13 be in violation of this subsection if he or she fails to maintain financial
14 responsibility on a motor vehicle which is inoperable or being stored and not in
15 operation. The director may prescribe rules and regulations for the
16 implementation of this section.

17 2. A motor vehicle owner shall maintain the owner's financial
18 responsibility in a manner provided for in section 303.160, or with a motor vehicle
19 liability policy which conforms to the requirements of the laws of this state. A
20 nonresident motor vehicle owner shall maintain the owner's financial
21 responsibility which conforms to the requirements of the laws of the nonresident's
22 state of residence.

23 3. Any person who violates this section is guilty of a misdemeanor. A first
24 violation of this section shall be punishable as a class D misdemeanor. A second
25 or subsequent violation of this section shall be punishable [by imprisonment in
26 the county jail for a term not to exceed fifteen days and/or a fine not to exceed
27 five hundred dollars] **as a class C misdemeanor**. Prior pleas of guilty and
28 prior findings of guilty shall be pleaded and proven in the same manner as
29 required by section 558.021. However, no person shall be found guilty of violating
30 this section if the operator demonstrates to the court that he or she met the
31 financial responsibility requirements of this section at the time the peace officer,
32 commercial vehicle enforcement officer or commercial vehicle inspector wrote the
33 citation. In addition to any other authorized punishment, the court shall notify
34 the director of revenue of any person convicted pursuant to this section and shall
35 do one of the following:

36 (1) Enter an order suspending the driving privilege as of the date of the
37 court order. If the court orders the suspension of the driving privilege, the court
38 shall require the defendant to surrender to it any driver's license then held by
39 such person. The length of the suspension shall be as prescribed in subsection

40 2 of section 303.042. The court shall forward to the director of revenue the order
41 of suspension of driving privilege and any license surrendered within ten days;

42 (2) Forward the record of the conviction for an assessment of four points;

43 (3) In lieu of an assessment of points, render an order of supervision as

44 provided in section 302.303. An order of supervision shall not be used in lieu of

45 points more than one time in any thirty-six-month period. Every court having

46 jurisdiction pursuant to the provisions of this section shall forward a record of

47 conviction to the Missouri state highway patrol, or at the written direction of the

48 Missouri state highway patrol, to the department of revenue, in a manner

49 approved by the director of the department of public safety. The director shall

50 establish procedures for the record keeping and administration of this section; or

51 (4) For a nonresident, suspend the nonresident's driving privileges in this

52 state in accordance with section 303.030 and notify the official in charge of the

53 issuance of licenses and registration certificates in the state in which such

54 nonresident resides in accordance with section 303.080.

55 4. Nothing in sections 303.010 to 303.050, 303.060, 303.140, 303.220,

56 303.290, 303.330 and 303.370 shall be construed as prohibiting the department

57 of insurance, financial institutions and professional registration from approving

58 or authorizing those exclusions and limitations which are contained in automobile

59 liability insurance policies and the uninsured motorist provisions of automobile

60 liability insurance policies.

61 5. If a court enters an order of suspension, the offender may appeal such

62 order directly pursuant to chapter 512 and the provisions of section 302.311 shall

63 not apply.

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 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.]

488.029. There shall be assessed and collected a surcharge of one hundred
2 fifty dollars in all criminal cases for any violation of chapter 195 **or chapter**
3 **579** in which a crime laboratory makes analysis of a controlled substance, but no
4 such surcharge shall be assessed when the costs are waived or are to be paid by
5 the state or when a criminal proceeding or the defendant has been dismissed by
6 the court. The moneys collected by clerks of the courts pursuant to the provisions
7 of this section shall be collected and disbursed as provided by sections 488.010 to
8 488.020. All such moneys shall be payable to the director of revenue, who shall
9 deposit all amounts collected pursuant to this section to the credit of the state
10 forensic laboratory account to be administered by the department of public safety
11 pursuant to section 650.105.

531.070. A finding of guilt of the offense of official misconduct
2 **shall be admissible as prima facie evidence in support of an**

3 **information in the nature of a quo warranto.**

556.036. 1. A prosecution for murder, rape in the first degree, forcible
2 rape, attempted rape in the first degree, attempted forcible rape, sodomy in the
3 first degree, forcible sodomy, attempted sodomy in the first degree, attempted
4 forcible sodomy, **abuse or neglect of a child**, or any class A felony may be
5 commenced at any time.

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

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

10 (2) For any misdemeanor, one year;

11 (3) For any infraction, six months;

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

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

16 (1) Any offense a material element of which is either fraud or a breach of
17 fiduciary obligation within one year after discovery of the offense by an aggrieved
18 party or by a person who has a legal duty to represent an aggrieved party and
19 who is himself or herself not a party to the offense, but in no case shall this
20 provision extend the period of limitation by more than three years. As used in
21 this subdivision, the term "person who has a legal duty to represent an aggrieved
22 party" shall mean the attorney general or the prosecuting or circuit attorney
23 having jurisdiction pursuant to section 407.553, for purposes of offenses
24 committed pursuant to sections 407.511 to 407.556; and

25 (2) Any offense based upon misconduct in office by a public officer or
26 employee at any time when the person is in public office or employment or within
27 two years thereafter, but in no case shall this provision extend the period of
28 limitation by more than three years; and

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

33 4. An offense is committed either when every element occurs, or, if a
34 legislative purpose to prohibit a continuing course of conduct plainly appears, at
35 the time when the course of conduct or the person's complicity therein is

36 terminated. Time starts to run on the day after the offense is committed.

37 5. A prosecution is commenced for a misdemeanor or infraction when the
38 information is filed and for a felony when the complaint or indictment is filed.

39 6. The period of limitation does not run:

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

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

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

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

556.037. Notwithstanding the provisions of section 556.036, prosecutions
2 for unlawful sexual offenses involving a person eighteen years of age or under **in**
3 **which the alleged offense occurred on or after August 28, 2018, may be**
4 **commenced at any time. Prosecutions for such offenses committed**
5 **before August 28, 2018,** must be commenced within thirty years after the
6 victim reaches the age of eighteen unless the prosecutions are for rape in the first
7 degree, forcible rape, attempted rape in the first degree, attempted forcible rape,
8 sodomy in the first degree, forcible sodomy, kidnapping, kidnapping in the first
9 degree, attempted sodomy in the first degree, or attempted forcible sodomy in
10 which case such prosecutions may be commenced at any time.

556.046. 1. A person may be convicted of an offense included in an offense
2 charged in the indictment or information. An offense is so included when:

3 (1) It is established by proof of the same or less than all the [facts]
4 **elements** required to establish the commission of the offense charged; or

5 (2) It is specifically denominated by statute as a lesser degree of the
6 offense charged; or

7 (3) It consists of an attempt to commit the offense charged or to commit
8 an offense otherwise included therein.

9 2. The court shall [not] be obligated to charge the jury with respect to an
10 included offense [unless] **only if:**

11 (1) **It is established by proof of the same or less than all the**
12 **elements required to establish the commission of the offense charged;**

13 (2) There is a **rational basis in the evidence** for a verdict acquitting

14 the person of the offense charged and convicting him **or her** of the included
15 offense; **and**

16 **(3) Either party requests the court to charge the jury with**
17 **respect to a specific included offense.**

18 **3. Failure of the defendant or defense counsel to request the**
19 **court to charge the jury with respect to a specific included offense shall**
20 **not be a basis for plain-error review on direct appeal or post-conviction**
21 **relief.**

22 **4. It shall be the trial court's duty to determine if a rational basis**
23 **in the evidence for a verdict exists.**

24 **5.** An offense is charged for the purposes of this section if:

25 (1) It is an indictment or information; or

26 (2) It is an offense submitted to the jury because there is a **rational** basis
27 for a verdict acquitting the person of the offense charged and convicting the
28 person of the included offense.

29 [3. The court shall be obligated to instruct the jury with respect to a
30 particular included offense only if there is a basis in the evidence for acquitting
31 the person of the immediately higher included offense and there is a basis in the
32 evidence for convicting the person of that particular included offense.]

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 as defined in subdivision (14) of section 565.002, kidnapping in the first
110 degree, kidnapping, murder in the second degree, assault of a law enforcement
111 officer in the first degree, domestic assault in the first degree, elder abuse in the
112 first degree, robbery in the first degree, statutory rape in the first degree [when]
113 **if** the victim is a child less than twelve years of age at the time of the commission
114 of the act giving rise to the offense, statutory sodomy in the first degree when the
115 victim is a child less than twelve years of age at the time of the commission of the
116 act giving rise to the offense, child molestation in the first or second degree,
117 abuse of a child if the child dies as a result of injuries sustained from conduct
118 chargeable under section 568.060, child kidnapping, parental kidnapping
119 committed by detaining or concealing the whereabouts of the child for not less
120 than one hundred twenty days under section 565.153, and [an] **delivery of a**
121 **controlled substance when the substance is a mixture or substance**
122 **containing a detectable amount of heroin. A "dangerous felony" shall**
123 **also include any** "intoxication-related traffic offense" or "intoxication-related
124 boating offense" if:

125 (a) The person is found to be a "habitual offender" or "habitual boating

126 offender" as such terms are defined in section 577.001; or

127 **(b) The person causes the death of:**

128 **a. Any person not a passenger in the vehicle or vessel operated**
129 **by the defendant;**

130 **b. Two or more persons; or**

131 **c. Any other person while the defendant had a blood alcohol**
132 **content of at least eighteen-hundredths of one percent by weight of**
133 **alcohol in his or her blood;**

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

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

142 (22) "Deadly weapon", any firearm, loaded or unloaded, or any weapon
143 from which a shot, readily capable of producing death or serious physical injury,
144 may be discharged, or a switchblade knife, dagger, billy club, blackjack or metal
145 knuckles;

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

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

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

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

157 (27) "Forcible compulsion" either:

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

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

161 (28) "Incapacitated", a temporary or permanent physical or mental

162 condition in which a person is unconscious, unable to appraise the nature of his
163 or her conduct, or unable to communicate unwillingness to an act;

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

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

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

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

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

172 Any such vehicle, vessel, or structure is inhabitable regardless of whether a
173 person is actually present. If a building or structure is divided into separately
174 occupied units, any unit not occupied by the actor is an inhabitable structure of
175 another;

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

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

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

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

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

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

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

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

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

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

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

211 (40) "Public servant", any person employed in any way by a government
212 of this state who is compensated by the government by reason of such person's
213 employment, any person appointed to a position with any government of this
214 state, or any person elected to a position with any government of this state. It
215 includes, but is not limited to, legislators, jurors, members of the judiciary and
216 law enforcement officers. It does not include witnesses;

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

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

224 (43) "Serious emotional injury", an injury that creates a substantial risk
225 of temporary or permanent medical or psychological damage, manifested by
226 impairment of a behavioral, cognitive or physical condition. Serious emotional
227 injury shall be established by testimony of qualified experts upon the reasonable
228 expectation of probable harm to a reasonable degree of medical or psychological
229 certainty;

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

233 (45) "Services", when used in relation to a computer system or network,

234 means use of a computer, computer system, or computer network and includes,
235 but is not limited to, computer time, data processing, and storage or retrieval
236 functions;

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

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

242 (48) "Vessel", any boat or craft propelled by a motor or by machinery,
243 whether or not such motor or machinery is a principal source of propulsion used
244 or capable of being used as a means of transportation on water, or any boat or
245 craft more than twelve feet in length which is powered by sail alone or by a
246 combination of sail and machinery, and used or capable of being used as a means
247 of transportation on water, but not any boat or craft having, as the only means
248 of propulsion, a paddle or oars;

249 (49) "Voluntary act":

250 (a) A bodily movement performed while conscious as a result of effort or
251 determination. Possession is a voluntary act if the possessor knowingly procures
252 or receives the thing possessed, or having acquired control of it was aware of his
253 or her control for a sufficient time to have enabled him or her to dispose of it or
254 terminate his or her control; or

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

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

**570.095. 1. A person commits the offense of filing false
2 documents if:**

3 **(1) With the intent to defraud, deceive, harass, alarm, or**
4 **negatively impact financially, or in such a manner reasonably**
5 **calculated to deceive, defraud, harass, alarm, or negatively impact**
6 **financially, he or she files, causes to be filed or recorded, or attempts**
7 **to file or record, creates, uses as genuine, transfers or has transferred,**
8 **presents, or prepares with knowledge or belief that it will be filed,**

9 presented, recorded, or transferred to the secretary of state or his or
10 her designee, to any recorder of deeds of any county or city not within
11 a county or his or her designee, to any municipal, county, district, or
12 state government entity, division, agency, or office, or to any credit
13 bureau or financial institution any of the following types of documents:

- 14 (a) Common law lien;
 - 15 (b) Uniform commercial code filing or record;
 - 16 (c) Real property recording;
 - 17 (d) Financing statement;
 - 18 (e) Contract;
 - 19 (f) Warranty, special, or quitclaim deed;
 - 20 (g) Quiet title claim or action;
 - 21 (h) Deed in lieu of foreclosure;
 - 22 (i) Legal affidavit;
 - 23 (j) Legal process;
 - 24 (k) Legal summons;
 - 25 (l) Bills and due bills;
 - 26 (m) Criminal charging documents or materially false criminal
27 charging documents;
 - 28 (n) Any other document not stated in this subdivision that is
29 related to real property; or
 - 30 (o) Any state, county, district, federal, municipal, credit bureau,
31 or financial institution form or document; and
- 32 (2) Such document listed in subdivision (1) of this subsection:
 - 33 (a) Contains materially false information;
 - 34 (b) Is fraudulent;
 - 35 (c) Is a forgery, as defined in section 570.090;
 - 36 (d) Lacks the consent of all parties listed in documents where
37 mutual consent is required; or
 - 38 (e) is otherwise invalid under Missouri law.

39 2. Filing false documents under this section shall be punishable
40 as a class D felony for the first offense except under the following
41 circumstances where filing false documents shall be punishable a class
42 C felony:

- 43 (1) The defendant has been previously found guilty or pleaded
44 guilty to a violation of this section;
- 45 (2) The victim or named party in the matter:

46 (a) Is an official elected or appointed to municipal, county,
47 district, federal, or statewide office; or

48 (b) Is an employee of an official who has been elected or
49 appointed to municipal, county, district, federal, or statewide office;

50 (3) The victim or named party in the matter is a judge or
51 magistrate of:

52 (a) Any court or division of the court in this or any other state
53 or an employee of any court of this state or any other state; or

54 (b) Any court system of the United States or is an employee of
55 any court of the United States;

56 (4) The victim or named party in the matter is a full-time, part-
57 time, auxiliary, or reserve peace officer, as defined in section 590.010,
58 licensed in this state or any other state;

59 (5) The victim or named party in the matter is a full-time, part-
60 time, or volunteer firefighter in this state or any other state;

61 (6) The victim or named party in the matter is an officer of
62 federal job class 1811 who is empowered to enforce United States laws;

63 (7) The victim or named party in the matter is a law enforcement
64 officer of the United States as defined in 5 U.S.C. 8401(17)(A) or (D);

65 (8) The victim or named party in the matter is an employee of
66 any law enforcement or legal prosecution agency in this state, any
67 other state, or the United States;

68 (9) The victim or named party in the matter is an employee of a
69 federal agency that has agents or officers who are of job class 1811 who
70 are empowered to enforce United States laws or is an employee of a
71 federal agency that has law enforcement officers as defined in 5 U.S.C.
72 8401(17)(A) or (D); or

73 (10) The victim or named party in the matter is an officer of the
74 railroad police as defined in section 388.600.

75 3. For a penalty enhancement as described in subsection 2 of this
76 section to apply, the occupation of the victim or named party shall be
77 material to the subject matter of the document or documents filed or
78 the relief sought by the document or documents filed, and the
79 occupation of the victim or named party shall be materially connected
80 to the apparent reason that the victim has been named, victimized, or
81 involved. For purposes of this subsection and subsection 2 of this
82 section, a person who has retired or resigned from any agency,

83 institution, or occupation listed under subsection 2 of this section shall
84 be considered the same as a person who remains in employment and
85 shall also include the following family members of a person listed
86 under subdivisions (2) to (9) of subsection 2 of this section:

87 (1) Such person's spouse;

88 (2) The ancestor or descendant by blood or adoption of such
89 person or such person's spouse; or

90 (3) Such person's stepchild, while the marriage creating that
91 relationship exists.

92 4. Any person who pleads guilty or is found guilty under
93 subsections 1 to 3 of this section shall be ordered by the court to make
94 full restitution to any person or entity that has sustained actual losses
95 or costs as a result of the actions of the defendants. Such restitution
96 shall not be paid in lieu of jail or prison time, but rather in addition to
97 any jail or prison time imposed by the court.

98 5. (1) Nothing in this section shall limit the power of the state
99 to investigate, charge, or punish any person for any conduct that
100 constitutes a crime by any other statute of this state or the United
101 States.

102 (2) A receiving entity shall not be required to retain the filing or
103 record in question for prosecution under this section. A filing or
104 record being rejected by the receiving entity shall not be used as an
105 affirmative defense.

106 6. (1) Any agency of the state, county, or city not within a
107 county, which is responsible for or receives document filings or
108 records, including county recorders of deeds and the secretary of state,
109 shall, by January 1, 2019, impose a system in which the documents that
110 have been submitted to the receiving agency or in the case of the
111 secretary of state those filings rejected under its legal authority, are
112 logged or noted in a ledger, spreadsheet, or similar recording method
113 if the filing or recording officer or employee believes the filings or
114 records appear to be fraudulent or contain suspicious language. The
115 receiving agency shall make available noted documents for review by:

116 (a) The jurisdictional prosecuting or circuit attorney, or his or
117 her designee;

118 (b) The county sheriff, or his or her designee;

119 (c) The police chief of a city not within a county, or his or her

120 designee; or

121 (d) A commissioned peace officer, as that term is defined in
122 section 590.010.

123 Review of such documents is permissible for the agent or agencies
124 under this subdivision without the need of a grand jury subpoena or
125 court order. No fees or monetary charges shall be levied on the
126 investigative agents or agencies for review of documents noted in the
127 ledger or spreadsheet. The ledger or spreadsheet and its contents shall
128 be retained by the agency that controls entries into such ledger or
129 spreadsheet for a minimum of three years from the earliest entry listed
130 in the ledger or spreadsheet.

131 (2) The receiving entity shall, upon receipt of a filing or record
132 that has been noted as a suspicious filing or record, notify the chief law
133 enforcement officer or his or her designee and the prosecuting attorney
134 or his or her designee of the existence of the filing or
135 record. Notification shall be made within two business days of the
136 filing or record having been received. Notification may be
137 accomplished via electronic mail or via paper memorandum.

138 (3) No agency receiving the filing or record shall be required
139 under this section to notify the person conducting the filing or record
140 that the filing or record has been entered as a logged or noted filing or
141 record.

142 (4) Reviews to ensure compliance with the provisions of this
143 section shall be the responsibility of any commissioned peace
144 officer. Findings of noncompliance shall be reported to the
145 jurisdictional prosecuting or circuit attorney or his or her designee by
146 any commissioned peace officer who has probable cause to believe that
147 the noncompliance has taken place purposely, knowingly, recklessly, or
148 with criminal negligence, as described under section 562.016.

149 7. To petition for a judicial review of a filing or record that is
150 believed to be fraudulent, false, misleading, forged, or contains
151 materially false information, a petitioner may file a probable cause
152 statement that delineates the basis for the belief that the filing or
153 record is materially false, contains materially false information, is a
154 forgery, is fraudulent, or is misleading. This probable cause statement
155 shall be filed in the associate or circuit court of the county in which the
156 original filing or record was transferred, received, or recorded.

157 **8. A filed petition under this section shall have an initial hearing**
158 **date within twenty business days of the petition being filed with the**
159 **court. A court ruling of "invalid" shall be evidence that the original**
160 **filing or record was not accurate, true, or correct. A court ruling of**
161 **"invalid" shall be retained or recorded at the original receiving**
162 **entity. The receiving entity shall waive all filing or recording fees**
163 **associated with the filing or recording of the court ruling document in**
164 **this subsection. This ruling may be forwarded to credit bureaus or**
165 **other institutions at the request of the petitioner via motion to the**
166 **applicable court at no additional cost to the petitioner.**

167 **9. If a filing or record is deemed invalid, court costs and fees**
168 **shall be the responsibility of the party who originally initiated the**
169 **filing or record. If the filing or record is deemed valid, no court costs**
170 **or fees, in addition to standard filing fees, shall be assessed.**

576.040. 1. A public servant, in such person's public capacity or under
2 color of such person's office or employment, commits the offense of official
3 misconduct if he or she:

4 (1) Knowingly discriminates against any employee or any applicant for
5 employment on account of race, creed, color, sex or national origin, provided such
6 employee or applicant possesses adequate training and educational qualifications;

7 (2) **Exercises an official function relating to his or her office or**
8 **knowingly refrains from performing a duty imposed upon him or her**
9 **by law for the sole purpose of obtaining an undue or unreasonable**
10 **financial benefit for himself or herself or another person related within**
11 **the third degree of consanguinity, or another person who is a business**
12 **associate, or another person when such financial benefit also directly**
13 **or indirectly benefits the public servant, and the result of the undue or**
14 **unreasonable financial benefit would affect the public servant or other**
15 **person in a substantially different manner or degree than the manner**
16 **or degree in which the public in general will be affected or, if the**
17 **matter affects only a special class of persons, then affected in a**
18 **substantially different manner or degree than the manner or degree in**
19 **which such class will be affected, except that such public servant may**
20 **act on increases in compensation subject to the restrictions of Section**
21 **13 of Article VII of the Missouri Constitution;**

22 (3) Knowingly demands or receives any fee or reward for the execution of
23 any official act or the performance of a duty imposed by law or by the terms of his

24 or her employment, that is not due, or that is more than is due, or before it is
25 due;

26 [(3)] (4) Knowingly collects taxes when none are due, or exacts or
27 demands more than is due;

28 [(4)] (5) Is a city or county treasurer, city or county clerk, or other
29 municipal or county officer and knowingly orders the payment of any money, or
30 draws any warrant, or pays over any money for any purpose other than the
31 specific purpose for which the same was assessed, levied and collected, unless it
32 is or shall have become impossible to use such money for that specific purpose;

33 [(5)] (6) Is an officer or employee of any court and knowingly charges,
34 collects or receives less fee for his services than is provided by law;

35 [(6)] (7) Is an officer or employee of any court and knowingly, directly or
36 indirectly, buys, purchases or trades for any fee taxed or to be taxed as costs in
37 any court of this state, or any county warrant, at less than par value which may
38 be by law due or to become due to any person by or through any such court; or

39 [(7)] (8) Is a county officer, deputy or employee and knowingly traffics
40 for or purchases at less than the par value or speculates in any county warrant
41 issued by order of the county commission of his or her county, or in any claim or
42 demand held against such county.

43 2. The offense of official misconduct is a class A misdemeanor.

**576.042. A prosecuting attorney or circuit attorney or law
2 enforcement agency may request the state auditor or his or her
3 authorized representatives to audit all or part of any political
4 subdivision, its employees or its elected officials, exclusively as part of
5 an investigation of official misconduct relating to the receipt and
6 expenditure of public funds. The state auditor shall report any findings
7 to the requesting entity. Nothing in this section shall be construed to
8 violate the provisions established in Article IV, Section 13 of the
9 Missouri Constitution.**

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

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

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

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

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

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

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

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

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

41 (b) Three or more intoxication-related boating offenses committed on
42 separate occasions where at least one of the intoxication-related boating offenses
43 is an offense committed in violation of any state law, county or municipal

44 ordinance, any federal offense, or any military offense in which the defendant was
45 operating a vessel while intoxicated and another person was injured or killed; or

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

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

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

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

60 (10) "Flight crew member", the pilot in command, copilots, flight
61 engineers, and flight navigators;

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

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

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

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

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

77 (a) Five or more intoxication-related boating offenses; **[or]**

78 (b) Four or more intoxication-related boating offenses committed on
79 separate occasions where at least one of the intoxication-related boating offenses

80 is an offense committed in violation of any state law, county or municipal
81 ordinance, any federal offense, or any military offense in which the defendant was
82 operating a vessel while intoxicated and another person was injured or killed; or

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

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

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

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

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

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

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

104 (15) "Intoxication-related traffic offense", driving while intoxicated,
105 driving with excessive blood alcohol content, driving under the influence of
106 alcohol or drugs in violation of a state law, county or municipal ordinance, any
107 federal offense, or any military offense, or an offense in which the defendant was
108 operating a vehicle while intoxicated and another person was injured or killed in
109 violation of any state law, county or municipal ordinance, any federal offense, or
110 any military offense;

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

115 (17) "Operate a vessel", to physically control the movement of a vessel in

116 motion under mechanical or sail power in water;

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

118 (a) Two or more intoxication-related traffic offenses committed on separate
119 occasions; or

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

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

125 (a) Two or more intoxication-related boating offenses committed on
126 separate occasions; or

127 (b) One intoxication-related boating offense committed in violation of any
128 state law, county or municipal ordinance, federal offense, or military offense in
129 which the defendant was operating a vessel while intoxicated and another person
130 was injured or killed;

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

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

577.010. 1. A person commits the offense of driving while intoxicated if
2 he or she operates a vehicle while in an intoxicated condition.

3 2. The offense of driving while intoxicated is:

4 (1) A class B misdemeanor;

5 (2) A class A misdemeanor if:

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

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

8 (3) A class E felony if:

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

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

12 (4) A class D felony if:

13 (a) The defendant is an aggravated offender;

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

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

19 (5) A class C felony if:

20 (a) The defendant is a chronic offender;

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

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

26 (6) A class B felony if:

27 (a) The defendant is a habitual offender;

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

31 (c) While driving while intoxicated, the defendant acts with criminal
32 negligence to cause the death of any person not a passenger in the vehicle
33 operated by the defendant, including the death of an individual that results from
34 the defendant's vehicle leaving a highway, as defined in section 301.010, or the
35 highway's right-of-way;

36 (d) While driving while intoxicated, the defendant acts with criminal
37 negligence to cause the death of two or more persons; or

38 (e) While driving while intoxicated, the defendant acts with criminal
39 negligence to cause the death of any person while he or she has a blood alcohol
40 content of at least eighteen-hundredths of one percent by weight of alcohol in
41 such person's blood;

42 (7) A class A felony if the defendant has previously been found guilty of
43 an offense under paragraphs (a) to (e) of subdivision (6) of this subsection and is
44 found guilty of a subsequent violation of such paragraphs.

45 3. Notwithstanding the provisions of subsection 2 of this section, a person
46 found guilty of the offense of driving while intoxicated as a first offense shall not
47 be granted a suspended imposition of sentence:

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

50 (2) In a circuit where a DWI court or docket created under section 478.007
51 or other court-ordered treatment program is available, and where the offense was
52 committed with fifteen-hundredths of one percent or more by weight of alcohol in
53 such person's blood, unless the individual participates and successfully completes
54 a program under such DWI court or docket or other court-ordered treatment
55 program.

56 4. If a person is found guilty of a second or subsequent offense of driving
57 while intoxicated, the court may order the person to submit to a period of
58 continuous alcohol monitoring or verifiable breath alcohol testing performed a
59 minimum of four times per day as a condition of probation.

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

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

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

68 6. A person found guilty of the offense of driving while intoxicated:

69 (1) [As a prior offender, persistent offender, aggravated offender, chronic
70 offender, or habitual offender] Shall not be granted a suspended imposition of
71 sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section
72 557.011 to the contrary notwithstanding, **if:**

73 **(a) The offender is a prior offender, persistent offender,**
74 **aggravated offender, chronic offender, or habitual offender; or**

75 **(b) The offense causes the death of:**

76 **a. Any person not a passenger in the vehicle operated by the**
77 **defendant;**

78 **b. Two or more persons; or**

79 **c. Any person while the offender has a blood alcohol content of**
80 **at least eighteen-hundredths of one percent by weight of alcohol in**
81 **such offender's blood;**

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

84 (a) Unless as a condition of such parole or probation such person performs
85 at least thirty days of community service under the supervision of the court in

86 those jurisdictions which have a recognized program for community service; or

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

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

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

96 (b) The offender participates in and successfully completes a program
97 established under section 478.007 or other court-ordered treatment program, if
98 available, and as part of either program, the offender performs at least sixty days
99 of community service under the supervision of the court;

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

102 (5) As a chronic or habitual offender shall not be eligible for parole or
103 probation until he or she has served a minimum of two years imprisonment; and

104 (6) Any probation or parole granted under this subsection may include a
105 period of continuous alcohol monitoring or verifiable breath alcohol testing
106 performed a minimum of four times per day.

**577.011. 1. This section shall be known and may be cited as
2 "Toby's Law".**

**3 2. In addition to other terms and conditions imposed on a person
4 who has pled guilty to or been found guilty of driving while intoxicated
5 under section 577.010, such person shall complete a victim impact
6 program approved by the court. Such person shall be responsible for
7 any charges imposed by the victim impact program.**

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

3 2. The offense of boating while intoxicated is:

4 (1) A class B misdemeanor;

5 (2) A class A misdemeanor if:

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

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

8 (3) A class E felony if:

- 9 (a) The defendant is a persistent boating offender; or
- 10 (b) While boating while intoxicated, the defendant acts with criminal
11 negligence to cause physical injury to another person;
- 12 (4) A class D felony if:
- 13 (a) The defendant is an aggravated boating offender;
- 14 (b) While boating while intoxicated, the defendant acts with criminal
15 negligence to cause physical injury to a law enforcement officer or emergency
16 personnel; or
- 17 (c) While boating while intoxicated, the defendant acts with criminal
18 negligence to cause serious physical injury to another person;
- 19 (5) A class C felony if:
- 20 (a) The defendant is a chronic boating offender;
- 21 (b) While boating while intoxicated, the defendant acts with criminal
22 negligence to cause serious physical injury to a law enforcement officer or
23 emergency personnel; or
- 24 (c) While boating while intoxicated, the defendant acts with criminal
25 negligence to cause the death of another person;
- 26 (6) A class B felony if:
- 27 (a) The defendant is a habitual boating offender; or
- 28 (b) While boating while intoxicated, the defendant acts with criminal
29 negligence to cause the death of:
- 30 **a. A law enforcement officer or emergency personnel; or**
- 31 **b. Any person not a passenger in the vessel operated by the**
32 **defendant;**
- 33 **c. Two or more persons; or**
- 34 **d. Any person while the defendant has a blood alcohol content**
35 **of at least eighteen-hundredths of one percent by weight of alcohol in**
36 **such defendant's blood;**
- 37 (7) A class A felony if the defendant is a habitual offender as a result of
38 being found guilty of an act described under paragraph (d) of subdivision (12) of
39 section 577.001 and is found guilty of a subsequent violation of such paragraph.
- 40 3. Notwithstanding the provisions of subsection 2 of this section, a person
41 found guilty of the offense of boating while intoxicated as a first offense shall not
42 be granted a suspended imposition of sentence:
- 43 (1) Unless such person shall be placed on probation for a minimum of two
44 years; or

45 (2) In a circuit where a DWI court or docket created under section 478.007
46 or other court-ordered treatment program is available, and where the offense was
47 committed with fifteen-hundredths of one percent or more by weight of alcohol in
48 such person's blood, unless the individual participates in and successfully
49 completes a program under such DWI court or docket or other court-ordered
50 treatment program.

51 4. If a person is found guilty of a second or subsequent offense of boating
52 while intoxicated, the court may order the person to submit to a period of
53 continuous alcohol monitoring or verifiable breath alcohol testing performed a
54 minimum of four times per day as a condition of probation.

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

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

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

63 6. A person found guilty of the offense of boating while intoxicated:

64 (1) As a prior boating offender, persistent boating offender, aggravated
65 boating offender, chronic boating offender or habitual boating offender shall not
66 be granted a suspended imposition of sentence or be sentenced to pay a fine in
67 lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

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

70 (a) Unless as a condition of such parole or probation such person performs
71 at least two hundred forty hours of community service under the supervision of
72 the court in those jurisdictions which have a recognized program for community
73 service; or

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

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

79 (a) Unless as a condition of such parole or probation such person performs
80 at least four hundred eighty hours of community service under the supervision

81 of the court in those jurisdictions which have a recognized program for community
82 service; or

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

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

88 (5) As a chronic or habitual boating offender shall not be eligible for
89 parole or probation until he or she has served a minimum of two years
90 imprisonment; and

91 (6) Any probation or parole granted under this subsection may include a
92 period of continuous alcohol monitoring or verifiable breath alcohol testing
93 performed a minimum of four times per day.

577.014. 1. A person commits the offense of boating with excessive blood
2 alcohol content if he or she operates a vessel while having eight-hundredths of
3 one percent or more by weight of alcohol in his or her blood.

4 2. As used in this section, percent by weight of alcohol in the blood shall
5 be based upon grams of alcohol per one hundred milliliters of blood or two
6 hundred ten liters of breath and may be shown by chemical analysis of the
7 person's blood, breath, saliva or urine. For the purposes of determining the
8 alcoholic content of a person's blood under this section, the test shall be
9 conducted in accordance with the provisions of sections 577.020 to 577.041.

10 3. The offense of boating with excessive blood alcohol content is:

11 (1) A class B misdemeanor;

12 (2) A class A misdemeanor if the defendant is alleged and proved to be a
13 prior boating offender;

14 (3) A class E felony if the defendant is alleged and proved to be a
15 persistent boating offender;

16 (4) A class D felony if the defendant is alleged and proved to be an
17 aggravated boating offender;

18 (5) A class C felony if the defendant is alleged and proved to be a chronic
19 boating offender;

20 (6) A class B felony if the defendant is alleged and proved to be a habitual
21 boating offender **or, at the time of the offense, the defendant acted with**
22 **criminal negligence to cause the death of:**

23 (a) **Any person not a passenger in the vessel operated by the**

24 **defendant;**

25 **(b) Two or more persons; or**

26 **(c) Any person while the defendant has a blood alcohol content**
27 **of at least eighteen-hundredths of one percent by weight of alcohol in**
28 **the defendant's blood.**

29 4. A person found guilty of the offense of boating with excessive blood
30 alcohol content as a first offense shall not be granted a suspended imposition of
31 sentence:

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

34 (2) In a circuit where a DWI court or docket created under section 478.007
35 or other court-ordered treatment program is available, and where the offense was
36 committed with fifteen-hundredths of one percent or more by weight of alcohol in
37 such person's blood unless the individual participates in and successfully
38 completes a program under such DWI court or docket or other court-ordered
39 treatment program.

40 5. When a person is not granted a suspended imposition of sentence for
41 the reasons described in subsection 4 of this section:

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

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

48 6. If a person is found guilty of a second or subsequent offense of boating
49 with an excessive blood alcohol content, the court may order the person to submit
50 to a period of continuous alcohol monitoring or verifiable breath alcohol testing
51 performed a minimum of four times per day as a condition of probation.

52 7. A person found guilty of the offense of boating with excessive blood
53 alcohol content:

54 (1) As a prior boating offender, persistent boating offender, aggravated
55 boating offender, chronic boating offender or habitual boating offender shall not
56 be granted a suspended imposition of sentence or be sentenced to pay a fine in
57 lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

58 (2) As a prior boating offender, shall not be granted parole or probation
59 until he or she has served a minimum of ten days imprisonment:

60 (a) Unless as a condition of such parole or probation such person performs
61 at least two hundred forty hours of community service under the supervision of
62 the court in those jurisdictions which have a recognized program for community
63 service; or

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

67 (3) As a persistent boating offender, shall not be granted parole or
68 probation until he or she has served a minimum of thirty days imprisonment:

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

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

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

78 (5) As a chronic or habitual boating offender, shall not be eligible for
79 parole or probation until he or she has served a minimum of two years
80 imprisonment; and

81 (6) Any probation or parole granted under this subsection may include a
82 period of continuous alcohol monitoring or verifiable breath alcohol testing
83 performed a minimum of four times per day.

579.020. 1. A person commits the offense of delivery of a controlled
2 substance if, except as authorized in this chapter or chapter 195, he or she:

3 (1) Knowingly distributes or delivers a controlled substance;

4 (2) Attempts to distribute or deliver a controlled substance;

5 (3) Knowingly possesses a controlled substance with the intent to
6 distribute or deliver any amount of a controlled substance; or

7 (4) Knowingly permits a minor to purchase or transport illegally obtained
8 controlled substances.

9 2. Except when the controlled substance is thirty-five grams or less of
10 marijuana or synthetic cannabinoid or as otherwise provided under subsection 5
11 of this section, the offense of delivery of a controlled substance is a class C felony.

12 3. Except as otherwise provided under subsection 4 of this section, the

13 offense of delivery of thirty-five grams or less of marijuana or synthetic
14 cannabinoid is a class E felony.

15 4. The offense of delivery of thirty-five grams or less of marijuana or
16 synthetic cannabinoid to a person less than seventeen years of age who is at least
17 two years younger than the defendant is a class C felony.

18 5. The offense of delivery of a controlled substance is a class B felony if:

19 (1) The delivery or distribution is any amount of a controlled substance
20 except thirty-five grams or less of marijuana or synthetic cannabinoid, to a person
21 less than seventeen years of age who is at least two years younger than the
22 defendant; [or]

23 (2) The person knowingly permits a minor to purchase or transport
24 illegally obtained controlled substances; **or**

25 **(3) The person knowingly distributes or delivers a mixture or**
26 **substance containing a detectable amount of heroin.**

579.065. 1. A person commits the offense of trafficking drugs in the first
2 degree if, except as authorized by this chapter or chapter 195, such person
3 knowingly distributes, delivers, manufactures, produces or attempts to distribute,
4 deliver, manufacture or produce:

5 (1) More than thirty grams [but less than ninety grams] of a mixture or
6 substance containing a detectable amount of heroin;

7 (2) More than one hundred fifty grams [but less than four hundred fifty
8 grams] of a mixture or substance containing a detectable amount of coca leaves,
9 except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
10 derivatives of ecgonine or their salts have been removed; cocaine salts and their
11 optical and geometric isomers, and salts of isomers; ecgonine, its derivatives,
12 their salts, isomers, and salts of isomers; or any compound, mixture, or
13 preparation which contains any quantity of any of the foregoing substances;

14 (3) More than eight grams [but less than twenty-four grams] of a mixture
15 or substance described in subdivision (2) of this subsection which contains cocaine
16 base;

17 (4) More than five hundred milligrams [but less than one gram] of a
18 mixture or substance containing a detectable amount of lysergic acid diethylamide
19 (LSD);

20 (5) More than thirty grams [but less than ninety grams] of a mixture or
21 substance containing a detectable amount of phencyclidine (PCP);

22 (6) More than four grams [but less than twelve grams] of phencyclidine;

23 (7) More than thirty kilograms [but less than one hundred kilograms] of
24 a mixture or substance containing marijuana;

25 (8) More than thirty grams [but less than ninety grams] of any material,
26 compound, mixture, or preparation containing any quantity of the following
27 substances having a stimulant effect on the central nervous system:
28 amphetamine, its salts, optical isomers and salts of its optical isomers;
29 methamphetamine, its salts, optical isomers and salts of its optical isomers;
30 phenmetrazine and its salts; or methylphenidate; or

31 (9) More than thirty grams [but less than ninety grams] of any material,
32 compound, mixture, or preparation which contains any quantity of
33 3,4-methylenedioxyamphetamine.

34 2. The offense of trafficking drugs in the first degree is a class B felony.

35 3. The offense of trafficking drugs in the first degree is a class A felony
36 if the quantity involved is:

37 (1) Ninety grams or more of a mixture or substance containing a
38 detectable amount of heroin; or

39 (2) Four hundred fifty grams or more of a mixture or substance containing
40 a detectable amount of coca leaves, except coca leaves and extracts of coca leaves
41 from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been
42 removed; cocaine salts and their optical and geometric isomers, and salts of
43 isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any
44 compound, mixture, or preparation which contains any quantity of any of the
45 foregoing substances; or

46 (3) Twenty-four grams or more of a mixture or substance described in
47 subdivision (2) of this subsection which contains cocaine base; or

48 (4) One gram or more of a mixture or substance containing a detectable
49 amount of lysergic acid diethylamide (LSD); or

50 (5) Ninety grams or more of a mixture or substance containing a
51 detectable amount of phencyclidine (PCP); or

52 (6) Twelve grams or more of phencyclidine; or

53 (7) One hundred kilograms or more of a mixture or substance containing
54 marijuana; or

55 (8) Ninety grams or more of any material, compound, mixture, or
56 preparation containing any quantity of the following substances having a
57 stimulant effect on the central nervous system: amphetamine, its salts, optical
58 isomers and salts of its optical isomers; methamphetamine, its salts, optical

59 isomers and salts of its optical isomers; phenmetrazine and its salts; or
60 methylphenidate; or

61 (9) More than thirty grams of any material, compound, mixture, or
62 preparation containing any quantity of the following substances having a
63 stimulant effect on the central nervous system: amphetamine, its salts, optical
64 isomers, and salts of its optical isomers; methamphetamine, its salts, optical
65 isomers, and salts of its optical isomers; phenmetrazine and its salts; or
66 methylphenidate, and the location of the offense was within two thousand feet of
67 real property comprising a public or private elementary, vocational, or secondary
68 school, college, community college, university, or any school bus, in or on the real
69 property comprising public housing or any other governmental assisted housing,
70 or within a motor vehicle, or in any structure or building which contains rooms
71 furnished for the accommodation or lodging of guests, and kept, used, maintained,
72 advertised, or held out to the public as a place where sleeping accommodations
73 are sought for pay or compensation to transient guests or permanent guests; or

74 (10) Ninety grams or more of any material, compound, mixture or
75 preparation which contains any quantity of 3,4-methylenedioxymethamphetamine;
76 or

77 (11) More than thirty grams of any material, compound, mixture, or
78 preparation which contains any quantity of 3,4-methylenedioxymethamphetamine
79 and the location of the offense was within two thousand feet of real property
80 comprising a public or private elementary, vocational, or secondary school, college,
81 community college, university, or any school bus, in or on the real property
82 comprising public housing or any other governmental assisted housing, within a
83 motor vehicle, or in any structure or building which contains rooms furnished for
84 the accommodation or lodging of guests, and kept, used, maintained, advertised, or
85 held out to the public as a place where sleeping accommodations are sought for pay
86 or compensation to transient guests or permanent guests.

579.068. 1. A person commits the offense of trafficking drugs in the second
2 degree if, except as authorized by this chapter or chapter 195, such person
3 knowingly possesses or has under his or her control, purchases or attempts to
4 purchase, or brings into this state:

5 (1) More than thirty grams [but less than ninety grams] of a mixture or
6 substance containing a detectable amount of heroin;

7 (2) More than one hundred fifty grams [but less than four hundred fifty
8 grams] of a mixture or substance containing a detectable amount of coca leaves,

9 except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
10 derivatives of ecgonine or their salts have been removed; cocaine salts and their
11 optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their
12 salts, isomers, and salts of isomers; or any compound, mixture, or preparation
13 which contains any quantity of any of the foregoing substances;

14 (3) More than eight grams [but less than twenty-four grams] of a mixture
15 or substance described in subdivision (2) of this subsection which contains cocaine
16 base;

17 (4) More than five hundred milligrams [but less than one gram] of a
18 mixture or substance containing a detectable amount of lysergic acid diethylamide
19 (LSD);

20 (5) More than thirty grams [but less than ninety grams] of a mixture or
21 substance containing a detectable amount of phencyclidine (PCP);

22 (6) More than four grams [but less than twelve grams] of phencyclidine;

23 (7) More than thirty kilograms [but less than one hundred kilograms] of a
24 mixture or substance containing marijuana;

25 (8) More than thirty grams [but less than ninety grams] of any material,
26 compound, mixture, or preparation containing any quantity of the following
27 substances having a stimulant effect on the central nervous system: amphetamine,
28 its salts, optical isomers and salts of its optical isomers; methamphetamine, its
29 salts, optical isomers and salts of its optical isomers; phenmetrazine and its salts;
30 or methylphenidate; or

31 (9) More than thirty grams [but less than ninety grams] of any material,
32 compound, mixture, or preparation which contains any quantity of
33 3,4-methylenedioxymethamphetamine.

34 2. The offense of trafficking drugs in the second degree is a class C felony.

35 3. The offense of trafficking drugs in the second degree is a class B felony
36 if the quantity involved is:

37 (1) Ninety grams or more of a mixture or substance containing a detectable
38 amount of heroin; or

39 (2) Four hundred fifty grams or more of a mixture or substance containing
40 a detectable amount of coca leaves, except coca leaves and extracts of coca leaves
41 from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been
42 removed; cocaine salts and their optical and geometric isomers, and salts of
43 isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any
44 compound, mixture, or preparation which contains any quantity of any of the

45 foregoing substances; or

46 (3) Twenty-four grams or more of a mixture or substance described in
47 subdivision (2) of this subsection which contains cocaine base; or

48 (4) One gram or more of a mixture or substance containing a detectable
49 amount of lysergic acid diethylamide (LSD); or

50 (5) Ninety grams or more of a mixture or substance containing a detectable
51 amount of phencyclidine (PCP); or

52 (6) Twelve grams or more of phencyclidine; or

53 (7) One hundred kilograms or more of a mixture or substance containing
54 marijuana; or

55 (8) More than five hundred marijuana plants; or

56 (9) Ninety grams or more but less than four hundred fifty grams of any
57 material, compound, mixture, or preparation containing any quantity of the
58 following substances having a stimulant effect on the central nervous system:
59 amphetamine, its salts, optical isomers and salts of its optical isomers;
60 methamphetamine, its salts, optical isomers and salts of its optical isomers;
61 phenmetrazine and its salts; or methylphenidate; or

62 (10) Ninety grams or more but less than four hundred fifty grams of any
63 material, compound, mixture, or preparation which contains any quantity of
64 3,4-methylenedioxymethamphetamine.

65 4. The offense of trafficking drugs in the second degree is a class A felony
66 if the quantity involved is four hundred fifty grams or more of any material,
67 compound, mixture or preparation which contains:

68 (1) Any quantity of the following substances having a stimulant effect on
69 the central nervous system: amphetamine, its salts, optical isomers and salts of
70 its optical isomers; methamphetamine, its salts, isomers and salts of its isomers;
71 phenmetrazine and its salts; or methylphenidate; or

72 (2) Any quantity of 3,4-methylenedioxymethamphetamine.

595.045. 1. There is established in the state treasury the "Crime Victims'
2 Compensation Fund". A surcharge of seven dollars and fifty cents shall be assessed
3 as costs in each court proceeding filed in any court in the state in all criminal cases
4 including violations of any county ordinance or any violation of criminal or traffic
5 laws of the state, including an infraction and violation of a municipal ordinance;
6 except that no such fee shall be collected in any proceeding in any court when the
7 proceeding or the defendant has been dismissed by the court or when costs are to
8 be paid by the state, county, or municipality. A surcharge of seven dollars and fifty

9 cents shall be assessed as costs in a juvenile court proceeding in which a child is
10 found by the court to come within the applicable provisions of subdivision (3) of
11 subsection 1 of section 211.031.

12 2. Notwithstanding any other provision of law to the contrary, the moneys
13 collected by clerks of the courts pursuant to the provisions of subsection 1 of this
14 section shall be collected and disbursed in accordance with sections 488.010 to
15 488.020 and shall be payable to the director of the department of revenue.

16 3. The director of revenue shall deposit annually the amount of two
17 hundred fifty thousand dollars to the state forensic laboratory account
18 administered by the department of public safety to provide financial assistance to
19 defray expenses of crime laboratories if such analytical laboratories are registered
20 with the federal Drug Enforcement Agency or the Missouri department of health
21 and senior services. Subject to appropriations made therefor, such funds shall be
22 distributed by the department of public safety to the crime laboratories serving the
23 courts of this state making analysis of a controlled substance or analysis of blood,
24 breath or urine in relation to a court proceeding.

25 4. The remaining funds collected under subsection 1 of this section shall be
26 denoted to the payment of an annual appropriation for the administrative and
27 operational costs of the office for victims of crime and, if a statewide automated
28 crime victim notification system is established pursuant to section 650.310, to the
29 monthly payment of expenditures actually incurred in the operation of such
30 system. Additional remaining funds shall be subject to the following provisions:

31 (1) On the first of every month, the director of revenue or the director's
32 designee shall determine the balance of the funds in the crime victims'
33 compensation fund available to satisfy the amount of compensation payable
34 pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

35 (2) Beginning on September 1, 2004, and on the first of each month, the
36 director of revenue or the director's designee shall deposit fifty percent of the
37 balance of funds available to the credit of the crime victims' compensation fund and
38 fifty percent to the services to victims' fund established in section 595.100.

39 5. The director of revenue or such director's designee shall at least monthly
40 report the moneys paid pursuant to this section into the crime victims'
41 compensation fund and the services to victims fund to the department of public
42 safety.

43 6. The moneys collected by clerks of municipal courts pursuant to
44 subsection 1 of this section shall be collected and disbursed as provided by sections

45 488.010 to 488.020. Five percent of such moneys shall be payable to the city
46 treasury of the city from which such funds were collected. The remaining
47 ninety-five percent of such moneys shall be payable to the director of revenue. The
48 funds received by the director of revenue pursuant to this subsection shall be
49 distributed as follows:

50 (1) On the first of every month, the director of revenue or the director's
51 designee shall determine the balance of the funds in the crime victims'
52 compensation fund available to satisfy the amount of compensation payable
53 pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

54 (2) Beginning on September 1, 2004, and on the first of each month the
55 director of revenue or the director's designee shall deposit fifty percent of the
56 balance of funds available to the credit of the crime victims' compensation fund and
57 fifty percent to the services to victims' fund established in section 595.100.

58 7. These funds shall be subject to a biennial audit by the Missouri state
59 auditor. Such audit shall include all records associated with crime victims'
60 compensation funds collected, held or disbursed by any state agency.

61 8. In addition to the moneys collected pursuant to subsection 1 of this
62 section, the court shall enter a judgment in favor of the state of Missouri, payable
63 to the crime victims' compensation fund, of sixty-eight dollars upon a plea of guilty
64 or a finding of guilt for a class A or B felony; forty-six dollars upon a plea of guilty
65 or finding of guilt for a class C [or], D, or E felony; and ten dollars upon a plea of
66 guilty or a finding of guilt for any misdemeanor under Missouri law except for
67 those in chapter 252 relating to fish and game, chapter 302 relating to drivers' and
68 commercial drivers' license, chapter 303 relating to motor vehicle financial
69 responsibility, chapter 304 relating to traffic regulations, chapter 306 relating to
70 watercraft regulation and licensing, and chapter 307 relating to vehicle equipment
71 regulations. Any clerk of the court receiving moneys pursuant to such judgments
72 shall collect and disburse such crime victims' compensation judgments in the
73 manner provided by sections 488.010 to 488.020. Such funds shall be payable to
74 the state treasury and deposited to the credit of the crime victims' compensation
75 fund.

76 9. The clerk of the court processing such funds shall maintain records of all
77 dispositions described in subsection 1 of this section and all dispositions where a
78 judgment has been entered against a defendant in favor of the state of Missouri in
79 accordance with this section; all payments made on judgments for alcohol-related
80 traffic offenses; and any judgment or portion of a judgment entered but not

81 collected. These records shall be subject to audit by the state auditor. The clerk
82 of each court transmitting such funds shall report separately the amount of dollars
83 collected on judgments entered for alcohol-related traffic offenses from other crime
84 victims' compensation collections or services to victims collections.

85 10. The department of revenue shall maintain records of funds transmitted
86 to the crime victims' compensation fund by each reporting court and collections
87 pursuant to subsection 16 of this section and shall maintain separate records of
88 collection for alcohol-related offenses.

89 11. The state courts administrator shall include in the annual report
90 **form** required by section [476.350] **476.412** the circuit court caseloads and the
91 number of crime victims' compensation judgments entered.

92 12. All awards made to injured victims under sections 595.010 to 595.105
93 and all appropriations for administration of sections 595.010 to 595.105, except
94 sections 595.050 and 595.055, shall be made from the crime victims' compensation
95 fund. Any unexpended balance remaining in the crime victims' compensation fund
96 at the end of each biennium shall not be subject to the provision of section 33.080
97 requiring the transfer of such unexpended balance to the ordinary revenue fund of
98 the state, but shall remain in the crime victims' compensation fund. In the event
99 that there are insufficient funds in the crime victims' compensation fund to pay all
100 claims in full, all claims shall be paid on a pro rata basis. If there are no funds in
101 the crime victims' compensation fund, then no claim shall be paid until funds have
102 again accumulated in the crime victims' compensation fund. When sufficient funds
103 become available from the fund, awards which have not been paid shall be paid in
104 chronological order with the oldest paid first. In the event an award was to be paid
105 in installments and some remaining installments have not been paid due to a lack
106 of funds, then when funds do become available that award shall be paid in full. All
107 such awards on which installments remain due shall be paid in full in chronological
108 order before any other postdated award shall be paid. Any award pursuant to this
109 subsection is specifically not a claim against the state, if it cannot be paid due to
110 a lack of funds in the crime victims' compensation fund.

111 13. When judgment is entered against a defendant as provided in this
112 section and such sum, or any part thereof, remains unpaid, there shall be withheld
113 from any disbursement, payment, benefit, compensation, salary, or other transfer
114 of money from the state of Missouri to such defendant an amount equal to the
115 unpaid amount of such judgment. Such amount shall be paid forthwith to the
116 crime victims' compensation fund and satisfaction of such judgment shall be

117 entered on the court record. Under no circumstances shall the general revenue
118 fund be used to reimburse court costs or pay for such judgment. The director of the
119 department of corrections shall have the authority to pay into the crime victims'
120 compensation fund from an offender's compensation or account the amount owed
121 by the offender to the crime victims' compensation fund, provided that the offender
122 has failed to pay the amount owed to the fund prior to entering a correctional
123 facility of the department of corrections.

124 14. All interest earned as a result of investing funds in the crime victims'
125 compensation fund shall be paid into the crime victims' compensation fund and not
126 into the general revenue of this state.

127 15. Any person who knowingly makes a fraudulent claim or false statement
128 in connection with any claim hereunder is guilty of a class A misdemeanor.

129 16. The department may receive gifts and contributions for the benefit of
130 crime victims. Such gifts and contributions shall be credited to the crime victims'
131 compensation fund as used solely for compensating victims under the provisions of
132 sections 595.010 to 595.075.

**595.219. 1. In addition to the court's authority to order a defendant
2 to make restitution for the damage or loss caused by his or her offense as
3 provided in section 559.105, the court may enter a judgment of restitution
4 against the offenders convicted of official misconduct pursuant to the
5 provisions of this section.**

6 2. The court may order the defendant to make restitution to:

7 (1) The victim;

8 (2) Any governmental entity; or

**9 (3) A third-party payor, including an insurer that has made
10 payment to the victim to compensate the victim for a property loss or a
11 pecuniary loss.**

**12 3. Restitution payments to the victim have priority over restitution
13 payments to a third-party payor. If the victim has been compensated for
14 the victim's loss by a third-party payor, the court may order restitution
15 payments to the third-party payor in the amount that the third-party
16 payor compensated the victim.**

**17 4. Payment of restitution to a victim under this section has priority
18 over payment of restitution to any governmental entity.**

**19 5. A restitution hearing to determine the liability of the defendant
20 shall be held not later than thirty days after final disposition of the case**

21 and may be extended by the court for good cause. In the restitution
22 hearing, a written statement or bill for medical, dental, hospital, funeral,
23 or burial expenses shall be prima facie evidence that the amount
24 indicated on the written statement or bill represents a fair and reasonable
25 charge for the services or materials provided. The burden of proving that
26 the amount indicated on the written statement or bill is not fair and
27 reasonable shall be on the person challenging the fairness and
28 reasonableness of the amount.

29 6. A judgment of restitution against a defendant may not be
30 entered unless the defendant has been afforded a reasonable opportunity
31 to be heard and to present appropriate evidence in his or her behalf. The
32 defendant shall be advised of his or her right to obtain counsel for
33 representation at the hearing. A hearing under this section may be held
34 as part of a final disposition hearing for the case.

35 7. The judgment may be enforced in the same manner as enforcing
36 monetary judgments by the prosecuting attorney on behalf of the victim.

37 8. A judgment of restitution ordered pursuant to this section
38 against a defendant shall not be a bar to a proceeding against the
39 defendant pursuant to section 537.045 or section 8.150 for the balance of
40 the damages not paid pursuant to this section.

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