

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILLS NOS. 538, 562, & 601

AN ACT

To repeal sections 556.061, 568.045, 571.015, 571.060, 571.063, and 571.070, RSMo, section 211.071 as enacted by senate bill no. 793 merged with senate bill no. 800, ninety-ninth general assembly, second regular session and section 211.071 as enacted by house bill no. 215 merged with senate bill no. 36, ninety-seventh general assembly, first regular session, and to enact in lieu thereof eight new sections relating to criminal offenses involving deadly weapons, with penalty provisions.

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

1 Section A. Sections 556.061, 568.045, 571.015, 571.060,
2 571.063, and 571.070, RSMo, section 211.071 as enacted by senate
3 bill no. 793 merged with senate bill no. 800, ninety-ninth
4 general assembly, second regular session and section 211.071 as
5 enacted by house bill no. 215 merged with senate bill no. 36,
6 ninety-seventh general assembly, first regular session, are
7 repealed and eight new sections enacted in lieu thereof, to be
8 known as sections 211.071, 211.071, 556.061, 568.045, 571.015,
9 571.060, 571.063, and 571.070, to read as follows:

10 211.071. 1. If a petition alleges that a child between the
11 ages of twelve and eighteen has committed an offense which would
12 be considered a felony if committed by an adult, the court may,

1 upon its own motion or upon motion by the juvenile officer, the
2 child or the child's custodian, order a hearing and may, in its
3 discretion, dismiss the petition and such child may be
4 transferred to the court of general jurisdiction and prosecuted
5 under the general law; except that if a petition alleges that any
6 child has committed an offense which would be considered first
7 degree murder under section 565.020, second degree murder under
8 section 565.021, first degree assault under section 565.050,
9 forcible rape under section 566.030 as it existed prior to August
10 28, 2013, rape in the first degree under section 566.030,
11 forcible sodomy under section 566.060 as it existed prior to
12 August 28, 2013, sodomy in the first degree under section
13 566.060, first degree robbery under section 569.020 as it existed
14 prior to January 1, 2017, or robbery in the first degree under
15 section 570.023, distribution of drugs under section 195.211 as
16 it existed prior to January 1, 2017, [or] the manufacturing of a
17 controlled substance under section 579.055, the offense of armed
18 criminal action under section 571.015, or the offense of unlawful
19 use of a weapon under section 571.030, or has committed two or
20 more prior unrelated offenses which would be felonies if
21 committed by an adult, the court shall order a hearing, and may
22 in its discretion, dismiss the petition and transfer the child to
23 a court of general jurisdiction for prosecution under the general
24 law.

25 2. Upon apprehension and arrest, jurisdiction over the
26 criminal offense allegedly committed by any person between
27 eighteen and twenty-one years of age over whom the juvenile court
28 has retained continuing jurisdiction shall automatically

1 terminate and that offense shall be dealt with in the court of
2 general jurisdiction as provided in section 211.041.

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

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

19 5. The juvenile officer may consult with the office of
20 prosecuting attorney concerning any offense for which the child
21 could be certified as an adult under this section. The
22 prosecuting or circuit attorney shall have access to police
23 reports, reports of the juvenile or deputy juvenile officer,
24 statements of witnesses and all other records or reports relating
25 to the offense alleged to have been committed by the child. The
26 prosecuting or circuit attorney shall have access to the
27 disposition records of the child when the child has been
28 adjudicated pursuant to subdivision (3) of subsection 1 of

1 section 211.031. The prosecuting attorney shall not divulge any
2 information regarding the child and the offense until the
3 juvenile court at a judicial hearing has determined that the
4 child is not a proper subject to be dealt with under the
5 provisions of this chapter.

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

14 (1) The seriousness of the offense alleged and whether the
15 protection of the community requires transfer to the court of
16 general jurisdiction;

17 (2) Whether the offense alleged involved viciousness, force
18 and violence;

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

22 (4) Whether the offense alleged is a part of a repetitive
23 pattern of offenses which indicates that the child may be beyond
24 rehabilitation under the juvenile code;

25 (5) The record and history of the child, including
26 experience with the juvenile justice system, other courts,
27 supervision, commitments to juvenile institutions and other
28 placements;

1 (6) The sophistication and maturity of the child as
2 determined by consideration of his or her home and environmental
3 situation, emotional condition and pattern of living;

4 (7) The age of the child;

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

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

9 (10) Racial disparity in certification.

10 7. If the court dismisses the petition to permit the child
11 to be prosecuted under the general law, the court shall enter a
12 dismissal order containing:

13 (1) Findings showing that the court had jurisdiction of the
14 cause and of the parties;

15 (2) Findings showing that the child was represented by
16 counsel;

17 (3) Findings showing that the hearing was held in the
18 presence of the child and his or her counsel; and

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

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

23 9. When a petition has been dismissed thereby permitting a
24 child to be prosecuted under the general law and the prosecution
25 of the child results in a conviction, the jurisdiction of the
26 juvenile court over that child is forever terminated, except as
27 provided in subsection 10 of this section, for an act that would
28 be a violation of a state law or municipal ordinance.

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

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

12 12. The provisions of this section shall become effective
13 January 1, 2021.

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

1 566.060, first degree robbery under section 570.023, or
2 distribution of drugs under section 579.055, or has committed two
3 or more prior unrelated offenses which would be felonies if
4 committed by an adult, the court shall order a hearing, and may
5 in its discretion, dismiss the petition and transfer the child to
6 a court of general jurisdiction for prosecution under the general
7 law.

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

14 3. Knowing and willful age misrepresentation by a juvenile
15 subject shall not affect any action or proceeding which occurs
16 based upon the misrepresentation. Any evidence obtained during
17 the period of time in which a child misrepresents his or her age
18 may be used against the child and will be subject only to rules
19 of evidence applicable in adult proceedings.

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21 given to the juvenile and his or her custodian in the same manner
22 as provided in sections 211.101 and 211.111. Notice of the
23 hearing may be waived by the custodian. Notice shall contain a
24 statement that the purpose of the hearing is to determine whether
25 the child is a proper subject to be dealt with under the
26 provisions of this chapter, and that if the court finds that the
27 child is not a proper subject to be dealt with under the
28 provisions of this chapter, the petition will be dismissed to

1 allow for prosecution of the child under the general law.

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3 prosecuting attorney concerning any offense for which the child
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8 to the offense alleged to have been committed by the child. The
9 prosecuting or circuit attorney shall have access to the
10 disposition records of the child when the child has been
11 adjudicated pursuant to subdivision (3) of subsection 1 of
12 section 211.031. The prosecuting attorney shall not divulge any
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23 justice system. These criteria shall include but not be limited
24 to:

25 (1) The seriousness of the offense alleged and whether the
26 protection of the community requires transfer to the court of
27 general jurisdiction;

28 (2) Whether the offense alleged involved viciousness, force

1 and violence;

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

5 (4) Whether the offense alleged is a part of a repetitive
6 pattern of offenses which indicates that the child may be beyond
7 rehabilitation under the juvenile code;

8 (5) The record and history of the child, including
9 experience with the juvenile justice system, other courts,
10 supervision, commitments to juvenile institutions and other
11 placements;

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

15 (7) The age of the child;

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

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

20 (10) Racial disparity in certification.

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22 to be prosecuted under the general law, the court shall enter a
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24 (1) Findings showing that the court had jurisdiction of the
25 cause and of the parties;

26 (2) Findings showing that the child was represented by
27 counsel;

28 (3) Findings showing that the hearing was held in the

1 presence of the child and his counsel; and

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

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

6 9. When a petition has been dismissed thereby permitting a
7 child to be prosecuted under the general law and the prosecution
8 of the child results in a conviction, the jurisdiction of the
9 juvenile court over that child is forever terminated, except as
10 provided in subsection 10 of this section, for an act that would
11 be a violation of a state law or municipal ordinance.

12 10. If a petition has been dismissed thereby permitting a
13 child to be prosecuted under the general law and the child is
14 found not guilty by a court of general jurisdiction, the juvenile
15 court shall have jurisdiction over any later offense committed by
16 that child which would be considered a misdemeanor or felony if
17 committed by an adult, subject to the certification provisions of
18 this section.

19 11. If the court does not dismiss the petition to permit
20 the child to be prosecuted under the general law, it shall set a
21 date for the hearing upon the petition as provided in section
22 211.171.

23 12. The provisions of this section shall expire on December
24 31, 2020.

25 556.061. In this code, unless the context requires a
26 different definition, the following terms shall mean:

27 (1) "Access", to instruct, communicate with, store data in,
28 retrieve or extract data from, or otherwise make any use of any

1 resources of, a computer, computer system, or computer network;

2 (2) "Affirmative defense":

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

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

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

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

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

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

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

1 attachments will be referred to collectively as peripherals and
2 discussed individually when appropriate. When the computer and
3 all peripherals are referred to as a package, the term "computer
4 system" is used. Information refers to all the information on a
5 computer system including both software applications and data;

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

9 (7) "Computer hardware", all equipment which can collect,
10 analyze, create, display, convert, store, conceal or transmit
11 electronic, magnetic, optical or similar computer impulses or
12 data. Hardware includes, but is not limited to, any data
13 processing devices, such as central processing units, memory
14 typewriters and self-contained laptop or notebook computers;
15 internal and peripheral storage devices, transistor-like binary
16 devices and other memory storage devices, such as floppy disks,
17 removable disks, compact disks, digital video disks, magnetic
18 tape, hard drive, optical disks and digital memory; local area
19 networks, such as two or more computers connected together to a
20 central computer server via cable or modem; peripheral input or
21 output devices, such as keyboards, printers, scanners, plotters,
22 video display monitors and optical readers; and related
23 communication devices, such as modems, cables and connections,
24 recording equipment, RAM or ROM units, acoustic couplers,
25 automatic dialers, speed dialers, programmable telephone dialing
26 or signaling devices and electronic tone-generating devices; as
27 well as any devices, mechanisms or parts that can be used to
28 restrict access to computer hardware, such as physical keys and

1 locks;

2 (8) "Computer network", two or more interconnected
3 computers or computer systems;

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

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

14 (11) "Computer-related documentation", written, recorded,
15 printed or electronically stored material which explains or
16 illustrates how to configure or use computer hardware, software
17 or other related items;

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

20 (13) "Confinement":

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

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

25 b. The person is released on bail, bond, or recognizance,
26 personal or otherwise; or

27 c. A public servant having the legal power and duty to
28 confine the person authorizes his release without guard and

1 without condition that he return to confinement;

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

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

5 b. The person is under sentence to serve a term of
6 confinement which is not continuous, or is serving a sentence
7 under a work-release program, and in either such case is not
8 being held in a place of confinement or is not being held under
9 guard by a person having the legal power and duty to transport
10 the person to or from a place of confinement;

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

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

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

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

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

25 (16) "Criminal negligence", failure to be aware of a
26 substantial and unjustifiable risk that circumstances exist or a
27 result will follow, and such failure constitutes a gross
28 deviation from the standard of care which a reasonable person

1 would exercise in the situation;

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

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

8 (19) "Dangerous felony", the felonies of arson in the first
9 degree, assault in the first degree, attempted rape in the first
10 degree if physical injury results, attempted forcible rape if
11 physical injury results, attempted sodomy in the first degree if
12 physical injury results, attempted forcible sodomy if physical
13 injury results, rape in the first degree, forcible rape, sodomy
14 in the first degree, forcible sodomy, assault in the second
15 degree if the victim of such assault is a special victim as
16 defined in subdivision (14) of section 565.002, kidnapping in the
17 first degree, kidnapping, murder in the second degree, assault of
18 a law enforcement officer in the first degree, domestic assault
19 in the first degree, elder abuse in the first degree, robbery in
20 the first degree, armed criminal action, statutory rape in the
21 first degree when the victim is a child less than twelve years of
22 age at the time of the commission of the act giving rise to the
23 offense, statutory sodomy in the first degree when the victim is
24 a child less than twelve years of age at the time of the
25 commission of the act giving rise to the offense, child
26 molestation in the first or second degree, abuse of a child if
27 the child dies as a result of injuries sustained from conduct
28 chargeable under section 568.060, child kidnapping, parental

1 kidnapping committed by detaining or concealing the whereabouts
2 of the child for not less than one hundred twenty days under
3 section 565.153, and an "intoxication-related traffic offense" or
4 "intoxication-related boating offense" if the person is found to
5 be a "habitual offender" or "habitual boating offender" as such
6 terms are defined in section 577.001;

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

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

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

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

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

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

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

6 (27) "Forcible compulsion" either:

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

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

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

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

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

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

23 (b) Where people assemble for purposes of business,
24 government, education, religion, entertainment, or public
25 transportation; or

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

27

28 Any such vehicle, vessel, or structure is inhabitable regardless

1 of whether a person is actually present. If a building or
2 structure is divided into separately occupied units, any unit not
3 occupied by the actor is an inhabitable structure of another;

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

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

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

10 (32) "Law enforcement officer", any public servant having
11 both the power and duty to make arrests for violations of the
12 laws of this state, and federal law enforcement officers
13 authorized to carry firearms and to make arrests for violations
14 of the laws of the United States;

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

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

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

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

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

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

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

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

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

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

6 (43) "Serious emotional injury", an injury that creates a
7 substantial risk of temporary or permanent medical or
8 psychological damage, manifested by impairment of a behavioral,
9 cognitive or physical condition. Serious emotional injury shall
10 be established by testimony of qualified experts upon the
11 reasonable expectation of probable harm to a reasonable degree of
12 medical or psychological certainty;

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

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

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

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

27 (48) "Vessel", any boat or craft propelled by a motor or by
28 machinery, whether or not such motor or machinery is a principal

1 source of propulsion used or capable of being used as a means of
2 transportation on water, or any boat or craft more than twelve
3 feet in length which is powered by sail alone or by a combination
4 of sail and machinery, and used or capable of being used as a
5 means of transportation on water, but not any boat or craft
6 having, as the only means of propulsion, a paddle or oars;

7 (49) "Voluntary act":

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

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

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

23 568.045. 1. A person commits the offense of endangering
24 the welfare of a child in the first degree if he or she:

25 (1) Knowingly acts in a manner that creates a substantial
26 risk to the life, body, or health of a child less than seventeen
27 years of age; or

28 (2) Knowingly engages in sexual conduct with a person under

1 the age of seventeen years over whom the person is a parent,
2 guardian, or otherwise charged with the care and custody;

3 (3) Knowingly encourages, aids or causes a child less than
4 seventeen years of age to engage in any conduct which violates
5 the provisions of chapter 571 or chapter 579;

6 (4) In the presence of a child less than seventeen years of
7 age or in a residence where a child less than seventeen years of
8 age resides, unlawfully manufactures, or attempts to manufacture
9 compounds, possesses, produces, prepares, sells, transports,
10 tests or analyzes amphetamine or methamphetamine or any of their
11 analogues.

12 2. The offense of endangering the welfare of a child in the
13 first degree is a class D felony unless the offense:

14 (1) Is committed as part of an act or series of acts
15 performed by two or more persons as part of an established or
16 prescribed pattern of activity, or where physical injury to the
17 child results, or the offense is a second or subsequent offense
18 under this section, in which case the offense is a class C
19 felony;

20 (2) Results in serious physical injury to the child, in
21 which case the offense is a class B felony; or

22 (3) Results in the death of a child, in which case the
23 offense is a class A felony.

24 571.015. 1. [Except as provided in subsection 4 of this
25 section,] Any person who commits any felony under the laws of
26 this state by, with, or through the use, assistance, or aid of a
27 dangerous instrument or deadly weapon is also guilty of the
28 [crime] offense of armed criminal action and, upon conviction,

1 shall be punished by imprisonment by the department of
2 corrections [and human resources] for a term of not less than
3 three years and not to exceed fifteen years, unless the person is
4 unlawfully possessing a firearm, in which case the term of
5 imprisonment shall be for a term of not less than five years.

6 The punishment imposed pursuant to this subsection shall be in
7 addition to and consecutive to any punishment provided by law for
8 the crime committed by, with, or through the use, assistance, or
9 aid of a dangerous instrument or deadly weapon. No person
10 convicted under this subsection shall be eligible for parole,
11 probation, conditional release, or suspended imposition or
12 execution of sentence for a period of three calendar years.

13 2. Any person convicted of a second offense of armed
14 criminal action under subsection 1 of this section shall be
15 punished by imprisonment by the department of corrections [and
16 human resources] for a term of not less than five years and not
17 to exceed thirty years, unless the person is unlawfully
18 possessing a firearm, in which case the term of imprisonment
19 shall be for a term not less than fifteen years. The punishment
20 imposed pursuant to this subsection shall be in addition to and
21 consecutive to any punishment provided by law for the crime
22 committed by, with, or through the use, assistance, or aid of a
23 dangerous instrument or deadly weapon. No person convicted under
24 this subsection shall be eligible for parole, probation,
25 conditional release, or suspended imposition or execution of
26 sentence for a period of five calendar years.

27 3. Any person convicted of a third or subsequent offense of
28 armed criminal action under subsection 1 of this section shall be

1 punished by imprisonment by the department of corrections [and
2 human resources] for a term of not less than ten years, unless
3 the person is unlawfully possessing a firearm, in which case the
4 term of imprisonment shall be no less than fifteen years. The
5 punishment imposed pursuant to this subsection shall be in
6 addition to and consecutive to any punishment provided by law for
7 the crime committed by, with, or through the use, assistance, or
8 aid of a dangerous instrument or deadly weapon. No person
9 convicted under this subsection shall be eligible for parole,
10 probation, conditional release, or suspended imposition or
11 execution of sentence for a period of ten calendar years.

12 [4. The provisions of this section shall not apply to the
13 felonies defined in sections 564.590, 564.610, 564.620, 564.630,
14 and 564.640.]

15 571.060. 1. A person commits the offense of unlawful
16 transfer of weapons if he:

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

21 (2) Knowingly sells, leases, loans, gives away, or delivers
22 any firearm to a person less than eighteen years old without the
23 consent of the child's custodial parent or guardian; provided,
24 that this does not prohibit the delivery of such weapons to any
25 peace officer or member of the Armed Forces or National Guard
26 while performing his official duty;

27 (3) Knowingly sells, leases, loans, gives away or delivers
28 a blackjack to a person less than eighteen years old without the

1 consent of the child's custodial parent or guardian, or
2 recklessly, as defined in section 562.016, [sells, leases, loans,
3 gives away or delivers any firearm to a person less than eighteen
4 years old without the consent of the child's custodial parent or
5 guardian; provided, that this does not prohibit the delivery of
6 such weapons to any peace officer or member of the Armed Forces
7 or National Guard while performing his official duty]; or

8 ~~[(3)]~~ (4) Recklessly, as defined in section 562.016, sells,
9 leases, loans, gives away or delivers a firearm or ammunition for
10 a firearm to a person who is intoxicated.

11 2. Unlawful transfer of weapons under subdivision (1) or
12 (2) of subsection 1 of this section is a class E felony; unlawful
13 transfer of weapons under [subdivisions (2) and] subdivision (3)
14 or (4) of subsection 1 of this section is a class A misdemeanor.

15 571.063. 1. As used in this section the following terms
16 shall mean:

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

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

22 (3) "Materially false information", any information that
23 portrays an illegal transaction as legal or a legal transaction
24 as illegal;

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

27 2. A person commits the crime of fraudulent purchase of a
28 firearm if such person:

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

6 (2) Provides to a licensed dealer or private seller of
7 firearms or ammunition what the person knows to be materially
8 false information with intent to deceive the dealer or seller
9 about the legality of a transfer of a firearm or ammunition; or

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

12 3. Fraudulent purchase of a firearm is a class **[E]** D
13 felony.

14 4. This section shall not apply to criminal investigations
15 conducted by the United States Bureau of Alcohol, Tobacco,
16 Firearms and Explosives, authorized agents of such
17 investigations, or to a peace officer, as defined in section
18 542.261, acting at the explicit direction of the United States
19 Bureau of Alcohol, Tobacco, Firearms and Explosives.

20 571.070. 1. A person commits the offense of unlawful
21 possession of a firearm if such person knowingly has any firearm
22 in his or her possession and:

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

27 (2) Such person is a fugitive from justice, is habitually
28 in an intoxicated or drugged condition, or is currently adjudged

1 mentally incompetent.

2 2. Unlawful possession of a firearm is a class D felony,
3 unless a person has been convicted of a dangerous felony as
4 defined in section 556.061, in which case it is a class C felony.

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