

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
**HOUSE BILL NO. 1450, HOUSE BILL NO. 1296,
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1331, AND
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1898**
100TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 27, 2020, with recommendation that the Senate Committee Substitute do pass.

ADRIANE D. CROUSE, Secretary.

3694S.04C

AN ACT

To repeal sections 221.111, 544.170, 545.140, 556.061, 557.021, 562.014, 571.015, 571.070, 578.421, 578.423, 578.425, 579.065, 579.068, and 650.055, 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 twenty-six new sections relating to criminal law, with penalty provisions.

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

Section A. Sections 221.111, 544.170, 545.140, 556.061, 557.021, 562.014,
2 571.015, 571.070, 578.421, 578.423, 578.425, 579.065, 579.068, and 650.055,
3 RSMo, section 211.071 as enacted by senate bill no. 793 merged with senate bill
4 no. 800, ninety-ninth general assembly, second regular session, and section
5 211.071 as enacted by house bill no. 215 merged with senate bill no. 36, ninety-
6 seventh general assembly, first regular session, are repealed and twenty-six new
7 sections enacted in lieu thereof, to be known as sections 211.071, 211.071,
8 217.850, 221.111, 491.016, 491.641, 544.170, 545.140, 550.125, 556.061, 556.065,
9 557.021, 557.045, 562.014, 570.027, 571.015, 571.070, 577.800, 578.419, 578.421,
10 578.423, 578.425, 579.065, 579.068, 632.460, and 650.055, to read as follows:

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

211.071. 1. If a petition alleges that a child between the ages of twelve
2 and eighteen has committed an offense which would be considered a felony if
3 committed by an adult, the court may, upon its own motion or upon motion by the
4 juvenile officer, the child or the child's custodian, order a hearing and may, in its
5 discretion, dismiss the petition and such child may be transferred to the court of
6 general jurisdiction and prosecuted under the general law; except that if a
7 petition alleges that any child has committed an offense which would be
8 considered first degree murder under section 565.020, second degree murder
9 under section 565.021, first degree assault under section 565.050, forcible rape
10 under section 566.030 as it existed prior to August 28, 2013, rape in the first
11 degree under section 566.030, forcible sodomy under section 566.060 as it existed
12 prior to August 28, 2013, sodomy in the first degree under section 566.060, first
13 degree robbery under section 569.020 as it existed prior to January 1, 2017, or
14 robbery in the first degree under section 570.023, distribution of drugs under
15 section 195.211 as it existed prior to January 1, 2017, [or] the manufacturing of
16 a controlled substance under section 579.055, **any offense under section**
17 **571.030, any offense under section 571.015, vehicle hijacking under**
18 **section 570.027**, or has committed two or more prior unrelated offenses which
19 would be felonies if committed by an adult, the court shall order a hearing, and
20 may in its discretion, dismiss the petition and transfer the child to a court of
21 general jurisdiction for prosecution under the general law.

22 2. Upon apprehension and arrest, jurisdiction over the criminal offense
23 allegedly committed by any person between eighteen and twenty-one years of age
24 over whom the juvenile court has retained continuing jurisdiction shall
25 automatically terminate and that offense shall be dealt with in the court of
26 general jurisdiction as provided in section 211.041.

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

32 4. Written notification of a transfer hearing shall be given to the juvenile
33 and his or her custodian in the same manner as provided in sections 211.101 and
34 211.111. Notice of the hearing may be waived by the custodian. Notice shall
35 contain a statement that the purpose of the hearing is to determine whether the
36 child is a proper subject to be dealt with under the provisions of this chapter, and

37 that if the court finds that the child is not a proper subject to be dealt with under
38 the provisions of this chapter, the petition will be dismissed to allow for
39 prosecution of the child under the general law.

40 5. The juvenile officer may consult with the office of prosecuting attorney
41 concerning any offense for which the child could be certified as an adult under
42 this section. The prosecuting or circuit attorney shall have access to police
43 reports, reports of the juvenile or deputy juvenile officer, statements of witnesses
44 and all other records or reports relating to the offense alleged to have been
45 committed by the child. The prosecuting or circuit attorney shall have access to
46 the disposition records of the child when the child has been adjudicated pursuant
47 to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney
48 shall not divulge any information regarding the child and the offense until the
49 juvenile court at a judicial hearing has determined that the child is not a proper
50 subject to be dealt with under the provisions of this chapter.

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

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

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

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

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

66 (5) The record and history of the child, including experience with the
67 juvenile justice system, other courts, supervision, commitments to juvenile
68 institutions and other placements;

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

72 (7) The age of the child;

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

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

77 (10) Racial disparity in certification.

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

80 (1) Findings showing that the court had jurisdiction of the cause and of
81 the parties;

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

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

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

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

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

94 10. If a petition has been dismissed thereby permitting a child to be
95 prosecuted under the general law and the child is found not guilty by a court of
96 general jurisdiction, the juvenile court shall have jurisdiction over any later
97 offense committed by that child which would be considered a misdemeanor or
98 felony if committed by an adult, subject to the certification provisions of this
99 section.

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

103 **12. The provisions of this section shall become effective on**
104 **January 1, 2021.**

211.071. 1. If a petition alleges that a child between the ages of twelve
2 and seventeen has committed an offense which would be considered a felony if
3 committed by an adult, the court may, upon its own motion or upon motion by the
4 juvenile officer, the child or the child's custodian, order a hearing and may, in its

5 discretion, dismiss the petition and such child may be transferred to the court of
6 general jurisdiction and prosecuted under the general law; except that if a
7 petition alleges that any child has committed an offense which would be
8 considered first degree murder under section 565.020, second degree murder
9 under section 565.021, first degree assault under section 565.050, forcible rape
10 under section 566.030 as it existed prior to August 28, 2013, rape in the first
11 degree under section 566.030, forcible sodomy under section 566.060 as it existed
12 prior to August 28, 2013, sodomy in the first degree under section 566.060, first
13 degree robbery under section 570.023, or distribution of drugs under section
14 579.055, or has committed two or more prior unrelated offenses which would be
15 felonies if committed by an adult, the court shall order a hearing, and may in its
16 discretion, dismiss the petition and transfer the child to a court of general
17 jurisdiction for prosecution under the general law.

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

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

28 4. Written notification of a transfer hearing shall be given to the juvenile
29 and his or her custodian in the same manner as provided in sections 211.101 and
30 211.111. Notice of the hearing may be waived by the custodian. Notice shall
31 contain a statement that the purpose of the hearing is to determine whether the
32 child is a proper subject to be dealt with under the provisions of this chapter, and
33 that if the court finds that the child is not a proper subject to be dealt with under
34 the provisions of this chapter, the petition will be dismissed to allow for
35 prosecution of the child under the general law.

36 5. The juvenile officer may consult with the office of prosecuting attorney
37 concerning any offense for which the child could be certified as an adult under
38 this section. The prosecuting or circuit attorney shall have access to police
39 reports, reports of the juvenile or deputy juvenile officer, statements of witnesses
40 and all other records or reports relating to the offense alleged to have been

41 committed by the child. The prosecuting or circuit attorney shall have access to
42 the disposition records of the child when the child has been adjudicated pursuant
43 to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney
44 shall not divulge any information regarding the child and the offense until the
45 juvenile court at a judicial hearing has determined that the child is not a proper
46 subject to be dealt with under the provisions of this chapter.

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

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

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

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

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

62 (5) The record and history of the child, including experience with the
63 juvenile justice system, other courts, supervision, commitments to juvenile
64 institutions and other placements;

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

68 (7) The age of the child;

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

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

73 (10) Racial disparity in certification.

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

76 (1) Findings showing that the court had jurisdiction of the cause and of

77 the parties;

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

79 (3) Findings showing that the hearing was held in the presence of the
80 child and his counsel; and

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

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

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

90 10. If a petition has been dismissed thereby permitting a child to be
91 prosecuted under the general law and the child is found not guilty by a court of
92 general jurisdiction, the juvenile court shall have jurisdiction over any later
93 offense committed by that child which would be considered a misdemeanor or
94 felony if committed by an adult, subject to the certification provisions of this
95 section.

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

99 **12. The provisions of this section shall expire on December 31,**
100 **2020.**

217.850. 1. A person commits the offense of unlawful use of
2 **unmanned aircraft over a correctional center if he or she purposely:**

3 **(1) Operates an unmanned aircraft within a vertical distance of**
4 **four hundred feet over a correctional center's secure perimeter fence;**
5 **or**

6 **(2) Allows an unmanned aircraft to make contact with a**
7 **correctional center, including any person or object on the premises of**
8 **or within the facility.**

9 **2. For purposes of this section, "correctional center" shall**
10 **include:**

11 **(1) Any correctional center as defined in section 217.010;**

12 **(2) Any private jail as defined in section 221.095; and**

13 **(3) Any county or municipal jail.**

14 **3. The provisions of this section shall not prohibit the operation**
15 **of an unmanned aircraft by:**

16 **(1) An employee of the correctional center at the direction of the**
17 **chief administrative officer of the facility;**

18 **(2) A person who has written consent from the chief**
19 **administrative officer of the facility;**

20 **(3) An employee of a law enforcement agency, fire department,**
21 **or emergency medical service in the exercise of official duties;**

22 **(4) A government official or employee in the exercise of official**
23 **duties;**

24 **(5) A public utility or a rural electric cooperative if:**

25 **(a) The unmanned aircraft is used for the purpose of inspecting,**
26 **repairing, or maintaining utility transmission or distribution lines or**
27 **other utility equipment or infrastructure;**

28 **(b) The utility notifies the correctional center before flying the**
29 **unmanned aircraft, except during an emergency; and**

30 **(c) The person operating the unmanned aircraft does not**
31 **physically enter the prohibited space without an escort provided by the**
32 **correctional center;**

33 **(6) An employee of a railroad in the exercise of official duties on**
34 **any land owned or operated by a railroad corporation regulated by the**
35 **Federal Railroad Administration; or**

36 **(7) A person operating an unmanned aircraft pursuant to and in**
37 **compliance with any waiver issued by the Federal Aviation Authority**
38 **under 14 CFR 107.200.**

39 **4. The offense of unlawful use of unmanned aircraft over a**
40 **correctional center shall be punishable as an infraction unless the**
41 **person uses an unmanned aircraft for the purpose of:**

42 **(1) Delivering a gun, knife, weapon, or other article that may be**
43 **used in such manner to endanger the life of an offender or correctional**
44 **center employee, in which case the offense is a class B felony;**

45 **(2) Facilitating an escape from confinement under section**
46 **575.210, in which case the offense is a class C felony; or**

47 **(3) Delivering a controlled substance, as that term is defined**
48 **under section 195.010, in which case the offense is a class D felony.**

49 **5. Each correctional center shall post a sign warning of the**
50 **provisions of this section. The sign shall be at least eleven inches by**
51 **fourteen inches and posted in a conspicuous place.**

 221.111. 1. A person commits the offense of possession of unlawful items
2 in a prison or jail if such person knowingly delivers, attempts to deliver,
3 possesses, deposits, or conceals in or about the premises of any correctional center
4 as the term "correctional center" is defined under section 217.010, or any city,
5 county, or private jail:

6 (1) Any controlled substance as that term is defined by law, except upon
7 the written or electronic prescription of a licensed physician, dentist, or
8 veterinarian;

9 (2) Any other alkaloid of any kind or any intoxicating liquor as the term
10 intoxicating liquor is defined in section 311.020;

11 (3) Any article or item of personal property which a prisoner is prohibited
12 by law, by rule made pursuant to section 221.060, or by regulation of the
13 department of corrections from receiving or possessing, except as herein provided;

14 (4) Any gun, knife, weapon, or other article or item of personal property
15 that may be used in such manner as to endanger the safety or security of the
16 institution or as to endanger the life or limb of any prisoner or employee thereof;
17 **or**

18 **(5) Any two-way telecommunications device or the component**
19 **parts thereof.**

20 2. The violation of subdivision (1) of subsection 1 of this section shall be
21 a class D felony; the violation of subdivision (2) **or (5) of subsection 1** of this
22 section shall be a class E felony; the violation of subdivision (3) **of subsection**
23 **1** of this section shall be a class A misdemeanor; and the violation of subdivision
24 (4) **of subsection 1** of this section shall be a class B felony.

25 3. The chief operating officer of a county or city jail or other correctional
26 facility or the administrator of a private jail may deny visitation privileges to or
27 refer to the county prosecuting attorney for prosecution any person who
28 knowingly delivers, attempts to deliver, possesses, deposits, or conceals in or
29 about the premises of such jail or facility any personal item which is prohibited
30 by rule or regulation of such jail or facility. Such rules or regulations, including
31 a list of personal items allowed in the jail or facility, shall be prominently posted
32 for viewing both inside and outside such jail or facility in an area accessible to
33 any visitor, and shall be made available to any person requesting such rule or

34 regulation. Violation of this subsection shall be an infraction if not covered by
35 other statutes.

36 4. Any person who has been found guilty of a violation of subdivision (2)
37 of subsection 1 of this section involving any alkaloid shall be entitled to
38 expungement of the record of the violation. The procedure to expunge the record
39 shall be pursuant to section 610.123. The record of any person shall not be
40 expunged if such person has been found guilty of knowingly delivering,
41 attempting to deliver, possessing, depositing, or concealing any alkaloid of any
42 controlled substance in or about the premises of any correctional center, or city
43 or county jail, or private prison or jail.

44 **5. Subdivision (5) of subsection 1 of this section shall not apply**
45 **to any person who is not an inmate possessing a two-way**
46 **telecommunications device or the component parts thereof in a**
47 **correctional center or city, county, or private jail if such person**
48 **lawfully acts without intent to conceal and without intent to deliver to**
49 **another person or deposit for the use of another person; however, if**
50 **such person refuses to comply with orders to surrender such device or**
51 **its component parts, he or she shall be guilty of a class A misdemeanor.**

491.016. A statement made by a witness that is not otherwise
2 admissible is admissible in evidence in a criminal proceeding in the
3 courts of this state as substantive evidence to prove the truth of the
4 matter asserted if the court finds, by a preponderance of the evidence
5 in a hearing conducted outside the presence of the jury and before
6 trial, that the defendant engaged in or acquiesced to wrongdoing with
7 the purpose of preventing the witness from testifying in any proceeding
8 and the witness fails to appear.

491.641. 1. (1) There is hereby created in the state treasury the
2 "Pretrial Witness Protection Services Fund", which shall consist of
3 moneys collected under this section. The state treasurer shall be
4 custodian of the fund. In accordance with sections 30.170 and 30.180,
5 the state treasurer may approve disbursements. The fund shall be a
6 dedicated fund and money in the fund shall be used solely by the
7 department of public safety for the purposes of witness protection
8 services pursuant to this section.

9 (2) Notwithstanding the provisions of section 33.080 to the
10 contrary, any moneys remaining in the fund at the end of the biennium

11 shall not revert to the credit of the general revenue fund.

12 (3) The state treasurer shall invest moneys in the fund in the
13 same manner as other funds are invested. Any interest and moneys
14 earned on such investments shall be credited to the fund.

15 2. Any law enforcement agency may provide for the security of
16 witnesses, potential witnesses, and their immediate families in criminal
17 proceedings instituted or investigations pending against a person
18 alleged to have engaged in a violation of state law. Providing for
19 witnesses may include provision of housing facilities and for the health,
20 safety, and welfare of such witnesses and their immediate families, if
21 testimony by such a witness might subject the witness or a member of
22 his or her immediate family to danger of bodily injury, and may
23 continue so long as such danger exists. Subject to appropriations from
24 the general assembly for the purposes provided for in this section,
25 funds may be appropriated from the pretrial witness protection
26 services fund.

27 3. The department of public safety may authorize funds to be
28 disbursed to law enforcement agencies for the purchase, rental, or
29 modification of protected housing facilities for the purpose of this
30 section. The law enforcement agency may contract with any
31 department of federal or state government to obtain or to provide the
32 facilities or services to carry out this section.

33 4. The department of public safety may authorize expenditures
34 for law enforcement agencies to provide for the health, safety, and
35 welfare of witnesses and victims, and the families of such witnesses and
36 victims, whenever testimony from, or a willingness to testify by, such
37 a witness or victim would place the life of such person, or a member of
38 his or her family or household, in jeopardy. A law enforcement agency
39 shall submit an application to the department of public safety which
40 shall include, but not necessarily be limited to:

41 (1) Statement of conditions which qualify persons for protection;

42 (2) Precise methods the originating agency will use to provide
43 protection, including relocation of persons and reciprocal agreements
44 with other law enforcement agencies; and

45 (3) Statement of the projected costs over a specified period of
46 time.

544.170. 1. All persons arrested and confined in any jail or other place
2 of confinement by any peace officer, without warrant or other process, for any
3 alleged breach of the peace or other criminal offense, or on suspicion thereof,
4 shall be discharged from said custody within twenty-four hours from the time of
5 such arrest, unless they shall be charged with a criminal offense by the oath of
6 some credible person, and be held by warrant to answer to such offense.

7 2. In any confinement to which the provisions of this section apply, the
8 confinee shall be permitted at any reasonable time to consult with counsel or
9 other persons acting on the confinee's behalf.

10 3. Any person who violates the provisions of this section, by refusing to
11 release any person who is entitled to release pursuant to this section, or by
12 refusing to permit a confinee to consult with counsel or other persons, or who
13 transfers any such confinees to the custody or control of another, or to another
14 place, or who falsely charges such person, with intent to avoid the provisions of
15 this section, is guilty of a class A misdemeanor.

16 4. **Notwithstanding the provisions of subsection 1 of this section**
17 **to the contrary, all persons arrested and confined in any jail or other**
18 **place of confinement by any peace officer, without warrant or other**
19 **process, for a criminal offense involving a dangerous felony or deadly**
20 **weapon as defined in section 556.061, or on suspicion thereof, shall be**
21 **discharged from said custody within forty-eight hours from the time of**
22 **such arrest, unless they shall be charged with a criminal offense by the**
23 **oath of some credible person, and be held by warrant to answer to such**
24 **offense.**

545.140. 1. Notwithstanding Missouri supreme court rule 24.06, two or
2 more defendants may be charged in the same indictment or information if they
3 are alleged to have participated in the same act or transaction or in the same
4 series of acts or transactions constituting an offense. Such defendants may be
5 charged in one or more counts together or separately and all of the defendants
6 need not be charged in each count.

7 2. Notwithstanding Missouri supreme court rule 24.07, two or more
8 offenses may be charged in the same indictment or information in a separate
9 count for each offense if the offenses charged, whether felonies or misdemeanors
10 or infractions, or any combination thereof, are of the same or similar character
11 or are based on the same act or transaction or on two or more acts or transactions
12 connected together or constituting parts of a common scheme or plan.

13 3. Two or more defendants shall not be charged in the same indictment
14 or information if substantial prejudice should result. For purposes of this section,
15 "substantial prejudice" shall mean a bias or discrimination against one or more
16 defendants or the state which is actually existing or real and not one which is
17 merely imaginary, illusionary or nominal.

18 4. **If two or more defendants are charged with being joint**
19 **participants in a conspiracy charged under section 562.014, it shall be**
20 **presumed that there is no substantial prejudice from them being**
21 **charged in the same indictment or information or from them being**
22 **tried together.**

 550.125. 1. There is hereby created in the state treasury the
2 "Change of Venue for Capital Cases Fund", which shall consist of
3 moneys appropriated to the fund by the general assembly. The office
4 of state courts administrator shall administer and disburse moneys in
5 the fund in accordance with subsection 2 of this section. The fund shall
6 be a dedicated fund and, upon appropriation, moneys in the fund shall
7 be used solely for the administration of this section. Notwithstanding
8 the provisions of section 33.080, any moneys remaining in the fund at
9 the end of the biennium shall not revert to the credit of the general
10 revenue fund. The state treasurer shall invest moneys in the fund in
11 the same manner as other funds are invested. Any interest and moneys
12 earned on such investments shall be credited to the fund.

13 2. In a capital case in which a change of venue is taken from one
14 county to any other county, at the conclusion of such case the county
15 to which the case was transferred may apply to the office of state
16 courts administrator for reimbursement from the change of venue for
17 capital cases fund any costs associated with the sequestering of
18 jurors. The costs of reimbursement shall not exceed the then approved
19 state rates for travel reimbursement for lodging and meals.

20 3. The office of state courts administrator shall develop an
21 application process and other procedures to determine if a county is
22 eligible for reimbursement under this section. If a county is eligible for
23 reimbursement, the office of state courts administrator shall disburse
24 such moneys to the county. If the office of state courts administrator
25 determines a county is not eligible for reimbursement under this
26 section, the county in which the capital case originated shall be

27 **responsible for reimbursement.**

28 **4. Any rule or portion of a rule, as that term is defined in section**
29 **536.010, that is created under the authority delegated in this section**
30 **shall become effective only if it complies with and is subject to all of**
31 **the provisions of chapter 536 and, if applicable, section 536.028. This**
32 **section and chapter 536 are nonseverable, and if any of the powers**
33 **vested with the general assembly pursuant to chapter 536 to review, to**
34 **delay the effective date, or to disapprove and annul a rule are**
35 **subsequently held unconstitutional, then the grant of rulemaking**
36 **authority and any rule proposed or adopted after August 28, 2020, shall**
37 **be invalid and void.**

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, **armed criminal action, conspiracy**
113 **to commit an offense when the offense is a dangerous felony, vehicle**
114 **hijacking when punished as a class A felony**, statutory rape in the first
115 degree when the victim is a child less than twelve years of age at the time of the
116 commission of the act giving rise to the offense, statutory sodomy in the first
117 degree when the victim is a child less than twelve years of age at the time of the
118 commission of the act giving rise to the offense, child molestation in the first or
119 second degree, abuse of a child if the child dies as a result of injuries sustained
120 from conduct chargeable under section 568.060, child kidnapping, parental
121 kidnapping committed by detaining or concealing the whereabouts of the child for
122 not less than one hundred twenty days under section 565.153, and an
123 "intoxication-related traffic offense" or "intoxication-related boating offense" if the
124 person is found to be a "habitual offender" or "habitual boating offender" as such
125 terms are defined in section 577.001;

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

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

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

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

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

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

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

149 (27) "Forcible compulsion" either:

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

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

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

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

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

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

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

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

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

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

169 (a) Conduct or attendant circumstances, means a person is aware of the

170 nature of his or her conduct or that those circumstances exist; or

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

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

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

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

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

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

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

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

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

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

206 state, or any person elected to a position with any government of this state. It
207 includes, but is not limited to, legislators, jurors, members of the judiciary and
208 law enforcement officers. It does not include witnesses;

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

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

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

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

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

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

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

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

241 (49) "Voluntary act":

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

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

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

**556.065. 1. The provisions of this section shall apply to any city
2 not within a county.**

**3 2. (1) The attorney general shall have concurrent jurisdiction
4 with any circuit attorney to prosecute under this section.**

**5 (2) Upon receiving a referral from a law enforcement agency
6 alleging a violation of sections 565.020, 565.021, or 570.027, the attorney
7 general may commence prosecution of any violations of said sections
8 within sixty days by filing a complaint, information, or
9 indictment. Once the attorney general commences prosecution
10 pursuant to this section, he or she may prosecute any additional
11 violations that were part of the same course of conduct as the violation
12 of sections 565.020, 565.021, or 570.027.**

**13 (3) If the circuit attorney has commenced prosecution by filing
14 a complaint, information, or indictment, the attorney general may
15 adopt or amend the complaint, information, or indictment and the
16 circuit attorney shall immediately withdraw from the prosecution.**

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

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

6 3. For the purpose of applying the extended term provisions of section
7 558.016 and the minimum prison term provisions of section 558.019 and for
8 determining the penalty for attempts [and conspiracies], offenses defined outside

9 of this code shall be classified as follows:

10 (1) If the offense is a felony:

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

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

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

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

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

21 (2) If the offense is a misdemeanor:

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

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

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

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

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

**557.045. No person found guilty of, or pleading guilty to, the
2 following offenses shall be eligible for probation, suspended imposition
3 or execution of sentence, or conditional release, and shall be sentenced
4 to a term of imprisonment pursuant to subdivision (1) of subsection 2
5 of section 557.011:**

6 (1) **Second degree murder when a person knowingly causes the
7 death of another person or, with the purpose of causing serious
8 physical injury to another person, causes the death of another person,
9 as defined in subdivision (1) of subsection 1 in section 565.021;**

10 (2) **Any dangerous felony, as the term is defined in section
11 556.061, where the person has been previously found guilty of a class
12 A or B felony or a dangerous felony; or**

13 (3) **Any dangerous felony, as the term is defined in section
14 556.061, where the commission of the felony involves the use of a deadly**

15 **weapon, as that term is defined in section 556.061.**

562.014. 1. [Guilt for an offense may be based upon a conspiracy to
2 commit an offense when a person, with the purpose of promoting or facilitating
3 the commission of an offense, agrees with another person or persons that they or
4 one or more of them will engage in conduct which constitutes such offense] **A**
5 **person commits the offense of conspiracy to commit, in any manner or**
6 **for any purpose, an offense if the person agrees, with one or more**
7 **persons, to commit any class A, B, or C felony offense, or any**
8 **unclassified felony offenses if the maximum term of imprisonment for**
9 **such unclassified felony exceeds ten years or more, and one or more of**
10 **such persons do any act in furtherance of such an agreement.**

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

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

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

22 5.] (1) No person shall be convicted of [an offense based upon a]
23 conspiracy to commit an offense if, after conspiring to commit the offense, he or
24 she prevented the accomplishment of the objectives of the conspiracy under
25 circumstances manifesting a renunciation of his or her criminal purpose.

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

28 [6.] **5.** For the purpose of time limitations on prosecutions:

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

33 (2) If an individual abandons the agreement, the conspiracy is terminated
34 as to him or her only if he or she advises those with whom he or she has
35 conspired of his or her abandonment or he or she informs the law enforcement

36 authorities of the existence of the conspiracy and of his or her participation in it.

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

40 8. Unless otherwise set forth in the statute creating the offense, when
41 guilt for a felony or misdemeanor is based upon a conspiracy to commit that
42 offense, the felony or misdemeanor shall be classified one step lower than the
43 class provided for the felony or misdemeanor in the statute creating the offense]

44 **6. The offense of conspiracy to commit an offense is a class C**
45 **felony.**

570.027. 1. A person commits the offense of vehicle hijacking
2 **when he or she knowingly uses or threatens the use of physical force**
3 **upon another person to seize or attempt to seize possession or control**
4 **of a vehicle, as defined in section 302.010, from the immediate**
5 **possession or control of another person.**

6 **2. The offense of vehicle hijacking is a class B felony unless it**
7 **meets one of the criteria listed in subsection 3 of this section.**

8 **3. The offense of vehicle hijacking is a class A felony if, in the**
9 **course thereof, a person or another participant in the offense:**

10 **(1) Causes serious physical injury to any person in immediate**
11 **possession, control, or presence of the vehicle;**

12 **(2) Is armed with a deadly weapon;**

13 **(3) Uses or threatens the immediate use of a dangerous**
14 **instrument against any person;**

15 **(4) Displays or threatens the use of what appears to be a deadly**
16 **weapon or dangerous instrument; or**

17 **(5) Seizes a vehicle, or attempts to seize a vehicle, in which a**
18 **child or special victim as defined in section 565.002 is present.**

571.015. 1. [Except as provided in subsection 4 of this section,] Any
2 **person who commits any felony under the laws of this state by, with, or through**
3 **the use, assistance, or aid of a dangerous instrument or deadly weapon is also**
4 **guilty of the [crime] offense of armed criminal action and, upon conviction, shall**
5 **be punished by imprisonment by the department of corrections [and human**
6 **resources] for a term of not less than three years and not to exceed fifteen**
7 **years, unless the person is unlawfully possessing a firearm, in which**
8 **case the term of imprisonment shall be for a term of not less than five**

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

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

26 3. Any person convicted of a third or subsequent offense of armed criminal
27 action **under subsection 1 of this section** shall be punished by imprisonment
28 by the department of corrections [and human resources] for a term of not less
29 than ten years, **unless the person is unlawfully possessing a firearm, in**
30 **which case the term of imprisonment shall be no less than fifteen**
31 **years.** The punishment imposed pursuant to this subsection shall be in addition
32 to **and consecutive to** any punishment provided by law for the crime committed
33 by, with, or through the use, assistance, or aid of a dangerous instrument or
34 deadly weapon. No person convicted under this subsection shall be eligible for
35 parole, probation, conditional release or suspended imposition or execution of
36 sentence for a period of ten calendar years.

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

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

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

6 (2) Such person is a fugitive from justice, is habitually in an intoxicated

7 or drugged condition, or is currently adjudged mentally incompetent.

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

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

577.800. 1. A person commits the offense of unlawful use of
2 **unmanned aircraft over an open air facility if he or she purposely:**

3 (1) Operates an unmanned aircraft within a vertical distance of
4 four hundred feet from the ground and within the property line of an
5 open air facility; or

6 (2) Uses an unmanned aircraft with the purpose of delivering to
7 a person within an open air facility any object described in subdivision
8 (1) or (2) of subsection 4 of this section.

9 2. For purposes of this section, "open air facility" shall mean any
10 sports, theater, music, performing arts, or other entertainment facility
11 with a capacity of five thousand people or more and is not completely
12 enclosed by a roof or other structure.

13 3. The provisions of this section shall not prohibit the operation
14 of an unmanned aircraft by:

15 (1) An employee of an open air facility at the direction of the
16 president or chief executive officer of the open air facility;

17 (2) A person who has written consent from the president or chief
18 executive officer of the open air facility;

19 (3) An employee of a law enforcement agency, fire department,
20 or emergency medical service in the exercise of official duties;

21 (4) A government official or employee in the exercise of official
22 duties;

23 (5) A public utility or a rural electric cooperative if:

24 (a) The unmanned aircraft is used for the purpose of inspecting,
25 repairing, or maintaining utility transmission or distribution lines,
26 other utility equipment, or infrastructure;

27 (b) The utility or cooperative notifies the open air facility before
28 flying the unmanned aircraft, except during an emergency; and

29 (c) The person operating the unmanned aircraft does not
30 physically enter the prohibited space without an escort provided by the

31 **open air facility; or**

32 **(6) An employee of a railroad in the exercise of official duties on**
33 **any land owned or operated by a railroad corporation regulated by the**
34 **federal railroad administration.**

35 **4. The offense of unlawful use of unmanned aircraft over an open**
36 **air facility shall be punishable as an infraction unless the person uses**
37 **an unmanned aircraft for:**

38 **(1) Delivering a gun, knife, weapon, or other article that may be**
39 **used in such manner to endanger the life of an employee or guest at an**
40 **open air facility, in which case the offense is a class B felony; or**

41 **(2) Delivering a controlled substance, as that term is defined in**
42 **chapter 195, in which case the offense is a class D felony.**

43 **5. Each open air facility shall post a sign warning of the**
44 **provisions of this section. The sign shall be at least eleven inches by**
45 **fourteen inches and posted in a conspicuous place.**

578.419. Sections 578.419 to 578.437 shall be known and may be
2 **cited as the "Missouri Criminal Street Gangs Prevention Act".**

578.421. As used in sections 578.421 to 578.437, the following terms
2 mean:

3 (1) "Criminal street gang", any ongoing organization, association, or group
4 of three or more persons, whether formal or informal, having as one of its
5 [primary] **motivating** activities the commission of one or more of the criminal
6 acts enumerated in subdivision (2) of this section, [which has a common name or
7 common identifying sign or symbol,] whose members individually or collectively
8 engage in or have engaged in a pattern of criminal gang activity;

9 (2) "Pattern of criminal street gang activity", the commission, attempted
10 commission, or solicitation of two or more of the following offenses, provided at
11 least one of those offenses occurred after August 28, 1993, and the last of those
12 offenses occurred within three years after a prior offense, and the offenses are
13 committed on separate occasions, or by two or more persons:

14 (a) Assault with a deadly weapon or by means of force likely to cause
15 serious physical injury, as provided in sections 565.050 and 565.052;

16 (b) Robbery, arson and those offenses under chapter 569 which are related
17 to robbery and arson;

18 (c) Murder or manslaughter, as provided in sections 565.020 to 565.024;

19 (d) Any violation of the provisions of chapter 579 which involves the

20 distribution, delivery or manufacture of a substance prohibited by chapter 579;

21 (e) Unlawful use of a weapon which is a felony pursuant to section
22 571.030;

23 (f) Tampering with witnesses and victims, as provided in section 575.270;

24 (g) Promoting online sexual solicitation, as provided in section 566.103;

25 (h) Sexual trafficking of a child in the first degree, as provided in section
26 566.210;

27 (i) Sexual trafficking of a child in the second degree, as provided in
28 section 566.211;

29 (j) Patronizing prostitution, as provided in subsection 4 of section 567.030;

30 (k) Promoting prostitution in the first degree, as provided in section
31 567.050;

32 (l) Promoting prostitution in the second degree, as provided in section
33 567.060;

34 (m) Abuse or neglect of a child, as provided in subsection 6 of section
35 568.060;

36 (n) Sexual exploitation of a minor, as provided in section 573.023;

37 (o) Child used in sexual performance, as provided in section 573.200; [or]

38 (p) Promoting sexual performance by a child, as provided in section
39 573.205; **or**

40 **(q) Any dangerous felony, as defined in section 556.061.**

578.423. Any person who actively participates in any criminal street gang
2 with knowledge that its members engage in or have engaged in a pattern of
3 criminal street gang activity, and who willfully promotes, furthers, or assists in
4 any felonious criminal conduct by gang members shall be [punished by
5 imprisonment in the county jail for a period not to exceed one year, or by
6 imprisonment in a state correctional facility for one, two, or three years] **guilty**
7 **of a class B felony.**

578.425. Any person who is convicted of a felony [or a misdemeanor]
2 which is committed for the benefit of, at the direction of, or in association with,
3 any criminal street gang, with the [specific intent] **purpose** to promote, further,
4 or assist in any criminal conduct by gang members, shall be punished in the
5 following manner:

6 (1) [Any person who violates this section in the commission of a
7 misdemeanor shall be punished by imprisonment in the county jail not to exceed
8 one year, or by imprisonment in a state correctional facility for one, two, or three

9 years;

10 (2)] Any person who violates this section in the commission of a felony
11 shall, upon conviction of that felony, in addition and consecutive to the
12 punishment prescribed for the felony of which he or she has been convicted, be
13 punished by an additional term of [one,] two[, or three] years [at the court's
14 discretion]. If the underlying felony is committed on the grounds of, or within
15 one thousand feet of a public or private elementary, vocational, junior high or
16 high school, the additional term shall be [two,] three[, or four] years[, at the
17 court's discretion. The court shall order the imposition of the middle term of the
18 sentence enhancement, unless there are circumstances in aggravation or
19 mitigation. The court shall state the reasons for its choice of sentence
20 enhancements on the record at the time of sentencing];

21 **(2) Any person who violates this section in the commission of a**
22 **dangerous felony shall, upon conviction of that dangerous felony, in**
23 **addition and consecutive to the punishment prescribed for the**
24 **dangerous felony of which he or she has been convicted, be punished**
25 **by an additional term of five years;**

26 (3) Any person who violates this section in the commission of a felony
27 punishable by death or imprisonment for life shall not be paroled until a
28 minimum of fifteen calendar years have been served [in the custody of the
29 department of corrections].

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-methylenedioxymethamphetamine;

34 **(10) One gram or more of flunitrazepam for the first offense;**

35 **(11) Any amount of gamma-hydroxybutyric acid for the first**
36 **offense; or**

37 **(12) More than ten milligrams of fentanyl or carfentanil, or any**
38 **derivative thereof, or any combination thereof, or any compound,**
39 **mixture, or substance containing a detectable amount of fentanyl or**
40 **carfentanil, or their optical isomers or analogues.**

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

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

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

46 (2) Four hundred fifty grams or more of a mixture or substance containing
47 a detectable amount of coca leaves, except coca leaves and extracts of coca leaves
48 from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been
49 removed; cocaine salts and their optical and geometric isomers, and salts of
50 isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any
51 compound, mixture, or preparation which contains any quantity of any of the

52 foregoing substances; or

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

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

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

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

60 (7) One hundred kilograms or more of a mixture or substance containing
61 marijuana; or

62 (8) Ninety grams or more of any material, compound, mixture, or
63 preparation containing any quantity of the following substances having a
64 stimulant effect on the central nervous system: amphetamine, its salts, optical
65 isomers and salts of its optical isomers; methamphetamine, its salts, optical
66 isomers and salts of its optical isomers; phenmetrazine and its salts; or
67 methylphenidate; or

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

81 (10) Ninety grams or more of any material, compound, mixture or
82 preparation which contains any quantity of
83 3,4-methylenedioxymethamphetamine; or

84 (11) More than thirty grams of any material, compound, mixture, or
85 preparation which contains any quantity of 3,4-methylenedioxymethamphetamine
86 and the location of the offense was within two thousand feet of real property
87 comprising a public or private elementary, vocational, or secondary school,

88 college, community college, university, or any school bus, in or on the real
89 property comprising public housing or any other governmental assisted housing,
90 within a motor vehicle, or in any structure or building which contains rooms
91 furnished for the accommodation or lodging of guests, and kept, used, maintained,
92 advertised, or held out to the public as a place where sleeping accommodations
93 are sought for pay or compensation to transient guests or permanent guests; **or**
94 **(12) One gram or more of flunitrazepam for a second or**
95 **subsequent offense; or**
96 **(13) Any amount of gamma-hydroxybutyric acid for a second or**
97 **subsequent offense; or**
98 **(14) Twenty milligrams or more of fentanyl or carfentanil, or any**
99 **derivative thereof, or any combination thereof, or any compound,**
100 **mixture, or substance containing a detectable amount of fentanyl or**
101 **carfentanil, or their optical isomers or analogues.**

579.068. 1. A person commits the offense of trafficking drugs in the
2 second 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,
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-methylenedioxymethamphetamine; or

34 **(10) More than ten milligrams of fentanyl or carfentanil, or any**
35 **derivative thereof, or any combination thereof, or any compound,**
36 **mixture, or substance containing a detectable amount of fentanyl or**
37 **carfentanil, or their optical isomers or analogues.**

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

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

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

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

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

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

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

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

57 (7) One hundred kilograms or more of a mixture or substance containing
58 marijuana; or

- 59 (8) More than five hundred marijuana plants; or
60 (9) Ninety grams or more but less than four hundred fifty grams of any
61 material, compound, mixture, or preparation containing any quantity of the
62 following substances having a stimulant effect on the central nervous system:
63 amphetamine, its salts, optical isomers and salts of its optical isomers;
64 methamphetamine, its salts, optical isomers and salts of its optical isomers;
65 phenmetrazine and its salts; or methylphenidate; or
66 (10) Ninety grams or more but less than four hundred fifty grams of any
67 material, compound, mixture, or preparation which contains any quantity of
68 3,4-methylenedioxyamphetamine; or
69 (11) **Twenty milligrams or more of fentanyl or carfentanil, or any**
70 **derivative thereof, or any combination thereof, or any compound,**
71 **mixture, or substance containing a detectable amount of fentanyl or**
72 **carfentanil, or their optical isomers or analogues.**

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

76 (1) Any quantity of the following substances having a stimulant effect on
77 the central nervous system: amphetamine, its salts, optical isomers and salts of
78 its optical isomers; methamphetamine, its salts, isomers and salts of its isomers;
79 phenmetrazine and its salts; or methylphenidate; or

80 (2) Any quantity of 3,4-methylenedioxyamphetamine.

81 **5. The offense of drug trafficking in the second degree is a class**
82 **C felony for the first offense and a class B felony for any second or**
83 **subsequent offense for the trafficking of less than one gram of**
84 **flunitrazepam.**

632.460. 1. A person commits the offense of unlawful use of
2 **unmanned aircraft over a mental health hospital if he or she purposely:**

3 (1) **Operates an unmanned aircraft within a vertical distance of**
4 **four hundred feet over the mental health hospital's property line; or**

5 (2) **Uses an unmanned aircraft to deliver to a person confined in**
6 **a mental health hospital any object described in subdivision (1) or (3)**
7 **of subsection 6 of this section.**

8 2. **For the purposes of subsection 1 of this section, vertical**
9 **distance extends from ground level.**

10 3. **For purposes of this section, "mental health hospital" shall**

11 mean a facility operated by the department of mental health to provide
12 inpatient evaluation, treatment, or care to persons suffering from a
13 mental disorder, as defined under section 630.005; mental illness, as
14 defined under section 630.005; or mental abnormality, as defined under
15 section 632.480.

16 4. The provisions of this section shall not prohibit the operation
17 of an unmanned aircraft by:

18 (1) An employee of the mental health hospital at the direction of
19 the chief administrative officer of the mental health hospital;

20 (2) A person who has written consent from the chief
21 administrative officer of the mental health hospital;

22 (3) An employee of a law enforcement agency, fire department,
23 or emergency medical service in the exercise of official duties;

24 (4) A government official or employee in the exercise of official
25 duties;

26 (5) A public entity or a rural electric cooperative if:

27 (a) The unmanned aircraft is used for the purpose of inspecting,
28 repairing, or maintaining utility transmission or distribution lines or
29 other utility equipment or infrastructure;

30 (b) The utility notifies the mental health hospital before flying
31 the unmanned aircraft, except during an emergency; and

32 (c) The person operating the unmanned aircraft does not
33 physically enter the prohibited space without an escort provided by the
34 mental health hospital;

35 (6) An employee of a railroad in the exercise of official duties on
36 any land owned or operated by a railroad corporation regulated by the
37 Federal Railway Administration; or

38 (7) A person operating an unmanned aircraft pursuant to and in
39 compliance with any waiver issued by the Federal Aviation Authority
40 under 14 CFR 107.200.

41 5. Each mental health hospital shall post a sign warning of the
42 provisions of this section. The sign shall be at least eleven inches by
43 fourteen inches and posted in a conspicuous place.

44 6. The offense of unlawful use of unmanned aircraft over a
45 mental health hospital shall be punishable as an infraction unless the
46 person uses an unmanned aircraft for the purpose of:

47 **(1) Delivering a gun, knife, weapon, or other article that may be**
48 **used in such manner to endanger the life of a patient or mental health**
49 **hospital employee, in which case the offense is a class B felony;**

50 **(2) Facilitating an escape from commitment or detention under**
51 **section 575.195, in which case the offense is a class C felony; or**

52 **(3) Delivering a controlled substance, as that term is defined**
53 **under section 195.010, in which case the offense is a class D felony.**

650.055. 1. Every individual who:

2 (1) Is found guilty of a felony or any offense under chapter 566; or

3 (2) Is seventeen years of age or older and arrested for [burglary in the
4 first degree under section 569.160, or burglary in the second degree under section
5 569.170, or] a felony offense [under chapter 565, 566, 567, 568, or 573]; or

6 (3) Has been determined to be a sexually violent predator pursuant to
7 sections 632.480 to 632.513; or

8 (4) Is an individual required to register as a sexual offender under
9 sections 589.400 to 589.425;

10 shall have a fingerprint and blood or scientifically accepted biological sample
11 collected for purposes of DNA profiling analysis.

12 2. Any individual subject to DNA collection and profiling analysis under
13 this section shall provide a DNA sample:

14 (1) Upon booking at a county jail or detention facility; or

15 (2) Upon entering or before release from the department of corrections
16 reception and diagnostic centers; or

17 (3) Upon entering or before release from a county jail or detention facility,
18 state correctional facility, or any other detention facility or institution, whether
19 operated by a private, local, or state agency, or any mental health facility if
20 committed as a sexually violent predator pursuant to sections 632.480 to 632.513;
21 or

22 (4) When the state accepts a person from another state under any
23 interstate compact, or under any other reciprocal agreement with any county,
24 state, or federal agency, or any other provision of law, whether or not the person
25 is confined or released, the acceptance is conditional on the person providing a
26 DNA sample if the person was found guilty of a felony offense in any other
27 jurisdiction; or

28 (5) If such individual is under the jurisdiction of the department of
29 corrections. Such jurisdiction includes persons currently incarcerated, persons

30 on probation, as defined in section 217.650, and on parole, as also defined in
31 section 217.650; or

32 (6) At the time of registering as a sex offender under sections 589.400 to
33 589.425.

34 3. The Missouri state highway patrol and department of corrections shall
35 be responsible for ensuring adherence to the law. Any person required to provide
36 a DNA sample pursuant to this section shall be required to provide such sample,
37 without the right of refusal, at a collection site designated by the Missouri state
38 highway patrol and the department of corrections. Authorized personnel
39 collecting or assisting in the collection of samples shall not be liable in any civil
40 or criminal action when the act is performed in a reasonable manner. Such force
41 may be used as necessary to the effectual carrying out and application of such
42 processes and operations. The enforcement of these provisions by the authorities
43 in charge of state correctional institutions and others having custody or
44 jurisdiction over individuals included in subsection 1 of this section which shall
45 not be set aside or reversed is hereby made mandatory. The board of probation
46 or parole shall recommend that an individual on probation or parole who refuses
47 to provide a DNA sample have his or her probation or parole revoked. In the
48 event that a person's DNA sample is not adequate for any reason, the person
49 shall provide another sample for analysis.

50 4. The procedure and rules for the collection, analysis, storage,
51 expungement, use of DNA database records and privacy concerns shall not
52 conflict with procedures and rules applicable to the Missouri DNA profiling
53 system and the Federal Bureau of Investigation's DNA databank system.

54 5. Unauthorized use or dissemination of individually identifiable DNA
55 information in a database for purposes other than criminal justice or law
56 enforcement is a class A misdemeanor.

57 6. Implementation of sections 650.050 to 650.100 shall be subject to future
58 appropriations to keep Missouri's DNA system compatible with the Federal
59 Bureau of Investigation's DNA databank system.

60 7. All DNA records and biological materials retained in the DNA profiling
61 system are considered closed records pursuant to chapter 610. All records
62 containing any information held or maintained by any person or by any agency,
63 department, or political subdivision of the state concerning an individual's DNA
64 profile shall be strictly confidential and shall not be disclosed, except to:

65 (1) Peace officers, as defined in section 590.010, and other employees of

66 law enforcement agencies who need to obtain such records to perform their public
67 duties;

68 (2) The attorney general or any assistant attorneys general acting on his
69 or her behalf, as defined in chapter 27;

70 (3) Prosecuting attorneys or circuit attorneys as defined in chapter 56,
71 and their employees who need to obtain such records to perform their public
72 duties;

73 (4) The individual whose DNA sample has been collected, or his or her
74 attorney; or

75 (5) Associate circuit judges, circuit judges, judges of the courts of appeals,
76 supreme court judges, and their employees who need to obtain such records to
77 perform their public duties.

78 8. Any person who obtains records pursuant to the provisions of this
79 section shall use such records only for investigative and prosecutorial purposes,
80 including but not limited to use at any criminal trial, hearing, or proceeding; or
81 for law enforcement identification purposes, including identification of human
82 remains. Such records shall be considered strictly confidential and shall only be
83 released as authorized by this section.

84 9. (1) An individual may request expungement of his or her DNA sample
85 and DNA profile through the court issuing the reversal or dismissal, or through
86 the court granting an expungement of all official records under section 568.040.
87 A certified copy of the court order establishing that such conviction has been
88 reversed, guilty plea has been set aside, or expungement has been granted under
89 section 568.040 shall be sent to the Missouri state highway patrol crime
90 laboratory. Upon receipt of the court order, the laboratory will determine that
91 the requesting individual has no other qualifying offense as a result of any
92 separate plea or conviction and no other qualifying arrest prior to expungement.

93 (2) A person whose DNA record or DNA profile has been included in the
94 state DNA database in accordance with this section and sections 650.050,
95 650.052, and 650.100 may request expungement on **one or more of the**
96 **following** grounds [that the conviction has been reversed, the guilty plea on
97 which the authority for including that person's DNA record or DNA profile was
98 based has been set aside, or an expungement of all official records has been
99 granted by the court under section 568.040]:

100 (a) **The conviction on which the authority for including that**
101 **person's DNA record or DNA profile was based on has been reversed;**

102 **(b) The guilty plea on which the authority for including that**
103 **person's DNA record or DNA profile was based on has been set aside;**

104 **(c) The prosecutor has declined prosecution on all alleged**
105 **offenses which, upon conviction, would authorize the inclusion of that**
106 **person's DNA record or DNA profile;**

107 **(d) The prosecutor has withdrawn all qualifying charges which,**
108 **upon conviction, would authorize the inclusion of that person's DNA**
109 **record or DNA profile;**

110 **(e) The case or cases containing all charges which, upon**
111 **conviction, would authorize the inclusion of that person's DNA record**
112 **or DNA profile, are dismissed;**

113 **(f) The court finds at a preliminary hearing that there is no**
114 **probable cause to try that person for any charge which, upon**
115 **conviction, would authorize the inclusion of that person's DNA record**
116 **or DNA profile;**

117 **(g) That person is found not guilty of all charges which, upon**
118 **conviction, would authorize the inclusion of that person's DNA record**
119 **or DNA profile.**

120 (3) Upon receipt of a written request for expungement, a certified copy of
121 the final court order reversing the conviction, setting aside the plea, or granting
122 an expungement of all official records under section 568.040, and any other
123 information necessary to ascertain the validity of the request, the Missouri state
124 highway patrol crime laboratory shall expunge all DNA records and identifiable
125 information in the state DNA database pertaining to the person and destroy the
126 DNA sample of the person, unless the Missouri state highway patrol determines
127 that the person is otherwise obligated to submit a DNA sample. Within thirty
128 days after the receipt of the court order, the Missouri state highway patrol shall
129 notify the individual that it has expunged his or her DNA sample and DNA
130 profile, or the basis for its determination that the person is otherwise obligated
131 to submit a DNA sample.

132 (4) The Missouri state highway patrol is not required to destroy any item
133 of physical evidence obtained from a DNA sample if evidence relating to another
134 person would thereby be destroyed.

135 (5) Any identification, warrant, arrest, or evidentiary use of a DNA match
136 derived from the database shall not be excluded or suppressed from evidence, nor
137 shall any conviction be invalidated or reversed or plea set aside due to the failure

138 to expunge or a delay in expunging DNA records.

139 [10. When a DNA sample is taken from an individual pursuant to
140 subdivision (2) of subsection 1 of this section and the prosecutor declines
141 prosecution and notifies the arresting agency of that decision, the arresting
142 agency shall notify the Missouri state highway patrol crime laboratory within
143 ninety days of receiving such notification. Within thirty days of being notified by
144 the arresting agency that the prosecutor has declined prosecution, the Missouri
145 state highway patrol crime laboratory shall determine whether the individual has
146 any other qualifying offenses or arrests that would require a DNA sample to be
147 taken and retained. If the individual has no other qualifying offenses or arrests,
148 the crime laboratory shall expunge all DNA records in the database taken at the
149 arrest for which the prosecution was declined pertaining to the person and
150 destroy the DNA sample of such person.

151 11. When a DNA sample is taken of an arrestee for any offense listed
152 under subsection 1 of this section and charges are filed:

153 (1) If the charges are later withdrawn, the prosecutor shall notify the
154 state highway patrol crime laboratory that such charges have been withdrawn;

155 (2) If the case is dismissed, the court shall notify the state highway patrol
156 crime laboratory of such dismissal;

157 (3) If the court finds at the preliminary hearing that there is no probable
158 cause that the defendant committed the offense, the court shall notify the state
159 highway patrol crime laboratory of such finding;

160 (4) If the defendant is found not guilty, the court shall notify the state
161 highway patrol crime laboratory of such verdict.

162 If the state highway patrol crime laboratory receives notice under this subsection,
163 such crime laboratory shall determine, within thirty days, whether the individual
164 has any other qualifying offenses or arrests that would require a DNA sample to
165 be taken. If the individual has no other qualifying arrests or offenses, the crime
166 laboratory shall expunge all DNA records in the database pertaining to such
167 person and destroy the person's DNA sample.]

✓