

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILLS NOS. 2637 & 3155

AN ACT

To repeal sections 43.503, 211.021, 211.071, 211.319, 211.331, 211.341, 211.436, 217.362, 217.690, 217.760, 556.061, 557.011, 557.021, 558.011, 558.016, 558.019, 558.026, 558.031, 558.046, 559.115, 566.030, 566.032, 566.060, 566.103, 566.125, 566.203, 566.209, 566.210, 566.211, 568.045, 568.060, and 589.425, RSMo, and to enact in lieu thereof thirty-four new sections relating to terms of sentencing, with penalty provisions and a delayed effective date for certain sections.

---

---

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

Section A. Sections 43.503, 211.021, 211.071, 211.319, 211.331, 211.341, 211.436, 217.362, 217.690, 217.760, 556.061, 557.011, 557.021, 558.011, 558.016, 558.019, 558.026, 558.031, 558.046, 559.115, 566.030, 566.032, 566.060, 566.103, 566.125, 566.203, 566.209, 566.210, 566.211, 568.045, 568.060, and 589.425, RSMo, are repealed and thirty-four new sections enacted in lieu thereof, to be known as sections 43.503, 211.021, 211.071, 211.319, 211.331, 211.341, 211.342, 211.436, 217.362, 217.690, 217.760, 556.061, 557.011, 557.021, 558.011, 558.016, 558.019, 558.026, 558.031, 558.046, 559.115, 566.030, 566.032, 566.060, 566.103, 566.125, 566.203, 566.209, 566.210, 566.211, 568.045, 568.060, 589.425, and 1, to read as follows:

43.503. 1. For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each court, the

department of corrections, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge, and disposition information to the central repository for filing without undue delay in the form and manner required by sections 43.500 to 43.651.

2. All law enforcement agencies making misdemeanor and felony arrests as determined by section 43.506 shall furnish without undue delay, to the central repository, fingerprints, photograph, and if available, any other unique biometric identification collected, charges, appropriate charge codes, and descriptions of all persons who are arrested for such offenses on standard fingerprint forms supplied or approved by the highway patrol or electronically in a format and manner approved by the highway patrol and in compliance with the standards set by the Federal Bureau of Investigation in its Automated Fingerprint Identification System or its successor program. All such agencies shall also notify the central repository of all decisions not to refer such arrests for prosecution. An agency making such arrests may enter into arrangements with other law enforcement agencies for the purpose of furnishing without undue delay such fingerprints, photograph, and if available, any other unique biometric identification collected, charges, appropriate charge codes, and descriptions to the central repository upon its behalf.

3. In order for the Missouri office of prosecution services to maintain complete and accurate statewide reports as required by section 56.750, on or before January 1, 2028, and thereafter, all police officers of this state, the sheriff and each deputy sheriff of each county, and the chief law enforcement official of a city not within a county

and his or her officers shall submit referrals for any traffic violation, ordinance violation, or misdemeanor or felony offense referred to a prosecuting or circuit attorney in the form and manner approved by the Missouri office of prosecution services as required by subdivision (7) of subsection 1 of section 56.750. At a minimum, any referral to a prosecuting attorney or circuit attorney for a felony offense shall include a probable cause statement and an investigative report. Any law enforcement agency that violates this subsection shall be ineligible to receive state or federal funds that would otherwise be paid to such agency for law enforcement, safety, or criminal justice purposes.

4. In instances where an individual [less than seventeen] under eighteen years of age and not currently certified as an adult is taken into custody for an offense [which] that would be a class A or B felony, felony under chapter 566, or two felony offenses arising from distinct acts committed within one year of each other, if committed by an adult, the arresting officer shall take fingerprints for the central repository. These fingerprints shall be taken on fingerprint cards supplied by or approved by the highway patrol or transmitted electronically in a format and manner approved by the highway patrol and in compliance with the standards set by the Federal Bureau of Investigation in its Automated Fingerprint Identification System or its successor program. [The fingerprint cards shall be so constructed that the name of the juvenile should not be made available to the central repository.] The individual's name and the unique number associated with the fingerprints and other pertinent information shall be provided to the court of jurisdiction by the agency taking the juvenile into custody. The juvenile's fingerprints and other information

shall be forwarded to the central repository and the courts without undue delay. The fingerprint information from the card shall be captured and stored in the automated fingerprint identification system operated by the central repository. In the event the fingerprints are found to match other tenprints or unsolved latent prints, the central repository shall notify the submitting agency who shall notify the court of jurisdiction as per local agreement. Under section 211.031, in instances where a juvenile over fifteen and one-half years of age is alleged to have violated a state or municipal traffic ordinance or regulation, which does not constitute a felony, and the juvenile court does not have jurisdiction, the juvenile shall not be fingerprinted unless certified as an adult. Records of a juvenile who has been fingerprinted under this subsection shall be closed records as provided under section 610.120.

5. Upon certification of the individual as an adult, the certifying court shall order a law enforcement agency to immediately fingerprint and photograph the individual and certification papers will be forwarded to the appropriate law enforcement agency with the order for fingerprinting. The law enforcement agency shall submit such fingerprints, photograph, and certification papers to the central repository within fifteen days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the clerk of the court ordering the subject fingerprinted. If the juvenile is acquitted of the crime and is no longer certified as an adult, the prosecuting attorney shall notify within fifteen days the central repository of the change of status of the juvenile. Records of a child who has been fingerprinted and

photographed after being taken into custody shall be closed records as provided under section 610.100 if a petition has not been filed within thirty days of the date that the child was taken into custody; and if a petition for the child has not been filed within one year of the date the child was taken into custody, any records relating to the child concerning the alleged offense may be expunged under the procedures in sections 610.122 to 610.126.

6. The prosecuting attorney of each county or the circuit attorney of a city not within a county or the municipal prosecuting attorney shall notify the central repository on standard forms supplied by the highway patrol or in a manner approved by the highway patrol of his or her decision to not file a criminal charge on any charge referred to such prosecuting attorney or circuit attorney for criminal charges. All records forwarded to the central repository and the courts by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall include the state offense cycle number of the offense, the charge code for the offense, and the originating agency identifier number of the reporting prosecutor, using such numbers as assigned by the highway patrol.

7. The clerk of the courts of each county or city not within a county or municipal court clerk shall furnish the central repository, on standard forms supplied by the highway patrol or in a manner approved by the highway patrol, with a record of all charges filed, including all those added subsequent to the filing of a criminal court case, amended charges, and all final dispositions of cases for which the central repository has a record of an arrest or a record of fingerprints reported pursuant to sections 43.500 to 43.506. Such information shall include, for each charge:

(1) All judgments of not guilty, acquittals on the ground of mental disease or defect excluding responsibility, judgments or pleas of guilty including the sentence, if any, or probation, if any, pronounced by the court, nolle pros, discharges, releases and dismissals in the trial court;

(2) Court orders filed with the clerk of the courts which reverse a reported conviction or vacate or modify a sentence;

(3) Judgments terminating or revoking a sentence to probation, supervision or conditional release and any resentencing after such revocation; and

(4) The offense cycle number of the offense, and the originating agency identifier number of the sentencing court, using such numbers as assigned by the highway patrol.

8. The clerk of the courts of each county or city not within a county shall furnish, to the department of corrections or department of mental health, court judgment and sentence documents and the state offense cycle number and the charge code of the offense which resulted in the commitment or assignment of an offender to the jurisdiction of the department of corrections or the department of mental health if the person is committed pursuant to chapter 552. This information shall be reported to the department of corrections or the department of mental health at the time of commitment or assignment. If the offender was already in the custody of the department of corrections or the department of mental health at the time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the appropriate department by certified mail, return receipt requested, or in a manner and format mutually agreed to, within fifteen days of such disposition.

9. Information and fingerprints, photograph and if available, any other unique biometric identification collected, forwarded to the central repository, normally obtained from a person at the time of the arrest, may be obtained at any time the subject is in the criminal justice system or committed to the department of mental health. A law enforcement agency or the department of corrections may fingerprint, photograph, and capture any other unique biometric identification of the person unless collecting other unique biometric identification of the person is not financially feasible for the law enforcement agency, and obtain the necessary information at any time the subject is in custody. If at the time of any court appearance, the defendant has not been fingerprinted and photographed for an offense in which a fingerprint and photograph is required by statute to be collected, maintained, or disseminated by the central repository, the court shall order a law enforcement agency or court marshal to fingerprint and photograph immediately the defendant. The order for fingerprints shall contain the offense, charge code, date of offense, and any other information necessary to complete the fingerprint card. The law enforcement agency or court marshal shall submit such fingerprints, photograph, and if available, any other unique biometric identification collected, to the central repository without undue delay and within thirty days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the court clerk of the court ordering the subject fingerprinted.

10. The department of corrections and the department of mental health shall furnish the central repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence,

granting of executive clemency, legal name change, or discharge of an individual who has been sentenced to that department's custody for any offenses which are mandated by law to be collected, maintained or disseminated by the central repository. All records forwarded to the central repository by the department as required by sections 43.500 to 43.651 shall include the offense cycle number of the offense, and the originating agency identifier number of the department using such numbers as assigned by the highway patrol.

211.021. As used in this chapter, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Adult" [means], a person eighteen years of age or older;

(2) "Child" [means], any person under eighteen years of age;

(3) "Juvenile court" [means], the juvenile division or divisions of the circuit court of the county, or judges while hearing juvenile cases assigned to them;

(4) "Juvenile detention facility", a place for the temporary care of a juvenile in judicial custody in a proceeding under subdivision (2) or (3) of subsection 1 of section 211.031 and includes a place that is physically confining, but does not include a jail or other adult detention facility unless the juvenile is seventeen years of age or older or unless the juvenile detention facility is operated, administered, and staffed separately and independently of a jail or other adult detention facility and used exclusively for the lawful custody and treatment of juveniles. A juvenile detention facility may be located in the same building or grounds as a jail or other adult detention facility if there is spatial separation between the facilities which prevents haphazard or accidental

contact between juvenile and adult detainees, there is separation between juvenile and adult program activities, and there are separate juvenile and adult staff other than specialized support staff who have infrequent contact with detainees. The facility may be owned or operated by public or private agencies;

(5) "Legal custody" [means], the right to the care, custody and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education, treatment and discipline of a child. Legal custody may be taken from a parent only by court action and if the legal custody is taken from a parent without termination of parental rights, the parent's duty to provide support continues even though the person having legal custody may provide the necessities of daily living;

[(5)] (6) "Parent" [means], either a natural parent or a parent by adoption and if the child is illegitimate, "parent" means the mother;

[(6)] (7) "Shelter care" [means], the temporary care of juveniles in physically unrestricting facilities pending final court disposition. These facilities may include:

(a) "Foster home", the private home of foster parents providing twenty-four-hour care to one to three children unrelated to the foster parents by blood, marriage or adoption;

(b) "Group foster home", the private home of foster parents providing twenty-four-hour care to no more than six children unrelated to the foster parents by blood, marriage or adoption;

(c) "Group home", a child care facility which approximates a family setting, provides access to community activities and resources, and provides care to no more than twelve children.

211.071. 1. (1) If a petition or motion to modify alleges that a child between the ages of fourteen and eighteen has committed an offense that would be considered a class A or B felony, felony under chapter 566, or three felony offenses arising from distinct acts committed within one hundred eighty days of each other, if committed by an adult, the court may, upon its own motion or upon motion by the juvenile officer, the office of the prosecuting or circuit attorney, the child, or the child's custodian, order a hearing at which the prosecuting or circuit attorney may present evidence if the prosecuting or circuit attorney filed the petition, and may, in its discretion, dismiss the petition or motion to modify and such child may be transferred to the court of general jurisdiction and prosecuted under the general law; except that, if a petition alleges that a child between the ages of twelve and eighteen has committed an offense that would be considered first degree murder under section 565.020, second degree murder under section 565.021, first degree assault under section 565.050, forcible rape under section 566.030 as it existed prior to August 28, 2013, rape in the first degree under section 566.030, forcible sodomy under section 566.060 as it existed prior to August 28, 2013, sodomy in the first degree under section 566.060, first degree robbery under section 569.020 as it existed prior to January 1, 2017, robbery in the first degree under section 570.023, distribution of drugs under section 195.211 as it existed prior to January 1, 2017, or the manufacturing of a controlled substance under section 579.055, if committed by an adult, or a dangerous felony as defined in section 556.061, or any felony involving the use, assistance, or aid of a deadly weapon, or has committed two or more prior unrelated offenses that would be felonies if committed by an adult,

the court shall order a hearing, and may, in its discretion, dismiss the petition or motion to modify and transfer the child to a court of general jurisdiction for prosecution under the general law.

(2) The moving party shall be solely responsible for all duties enumerated under this section. If the juvenile officer forwards to the prosecuting or circuit attorney a class A or B felony that is not certified by the juvenile officer, the prosecuting or circuit attorney shall notify the juvenile officer within fourteen days of the decision to certify the case.

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

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

4. Written notification of a transfer hearing shall be given to the juvenile and his or her custodian in the same manner as provided in sections 211.101 and 211.111. Notice of the hearing may be waived by the custodian. Notice shall contain a statement that the purpose of the hearing is to determine whether the child is a proper subject to be dealt with under the provisions of this chapter, and that if the court finds that the child is not a proper subject to be

dealt with under the provisions of this chapter, the petition or motion to modify will be dismissed to allow for prosecution of the child under the general law.

5. The juvenile officer [may] shall consult with the office of prosecuting or circuit attorney concerning any offense for which the child could be certified as an adult under this section. The prosecuting or circuit attorney shall [have access to] be provided police reports, reports of the juvenile or deputy juvenile officer, statements of witnesses, a copy of the completed Missouri Juvenile Detention Assessment Form (JDTA) or similar form that was used in determining detention, and all other records or reports relating to the offense alleged to have been committed by the child. The prosecuting or circuit attorney shall have access to the disposition records of the child when the child has been adjudicated pursuant to subdivision (3) of subsection 1 of section 211.031. The prosecuting or circuit attorney shall not divulge any information regarding the child and the offense until the juvenile court at a judicial hearing has determined that the child is not a proper subject to be dealt with under the provisions of this chapter. Any sanction recommended as a result of the JDTA shall be used as a guideline and shall not be mandatory.

6. In every incident, the juvenile officer shall consider legally sufficient charges submitted by a law enforcement agency when utilizing the JDTA form to determine whether or not to detain a child and shall provide a copy of that completed JDTA form to the law enforcement agency once a determination has been made. For purposes of this section, the term "legally sufficient" means a reasonable belief with articulable facts that a crime has been or is being committed based on the totality of the circumstances.

7. Notwithstanding any other provision of law or the Missouri supreme court operating rules to the contrary, law enforcement agencies who detain juveniles for offenses where fingerprinting is required, shall collect fingerprints and forward detention information to the central repository, in a manner prescribed by the central repository. The juvenile officer and court of jurisdiction over the juvenile offender shall report all adjudication, delinquency, and custody information to the central repository, in a manner prescribed by the central repository. All information reported under this section shall be available to criminal justice agencies for the administration of criminal justice under section 43.500 through the Missouri Uniform Law Enforcement System (MULES). Such records maintained by the central repository under this subsection shall be closed pursuant to section 610.120.

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

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

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

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

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

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

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

(7) The age of the child;

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

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

(10) Racial disparity in certification.

**[7.]** 9. If the court dismisses the petition to permit the child to be prosecuted under the general law, the court shall enter a dismissal order containing:

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

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

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

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

**[8.]** 10. A copy of the petition or motion to modify and order of the dismissal shall be sent to the prosecuting attorney.

**[9.]** 11. When a petition or motion to modify has been dismissed thereby permitting a child to be prosecuted under the general law and the prosecution of the child results in a conviction, the jurisdiction of the juvenile court over that child is forever terminated, except as provided in subsection **[10]** 12 of this section, for an act that would be a violation of a state law or municipal ordinance.

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

**[11.]** 13. If the court does not dismiss the petition or motion to modify to permit the child to be prosecuted under the general law, it shall set a date for the hearing upon the petition as provided in section 211.171.

211.319. 1. On or before July 1, 2005, all juvenile court proceedings conducted pursuant to subdivision (1) of subsection 1 of section 211.031 and for termination of parental rights cases pursuant to sections 211.442 to 211.487 initiated by a juvenile officer or the division shall be open to the public; except that, when the parent has consented in writing to the termination of his or her parental rights in conjunction with a placement with a licensed child-placing agency under subsection 6 of section 453.010, the hearing shall be closed. The court, on its own motion, may exclude for good cause shown any person or persons from the proceedings to protect the welfare and best interests of the child and for exceptional circumstances. Any party to a juvenile court proceeding referred to in this

subsection, except the state, may file a motion requesting that the general public be excluded from the proceeding or any portion of the proceeding. Upon the filing of such motion, the court shall hear arguments by the parties, but no evidence, and shall make a determination whether closure is in the best interest of the parties or whether it is in the public interest to deny such motion. The court shall make a finding on the record when a motion to close a hearing pursuant to this section is made and heard by the court.

2. Notwithstanding the provisions of subsection 1 of this section, the general public shall be excluded from all juvenile court proceedings referred to in subsection 1 of this section during the testimony of any child or victim and only such persons who have a direct interest in the case or in the work of the court will be admitted to the proceedings.

3. For juvenile court proceedings described in subsection 1 of this section, pleadings and orders of the juvenile court other than confidential files and those specifically ordered closed by the juvenile court judge shall be open to the general public. For purposes of this section, "confidential file" means all other records and reports considered closed or confidential by law, including but not limited to medical reports, psychological or psychiatric evaluations, investigation reports of the children's division, social histories, home studies, and police reports and law enforcement records. Only persons who are found by the court to have a legitimate interest shall be allowed access to confidential or closed files. In determining whether a person has a legitimate interest, the court shall consider the nature of the proceedings, the welfare and safety of the public, and the interest of any child involved.

4. For records made available to the public pursuant to this section:

(1) The identity of any child involved except the perpetrator shall not be disclosed and all references in such records to the identity of any child involved except the perpetrator shall be redacted prior to disclosure to the public; and

(2) All information that may identify or lead to the disclosure of the identity of a reporter of child abuse under sections 210.109 to 210.183 and section 352.400 shall not be disclosed to the public.

5. All juvenile court proceedings conducted pursuant to subdivision (3) of subsection 1 of section 211.031 shall not be open to the general public.

6. The provisions of this section shall apply to juvenile court proceedings and records specified in this section in which the initial pleadings are filed on or after July 1, 2005.

211.331. 1. In each county of the first and second classifications and in [the city of St. Louis] any city not within a county, it is the duty of the county [commission, or, where there is no county commission, such other authorized] governing body[,] to provide a place of juvenile detention [for children coming within the provisions of this chapter] or juvenile detention facility. It is also the duty of the county [commission or other authorized] governing body to provide offices for the personnel of the juvenile court.

2. The place of juvenile detention or juvenile detention facility shall be so located and arranged that the child being detained does not come in contact, at any time or in any manner, with adults convicted or under arrest, and

the care of children in detention shall approximate as closely as possible the care of children in good homes.

3. The place of juvenile detention or juvenile detention facility shall be in charge of a superintendent. The judge of the juvenile court or the family court administrator, if provided by local rule, shall appoint and fix the compensation and maintenance of the superintendent and of any assistants or other personnel required to operate the detention facility. Such compensation and maintenance are payable out of funds of the county.

4. The county [commission or other] governing body [of the county] is authorized to lease or to acquire by purchase, gift or devise land for such purpose, and to erect buildings thereon and to provide funds to equip and maintain the same for the subsistence and education of the children placed therein.

211.341. 1. [Counties of the third and fourth classes within one judicial circuit, shall,] Upon the written recommendation of the [circuit] presiding judge of that judicial circuit, or upon written notice from the county governing body to the presiding judge of approval of ordinances, orders, or resolutions authorizing a juvenile detention facility by all counties within that judicial circuit and the agreement provided in section 211.342, counties of the third and fourth classes within one judicial circuit shall establish a place of juvenile detention or juvenile detention facility to serve all of the counties within that judicial circuit, and in like manner, the counties shall supply offices for the juvenile officers of that circuit.

2. The recommendation of the [circuit] presiding judge provided in subsection 1 of this section shall be made only after a hearing conducted by [him] the judge, after thirty

days' notice, to determine the need and feasibility of establishing such a place of juvenile detention or juvenile detention facility within the judicial circuit.

3. The provisions of section 211.331 apply as to the form of operation and means of maintenance of the place of juvenile detention or juvenile detention facility, except that the total cost of establishment and operation of the places of juvenile detention or juvenile detention facilities shall be prorated among the several counties within that judicial circuit upon a ratio to be determined by a comparison of the respective populations of the counties. The point of location of the place of juvenile detention or juvenile detention facility shall be determined by the [circuit] presiding judge of the judicial circuit or pursuant to an agreement established by section 211.342.

[2. Circuit judges of any two or more adjoining judicial circuits after a hearing as provided in subsection 1 may, by agreement confirmed by judicial order, and] 4. In the interest of economy of administration, after a hearing as provided in subsection 2 of this section, the presiding judges of any two or more adjoining judicial circuits may establish one place of juvenile detention or juvenile detention facility to serve their respective judicial circuits, by agreement confirmed by judicial order. In such event, the [circuit] presiding judges so agreeing shall jointly govern the affairs of the place of juvenile detention or juvenile detention facility and the cost thereof shall be apportioned among the counties served in the manner provided for in subsection 1 of this section.

[3.] 5. Any county of the third or fourth class desiring to provide its own place of juvenile detention or juvenile detention facility may do so in the manner prescribed for counties of the first and second classes.

211.342. 1. (1) In coordination with each other, the governing bodies of the counties within the same judicial circuit may establish a juvenile detention facility to serve the judicial circuit.

(2) The governing body of each county desiring to coordinate a juvenile detention facility under this subsection shall approve an ordinance, order, or resolution authorizing a juvenile detention facility within one of the counties and shall approve an agreement between all counties within the same judicial circuit, as specified by subsection 4 of this section.

2. (1) In coordination with each other, the governing bodies of the counties in adjoining judicial circuits may establish a juvenile detention facility to serve the judicial circuits.

(2) The governing body of each county desiring to coordinate a juvenile detention facility under this subsection shall approve an ordinance, order, or resolution authorizing a juvenile detention facility within one of the counties and shall approve an agreement between all counties within each judicial circuit, as specified by subsection 4 of this section.

3. The governing body of each county desiring to coordinate a juvenile detention facility under subsection 1 or 2 of this section shall notify the presiding judge of the judicial circuit or each judicial circuit of the authorization of a juvenile detention facility. The notice shall include the authorizing ordinance, order, or resolution of each county and the approved agreement, as specified in subsection 4 of this section.

4. The agreement that specifies the duties of each county shall contain the following:

(1) The total cost of establishment and operation of the places of detention;

(2) The prorated formula for the calculation of each county's contribution to the costs of a juvenile detention facility based upon a ratio of the respective populations of the counties;

(3) The methods and powers that may be used for constructing, leasing, or financing a juvenile detention facility;

(4) The use of the sales tax as authorized by subsection 6 of this section; and

(5) The point of location of the place of juvenile detention facility.

5. Subsections 3 and 4 of section 211.331 shall apply to a juvenile detention facility authorized pursuant to this section. The operation and support of a juvenile detention facility authorized pursuant to this section shall be regulated in accordance with the rules and standards of the Missouri supreme court under the governance of the presiding judge of the judicial circuit. If the counties of adjoining judicial circuits have authorized a juvenile detention facility pursuant to this section, the presiding judges shall jointly govern the affairs of the juvenile detention facility.

6. (1) The counties authorizing a juvenile detention facility pursuant to this section may impose, by order, a sales tax up to one percent on all retail sales made in such counties which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525 for the purpose of providing a juvenile detention facility. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no order imposing a sales tax pursuant to this section shall be effective unless

the governing body, for each county in the judicial circuit or circuits submits to the voters of the county, on any election date authorized in chapter 115, a proposal to authorize the governing body of the county to impose a tax.

(2) The ballot of submission shall contain, but need not be limited to, the following language:

Shall the (counties' names) impose a region-wide sales tax of (insert amount) for the purpose of providing a juvenile detention facility within the jurisdiction of (judicial circuit's name or judicial circuits' names)?

YES

NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters of the county voting thereon are in favor of the proposal, then the order and any amendment to such order shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If the proposal receives less than the required majority, the governing body of the county shall have no power to impose the sales tax authorized pursuant to this section unless and until the governing body of the county shall again have submitted another proposal to authorize the county commission, or authorized body, to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters of the county commission, or authorized body, voting on such proposal; however, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve

months from the date of the last submission of a proposal pursuant to this section.

(3) All revenue received by a county from the tax authorized pursuant to this section shall be deposited in a special trust fund and shall be used solely for providing a juvenile detention facility for children coming within the provisions of this chapter for so long as the tax shall remain in effect.

(4) Once the tax authorized by this section is abolished or terminated by any means, all funds remaining in the special trust fund shall be used solely for providing a juvenile detention facility for children coming within the provisions of this chapter for the counties. Any funds in such special trust fund which are not needed for current expenditures may be invested by the county commission in accordance with applicable laws relating to the investment of other county funds.

(5) All sales taxes collected by the director of revenue pursuant to this section on behalf of any county, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, shall be deposited in a special trust fund, which is hereby created, to be known as the "Juvenile Detention Facility Sales Tax Trust Fund". The moneys in the juvenile detention facility sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund which was collected in each county imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of each member county and the public. Not later than the tenth day of each month, the

director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the county which levied the tax. Such funds shall be deposited with the treasurer of each such county, and all expenditures of funds arising from the juvenile detention facility sales tax trust fund shall be paid pursuant to an appropriation adopted by the governing body of the county. Expenditures may be made from the fund for the function authorized in the order adopted by the governing body of the county submitting the juvenile detention facility tax to the voters.

(6) The director of revenue may make refunds from the amounts in the trust fund and credited to any county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties. If any county abolishes the tax, the governing body of the county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director of revenue shall remit the balance in the account to the county and close the account of that county. The director of revenue shall notify each county in each instance of any amount refunded or any check redeemed from receipts due the county.

(7) Except as provided in this section, all provisions of sections 32.085 and 32.087 shall apply to the tax imposed pursuant to this section.

211.436. 1. Instruments of restraint, including handcuffs, chains, irons, or straitjackets, shall not be used on a child during a proceeding in a juvenile court and shall be removed prior to the child's appearance before the court unless, after a hearing, the court finds both that:

(1) The use of restraints is necessary due to one of the following factors:

(a) Instruments of restraint are necessary to prevent physical harm to the child or another person;

(b) The child has a history of disruptive courtroom behavior that has placed others in potentially harmful situations or presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior; or

(c) There is evidence that the child presents a substantial risk of flight from the courtroom; and

(2) There are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person including, but not limited to, the presence of court personnel, law enforcement officers, or bailiffs.

2. If the juvenile officer believes that there is an immediate safety or flight risk, as provided under subsection 1 of this section, the juvenile officer shall advise the attorney for the child and make a request in writing prior to the commencement of the proceeding for the child to remain restrained during the court proceeding while in the presence of the parties to the proceeding.

3. If a request for restraints is made by the juvenile officer, the court shall order a hearing and provide the child's attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered,

the court shall make findings of fact in support of the order.

4. If restraints are used, the restraints shall allow the child limited movement of the hands to read and handle documents and writings necessary to the proceeding. Under no circumstances shall a child be restrained using restraints fixed to a wall, floor, furniture, or other stationary object.

5. Leg restraints shall not be used on a child unless the child is charged with a class A or class B felony, or the official overseeing custody of the child determines the child to be an immediate safety or flight risk.

217.362. 1. The department of corrections shall design and implement an intensive long-term program for the treatment of chronic nonviolent offenders with serious substance abuse addictions who have not [pleaded] pled guilty to or been convicted of a dangerous felony as defined in section 556.061.

2. Prior to sentencing, any judge considering an offender for this program shall notify the department. The potential candidate for the program shall be screened by the department to determine eligibility. The department shall, by regulation, establish eligibility criteria and inform the court of such criteria. The department shall notify the court as to the offender's eligibility and the availability of space in the program. Notwithstanding any other provision of law to the contrary, except as provided for in section 558.019, if an offender is eligible and there is adequate space, the court may sentence a person to the program which shall consist of institutional drug or alcohol treatment for a period of at least twelve and no more than twenty-four months, as well as a term of incarceration. The department shall determine the nature, intensity, duration,

and completion criteria of the education, treatment, and aftercare portions of any program services provided. Execution of the offender's term of incarceration shall be suspended pending completion of said program. Allocation of space in the program may be distributed by the department in proportion to drug arrest patterns in the state. If the court is advised that an offender is not eligible or that there is no space available, the court shall consider other authorized dispositions.

3. Upon successful completion of the program, the division of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. If the court determines that probation is not appropriate the court may order the execution of the offender's sentence.

4. If it is determined by the department that the offender has not successfully completed the program, or that the offender is not cooperatively participating in the program, the offender shall be removed from the program and the court shall be advised. Failure of an offender to complete the program shall cause the offender to serve the sentence prescribed by the court and void the right to be considered for probation on this sentence.

[5. An offender's first incarceration in a department of corrections program pursuant to this section prior to release on probation shall not be considered a previous prison commitment for the purpose of determining a minimum prison term pursuant to the provisions of section 558.019.]

217.690. 1. All releases or paroles shall issue upon order of the parole board, duly adopted.

2. Before ordering the parole of any offender, the parole board shall conduct a validated risk and needs assessment and evaluate the case under the rules governing

parole that are promulgated by the parole board. The parole board shall then have the offender appear before a hearing panel and shall conduct a personal interview with him or her, unless waived by the offender, or if the guidelines indicate the offender may be paroled without need for an interview. The guidelines and rules shall not allow for the waiver of a hearing if a victim requests a hearing. The appearance or presence may occur by means of a videoconference at the discretion of the parole board. A parole may be ordered for the best interest of society when there is a reasonable probability, based on the risk assessment and indicators of release readiness, that the person can be supervised under parole supervision and successfully reintegrated into the community, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. Every offender while on parole shall remain in the legal custody of the department but shall be subject to the orders of the parole board.

3. The division of probation and parole has discretionary authority to require the payment of a fee, not to exceed sixty dollars per month, from every offender placed under division supervision on probation, parole, or conditional release, to waive all or part of any fee, to sanction offenders for willful nonpayment of fees, and to contract with a private entity for fee collections services. All fees collected shall be deposited in the inmate fund established in section 217.430. Fees collected may be used to pay the costs of contracted collections services. The fees collected may otherwise be used to provide community corrections and intervention services for offenders. Such services include substance abuse assessment and treatment, mental health assessment and treatment, electronic monitoring services, residential facilities

services, employment placement services, and other offender community corrections or intervention services designated by the division of probation and parole to assist offenders to successfully complete probation, parole, or conditional release. The division of probation and parole shall adopt rules not inconsistent with law, in accordance with section 217.040, with respect to sanctioning offenders and with respect to establishing, waiving, collecting, and using fees.

4. The parole board shall adopt rules not inconsistent with law, in accordance with section 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall recite the conditions of such parole.

5. When considering parole for an offender with consecutive sentences, the minimum term for eligibility for parole shall be calculated by adding the minimum terms for parole eligibility for each of the consecutive sentences, except the minimum term for parole eligibility shall not exceed the minimum term for parole eligibility for an ordinary life sentence.

6. Any offender sentenced to a term of imprisonment amounting to fifteen years or more or multiple terms of imprisonment that, taken together, amount to fifteen or more years who was under eighteen years of age at the time of the commission of the offense or offenses may be eligible for parole after serving fifteen years of incarceration, regardless of whether the case is final for the purposes of appeal, and may be eligible for reconsideration hearings in accordance with regulations promulgated by the parole board.

7. The provisions of subsection 6 of this section shall not apply to an offender found guilty of capital murder, murder in the first degree or murder in the second

degree, when murder in the second degree is committed pursuant to subdivision (1) of subsection 1 of section 565.021, who was under eighteen years of age when the offender committed the offense or offenses who may be found ineligible for parole or whose parole eligibility may be controlled by section 558.047 or 565.033.

8. Any offender under a sentence for first degree murder who has been denied release on parole after a parole hearing shall not be eligible for another parole hearing until at least three years from the month of the parole denial; however, this subsection shall not prevent a release pursuant to subsection ~~[4]~~ 7 of section 558.011.

9. A victim who has requested an opportunity to be heard shall receive notice that the parole board is conducting an assessment of the offender's risk and readiness for release and that the victim's input will be particularly helpful when it pertains to safety concerns and specific protective measures that may be beneficial to the victim should the offender be granted release.

10. Parole hearings shall, at a minimum, contain the following procedures:

(1) The victim or person representing the victim who attends a hearing may be accompanied by one other person;

(2) The victim or person representing the victim who attends a hearing shall have the option of giving testimony in the presence of the inmate or to the hearing panel without the inmate being present;

(3) The victim or person representing the victim may call or write the parole board rather than attend the hearing;

(4) The victim or person representing the victim may have a personal meeting with a parole board member at the parole board's central office;

(5) The judge, prosecuting attorney or circuit attorney and a representative of the local law enforcement agency investigating the crime shall be allowed to attend the hearing or provide information to the hearing panel in regard to the parole consideration; and

(6) The parole board shall evaluate information listed in the juvenile sex offender registry pursuant to section 211.425, provided the offender is between the ages of seventeen and twenty-one, as it impacts the safety of the community.

11. The parole board shall notify any person of the results of a parole eligibility hearing if the person indicates to the parole board a desire to be notified.

12. The parole board may, at its discretion, require any offender seeking parole to meet certain conditions during the term of that parole so long as said conditions are not illegal or impossible for the offender to perform. These conditions may include an amount of restitution to the state for the cost of that offender's incarceration.

13. Special parole conditions shall be responsive to the assessed risk and needs of the offender or the need for extraordinary supervision, such as electronic monitoring. The parole board shall adopt rules to minimize the conditions placed on low-risk cases, to frontload conditions upon release, and to require the modification and reduction of conditions based on the person's continuing stability in the community. Parole board rules shall permit parole conditions to be modified by parole officers with review and approval by supervisors.

14. Nothing contained in this section shall be construed to require the release of an offender on parole nor to reduce the sentence of an offender heretofore committed.

15. Beginning January 1, 2001, the parole board shall not order a parole unless the offender has obtained a high school diploma or its equivalent, or unless the parole board is satisfied that the offender, while committed to the custody of the department, has made an honest good-faith effort to obtain a high school diploma or its equivalent; provided that the director may waive this requirement by certifying in writing to the parole board that the offender has actively participated in mandatory education programs or is academically unable to obtain a high school diploma or its equivalent.

16. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

17. When concurrent sentences are imposed by a court, the person shall serve the minimum required percentage for the longest sentence prior to parole eligibility.

217.760. 1. In all felony cases and class A misdemeanor cases, the basis of which misdemeanor cases are contained in chapters 565 and 566 and section 577.023, at the request of a [circuit] sentencing judge of any circuit court, the division of probation and parole shall assign one or more state probation and parole officers to make an investigation of the person convicted of the crime or

offense before sentence is imposed. In all felony cases in which the recommended sentence established by the sentencing advisory commission pursuant to subsection **[7]** 1 of section 558.019 includes probation but the recommendation of the prosecuting attorney or circuit attorney does not include probation, the division of probation and parole shall, prior to sentencing, provide the judge with a report on available alternatives to incarceration. If a presentence investigation report is completed then the available alternatives shall be included in the presentence investigation report.

2. The report of the presentence investigation or preparole investigation shall contain any prior criminal record of the defendant and such information about his or her characteristics, his or her financial condition, his or her social history, the circumstances affecting his or her behavior as may be helpful in imposing sentence or in granting probation or in the correctional treatment of the defendant, information concerning the impact of the crime upon the victim, the recommended sentence established by the sentencing advisory commission and available alternatives to incarceration including opportunities for restorative justice, as well as a recommendation by the probation and parole officer. The officer shall secure such other information as may be required by the court and, whenever it is practicable and needed, such investigation shall include a physical and mental examination of the defendant.

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

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

(2) "Affirmative defense":

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

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

(3) "Burden of injecting the issue":

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

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

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

(5) "Computer", the box that houses the central processing unit (CPU), along with any internal storage devices, such as internal hard drives, and internal communication devices, such as internal modems capable of sending or receiving [electronic mail] email or fax cards, along with any other hardware stored or housed internally. Thus, computer refers to hardware, software and data contained in the main unit. Printers, external modems attached by cable to the main unit, monitors, and other external attachments will be referred to collectively as peripherals and discussed individually when appropriate. When the computer and all peripherals are referred to as a package, the term "computer system" is used. Information

refers to all the information on a computer system including both software applications and data;

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

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

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

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

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

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

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

(13) "Confinement":

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

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

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

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

(b) A person is not in confinement if:

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

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

and duty to transport the person to or from a place of confinement;

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

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

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

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

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

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

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

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

(19) "Dangerous felony", the felonies [of] requiring eighty-five percent of the imposed sentence to be served prior to parole eligibility, which are arson in the first degree, assault in the first degree, attempted rape in the

first degree if physical injury results, attempted forcible rape if physical injury results, attempted sodomy in the first degree if physical injury results, attempted forcible sodomy if physical injury results, rape in the first degree, forcible rape, sodomy in the first degree, forcible sodomy, assault in the second degree if the victim of such assault is a special victim as defined in subdivision (14) of section 565.002, kidnapping in the first degree, kidnapping, murder in the second degree, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, armed criminal action, conspiracy to commit an offense when the offense is a dangerous felony, vehicle hijacking when punished as a class A felony, statutory rape in the first degree [when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense], statutory sodomy in the first degree [when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense], child molestation in the first or second degree, abuse of a child if the child dies as a result of injuries sustained from conduct chargeable under section 568.060, child kidnapping, parental kidnapping committed by detaining or concealing the whereabouts of the child for not less than one hundred twenty days under section 565.153, bus hijacking when punished as a class A felony, planting a bomb or explosive in or near a bus or terminal, [and] an "intoxication-related traffic offense" or "intoxication-related boating offense" if the person is found to be a "habitual offender" or "habitual boating offender" as such terms are defined in section 577.001, abuse through forced labor when punished under subsection 4 of section 566.203, trafficking for the purposes of slavery, involuntary

servitude, peonage, or forced labor or the attempt of such when punished under subsection 4 of section 566.206, trafficking for the purposes of sexual exploitation or the attempt of such when the offense was effected by force, abduction, or coercion, sexual trafficking of a child in the first degree, sexual trafficking of a child in the second degree, a third violation of failure to register as a sexual offender, and endangering the welfare of a child in the first degree when punished under section 568.045;

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

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

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

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

(24) "Disability", a mental, physical, or developmental impairment that substantially limits one or more major life activities or the ability to provide adequately for one's care or protection, whether the impairment is congenital or acquired by accident, injury or

disease, where such impairment is verified by medical findings;

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

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

(27) "Forcible compulsion" either:

(a) Physical force that overcomes reasonable resistance; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(42) "Recklessly", consciously disregarding a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes

a gross deviation from the standard of care which a reasonable person would exercise in the situation;

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

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

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

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

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

(48) "Vessel", any boat or craft propelled by a motor or by machinery, whether or not such motor or machinery is a principal source of propulsion used or capable of being used as a means of transportation on water, or any boat or craft more than twelve feet in length which is powered by sail alone or by a combination of sail and machinery, and used or

capable of being used as a means of transportation on water, but not any boat or craft having, as the only means of propulsion, a paddle or oars;

(49) "Voluntary act":

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

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

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

557.011. 1. Every person found guilty of an offense shall be dealt with by the court in accordance with the provisions of this chapter, except that for offenses defined outside this code and not repealed, the term of imprisonment or the fine that may be imposed is that provided in the statute defining the offense; however, the conditional release term of any sentence of a term of years shall be determined as provided in subsection ~~[4]~~ 7 of section 558.011.

2. Whenever any person has been found guilty of a felony or a misdemeanor the court shall make one or more of the following dispositions of the offender in any appropriate combination. The court may:

(1) Sentence the person to a term of imprisonment as authorized by chapter 558;

(2) Sentence the person to pay a fine as authorized by chapter 560;

(3) Suspend the imposition of sentence, with or without placing the person on probation;

(4) Pronounce sentence and suspend its execution, placing the person on probation;

(5) Impose a period of detention as a condition of probation, as authorized by section 559.026.

3. Whenever any person has been found guilty of an infraction, the court shall make one or more of the following dispositions of the offender in any appropriate combination. The court may:

(1) Sentence the person to pay a fine as authorized by chapter 560;

(2) Suspend the imposition of sentence, with or without placing the person on probation;

(3) Pronounce sentence and suspend its execution, placing the person on probation.

4. Whenever any organization has been found guilty of an offense, the court shall make one or more of the following dispositions of the organization in any appropriate combination. The court may:

(1) Sentence the organization to pay a fine as authorized by chapter 560;

(2) Suspend the imposition of sentence, with or without placing the organization on probation;

(3) Pronounce sentence and suspend its execution, placing the organization on probation;

(4) Impose any special sentence or sanction authorized by law.

5. This chapter shall not be construed to deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. An appropriate order exercising such authority may be included as part of any sentence.

6. In the event a sentence of confinement is ordered executed, a court may order that an individual serve all or any portion of such sentence on electronic monitoring; except that all costs associated with the electronic monitoring shall be charged to the person on house arrest. If the judge finds the person unable to afford the costs associated with electronic monitoring, the judge may order that the person be placed on house arrest with electronic monitoring if the county commission agrees to pay the costs of such monitoring. If the person on house arrest is unable to afford the costs associated with electronic monitoring and the county commission does not agree to pay from the general revenue of the county the costs of such electronic monitoring, the judge shall not order that the person be placed on house arrest with electronic monitoring.

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

2. Any offense defined outside this code **[which]** that is declared to be a felony without specification of the penalty therefor is a class E felony and subject to the terms as provided in chapter 558.

3. For the purpose of applying the extended term provisions of section 558.016 **[and the minimum prison term provisions of]**, the parole eligibility provisions pursuant to section **[558.019]** 558.011 and for determining the penalty

for attempts, offenses defined outside of this code shall be classified as follows:

(1) If the offense is a felony:

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

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

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

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

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

(2) If the offense is a misdemeanor:

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

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

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

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

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

558.011. 1. The authorized terms of imprisonment, including both prison and conditional release terms, for all offenses are as follows:

(1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life

imprisonment, for which an offender shall serve seventy percent of the imposed sentence prior to parole eligibility;

(2) For a class B felony, a term of years not less than five years and not to exceed fifteen years, for which an offender shall serve fifty percent of the imposed sentence prior to parole eligibility;

(3) For a class C felony, a term of years not less than three years and not to exceed ten years, for which an offender shall serve:

(a) Forty percent of the imposed sentence prior to parole eligibility for an offense under chapters 566, 568, and 573 that requires registration as a sex offender under chapter 589;

(b) Thirty percent of the imposed sentence prior to parole eligibility for a first offense other than an offense under paragraph (a) of this subdivision;

(c) Thirty-five percent of the imposed sentence prior to parole eligibility for a second offense other than an offense under paragraph (a) of this subdivision;

(d) Fifty percent of the imposed sentence prior to parole eligibility for a third or subsequent offense other than an offense under paragraph (a) of this subdivision;

(4) For a class D felony, a term of years not to exceed seven years, for which an offender shall serve:

(a) Twenty-five percent of the imposed sentence prior to parole eligibility for an offense under chapters 566, 568, and 573 that requires registration as a sex offender under chapter 589;

(b) Twenty percent of the imposed sentence prior to parole eligibility for a first offense other than an offense under paragraph (a) of this subdivision;

(c) Twenty-five percent of the imposed sentence prior to parole eligibility for a second offense other than an offense under paragraph (a) of this subdivision;

(d) Fifty percent of the imposed sentence prior to parole eligibility for a third or subsequent offense other than an offense under paragraph (a) of this subdivision;

(5) For a class E felony, a term of years not to exceed four years, for which an offender shall serve:

(a) Twenty-five percent of the imposed sentence prior to parole eligibility for an offense under chapters 566, 568, and 573 that requires registration as a sex offender under chapter 589;

(b) Fifteen percent of the imposed sentence prior to parole eligibility for a first offense other than an offense under paragraph (a) of this subdivision;

(c) Twenty percent of the imposed sentence prior to parole eligibility for a second offense other than an offense under paragraph (a) of this subdivision;

(d) Fifty percent of the imposed sentence prior to parole eligibility for a third or subsequent offense other than an offense under paragraph (a) of this subdivision;

(6) For a class A misdemeanor, a term not to exceed one year;

(7) For a class B misdemeanor, a term not to exceed six months;

(8) For a class C misdemeanor, a term not to exceed fifteen days.

2. When a person is sentenced to the authorized term of imprisonment for a higher class than the offense for which the person was found guilty under sections 558.016, 565.079, and 579.170, the person shall also be sentenced to the parole eligibility percentage of the higher class.

3. The authorized terms of imprisonment under subsections 1 and 2 of this section shall apply to all offenses, except if the terms for parole eligibility otherwise provided by statute result in a higher parole eligibility percentage, in which case the statute resulting in the higher parole eligibility percentage shall apply.

4. The authorized terms of imprisonment under subsection 1 of this section shall not apply to any offense where a suspended imposition of sentence is imposed or where the matter is referred to an adult treatment court as provided in chapter 478.

5. In cases of class D and E felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class D or E felony, it shall commit the person to the custody of the department of corrections.

[3.] 6. (1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the person to the custody of the department of corrections for the term imposed under section 557.036, or until released under procedures established elsewhere by law.

(2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the person to the county jail or other authorized penal institution for the term of his or her sentence or until released under procedure established elsewhere by law.

[4.] 7. (1) Except as otherwise provided, a sentence of imprisonment for a term of years for felonies other than dangerous felonies as defined in section 556.061, and other than sentences of imprisonment which involve the

individual's fourth or subsequent remand to the department of corrections shall consist of a prison term and a conditional release term. The conditional release term of any term imposed under section 557.036 shall be:

(a) One-third for terms of nine years or less;

(b) Three years for terms between nine and fifteen years;

(c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the parole board pursuant to subsection [5] 8 of this section.

(2) "Conditional release" means the conditional discharge of an offender by the parole board, subject to conditions of release that the parole board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the division of probation and parole. The conditions of release shall include avoidance by the offender of any other offense, federal or state, and other conditions that the parole board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.

[5.] 8. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the parole board. The director of any division of the department of corrections except the division of probation and parole may file with the parole board a petition to extend the conditional release date when an offender fails to follow the rules and regulations of the division or commits an act in violation of such rules. Within ten working days of receipt of the petition to extend the conditional release date, the parole board shall convene a hearing on the petition. The offender shall be present and may call witnesses in his or her behalf and cross-

examine witnesses appearing against the offender. The hearing shall be conducted as provided in section 217.670. If the violation occurs in close proximity to the conditional release date, the conditional release may be held for a maximum of fifteen working days to permit necessary time for the division director to file a petition for an extension with the parole board and for the parole board to conduct a hearing, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date. If at the end of a fifteen-working-day period a parole board decision has not been reached, the offender shall be released conditionally. The decision of the parole board shall be final.

9. Any person who commits a class A or B felony or an offense under chapters 566, 568, and 573 that requires registration as a sex offender under chapter 589, on or after January 1, 2028, shall not be eligible for conditional release for that offense.

10. Notwithstanding any other provision of law to the contrary, any offender who has been found guilty of a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve eighty-five percent of the sentence imposed by the court prior to parole eligibility.

11. For the purpose of determining the minimum time required to be served by the offender before he or she is eligible for parole, the following calculations shall apply:

(1) A sentence of life shall be calculated to be thirty years; and

(2) Any sentence either alone or in the aggregate with other consecutive sentences for offenses committed at or

near the same time that is over seventy-five years shall be calculated to be seventy-five years.

12. When consecutive sentences are imposed by a court, the minimum percentage for each respective felony shall be met prior to parole eligibility.

13. When concurrent sentences are imposed by a court, the person shall serve the minimum required percentage for the longest sentence prior to parole eligibility.

558.016. 1. The court may sentence a person who has been found guilty of an offense to a term of imprisonment as authorized by section 558.011 or to a term of imprisonment authorized by a statute governing the offense if it finds the defendant is a prior offender or a persistent misdemeanor offender. The court **[may]** shall sentence a person to an extended term of imprisonment if:

(1) The defendant is a persistent offender or a dangerous offender, and the person is sentenced under subsection 7 of this section;

(2) The statute under which the person was found guilty contains a sentencing enhancement provision that is based on a prior finding of guilt or a finding of prior criminal conduct and the person is sentenced according to the statute; or

(3) A more specific sentencing enhancement provision applies that is based on a prior finding of guilt or a finding of prior criminal conduct.

2. A "prior offender" is one who has been found guilty of one felony.

3. A "persistent offender" is one who has been found guilty of two or more felonies committed at different times, or one who has been previously found guilty of a dangerous felony as defined in subdivision (19) of section 556.061.

4. A "dangerous offender" is one who:

(1) Is being sentenced for a felony during the commission of which he knowingly murdered or endangered or threatened the life of another person or knowingly inflicted or attempted or threatened to inflict serious physical injury on another person; and

(2) Has been found guilty of a class A or B felony or a dangerous felony.

5. A "persistent misdemeanor offender" is one who has been found guilty of two or more offenses, committed at different times that are classified as A or B misdemeanors under the laws of this state.

6. The findings of guilt shall be prior to the date of commission of the present offense.

7. The court shall sentence a person, who has been found to be a persistent offender or a dangerous offender, and is found guilty of a class B, C, D, or E felony to the authorized term of imprisonment for the offense that is one class higher than the offense for which the person is found guilty.

558.019. 1. [This section shall not be construed to affect the powers of the governor under Article IV, Section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020 or section 566.125, which set minimum terms of sentences, or the provisions of section 559.115, relating to probation.

2. The provisions of subsections 2 to 5 of this section shall only be applicable to the offenses contained in sections 565.021, 565.023, 565.024, 565.027, 565.050, 565.052, 565.054, 565.072, 565.073, 565.074, 565.090, 565.110, 565.115, 565.120, 565.153, 565.156, 565.225, 565.300, 566.030, 566.031, 566.032, 566.034, 566.060, 566.061, 566.062, 566.064, 566.067, 566.068, 566.069, 566.071, 566.083, 566.086, 566.100, 566.101, 566.103,

566.111, 566.115, 566.145, 566.151, 566.153, 566.203, 566.206, 566.209, 566.210, 566.211, 566.215, 568.030, 568.045, 568.060, 568.065, 568.175, 569.040, 569.160, 570.023, 570.025, 570.030 when punished as a class A, B, or C felony, 570.145 when punished as a class A or B felony, 570.223 when punished as a class B or C felony, 571.020, 571.030, 571.070, 573.023, 573.025, 573.035, 573.037, 573.200, 573.205, 574.070, 574.080, 574.115, 575.030, 575.150, 575.153, 575.155, 575.157, 575.200 when punished as a class A felony, 575.210, 575.230 when punished as a class B felony, 575.240 when punished as a class B felony, 576.070, 576.080, 577.010, 577.013, 577.078, 577.703, 577.706, 579.065, and 579.068 when punished as a class A or B felony. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of an offender after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include an offender's first incarceration prior to release on probation under section 217.362 or 559.115. Other provisions of the law to the contrary notwithstanding, any offender who has been found guilty of a felony other than a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the offender has one previous prison commitment to the department of corrections for a felony offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age, and has served at least thirty percent of the sentence imposed, whichever occurs first;

(2) If the offender has two previous prison commitments to the department of corrections for felonies

unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the offender has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be eighty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

3. Other provisions of the law to the contrary notwithstanding, any offender who has been found guilty of a dangerous felony as defined in section 556.061 and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

4. For the purpose of determining the minimum prison term to be served, the following calculations shall apply:

(1) A sentence of life shall be calculated to be thirty years;

(2) Any sentence either alone or in the aggregate with other consecutive sentences for offenses committed at or near the same time which is over seventy-five years shall be calculated to be seventy-five years.

5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the offender before he or she is eligible for parole, conditional release or other early release by the department of corrections.

6. An offender who was convicted of, or pled guilty to, a felony offense other than those offenses listed in subsection 2 of this section prior to August 28, 2019, shall no longer be subject to the minimum prison term provisions under subsection 2 of this section, and shall be eligible for parole, conditional release, or other early release by the department of corrections according to the rules and regulations of the department.

7.1 (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members shall be appointed to a four-year term. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for offenders convicted of the same or similar offenses and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the

sentence of death and if so, the reasons therefor, if sentences are comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report the feasibility of these options in Missouri.

(4) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

(5) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.

(6) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

**[8.]** 2. Courts shall retain discretion to lower or exceed the sentence recommended by the commission as otherwise allowable by law, and to order restorative justice methods, when applicable.

**[9.]** 3. If the imposition or execution of a sentence is suspended, the court may order any or all of the

following restorative justice methods, or any other method that the court finds just or appropriate:

(1) Restitution to any victim or a statutorily created fund for costs incurred as a result of the offender's actions;

(2) Offender treatment programs;

(3) Mandatory community service;

(4) Work release programs in local facilities; and

(5) Community-based residential and nonresidential programs.

**[10.]** 4. Pursuant to subdivision (1) of subsection **[9]** 3 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565. Such contribution shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565.

**[11.]** 5. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a person to make payment.

**[12.]** 6. A person who fails to make a payment to a county law enforcement restitution fund may not have his or her probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the person either willfully refused to make the payment or that the person willfully, intentionally, and purposefully

failed to make sufficient bona fide efforts to acquire the resources to pay.

[13.] 7. Nothing in this section shall be construed to allow the sentencing advisory commission to issue recommended sentences in specific cases pending in the courts of this state.

558.026. 1. Multiple sentences of imprisonment shall run concurrently unless the court specifies that they shall run consecutively; except in the case of multiple sentences of imprisonment imposed for any offense committed during or at the same time as, or multiple offenses of, the following felonies:

(1) Rape in the first degree, forcible rape, or rape;

(2) Statutory rape in the first degree;

(3) Sodomy in the first degree, forcible sodomy, or sodomy;

(4) Statutory sodomy in the first degree; or

(5) An attempt to commit any of the felonies listed in this subsection. In such case, the sentence of imprisonment imposed for any felony listed in this subsection or an attempt to commit any of the aforesaid shall run consecutively to the other sentences. The sentences imposed for any other offense may run concurrently.

2. If a person who is on probation, parole or conditional release is sentenced to a term of imprisonment for an offense committed after the granting of probation or parole or after the start of his or her conditional release term, the court shall direct the manner in which the sentence or sentences imposed by the court shall run with respect to any resulting probation, parole or conditional release revocation term or terms. If the subsequent sentence to imprisonment is in another jurisdiction, the court shall specify how any resulting probation, parole or

conditional release revocation term or terms shall run with respect to the foreign sentence of imprisonment.

3. A court may cause any sentence it imposes to run concurrently with a sentence an individual is serving or is to serve in another state or in a federal correctional center. If the Missouri sentence is served in another state or in a federal correctional center, subsection [4] 7 of section 558.011 and section 217.690 shall apply as if the individual were serving his or her sentence within the department of corrections of the state of Missouri, except that a personal hearing before the parole board shall not be required for parole consideration.

558.031. 1. A sentence of imprisonment shall commence when a person convicted of an offense in this state is received into the custody of the department of corrections or other place of confinement where the offender is sentenced.

2. [Such] When placing a person on probation for a suspended imposition of sentence, probation for a suspended execution of sentence, or when executing a sentence of imprisonment, the court shall record, as part of each judgment, the number of days the person [shall receive credit toward the service of a sentence of imprisonment for all time] was in prison, jail, or custody, that was related to the offense, after the offense occurred and before [the commencement of the sentence, when the time in custody was related to that offense] being sentenced to imprisonment and the defendant shall be awarded credit toward the service of a sentence of imprisonment for that number of days. [This] The jail time credit calculation shall be based upon the certification of the sheriff as provided in subdivision (3) of subsection 2 of section 217.305 and may be supplemented by a certificate of a sheriff or other custodial officer

from another jurisdiction having held the person on the charge of the offense for which the sentence of imprisonment is ordered and shall be pronounced at the time of the judgment, the execution of a suspended sentence, or the suspension of imposition of sentence, shall be included in the record, and shall include both the dates the person was in custody and the number of days to be credited toward the service of the sentence.

3. For purposes of this section, time in custody related to an offense includes time during which the offense was charged in a criminal proceeding, there was an arrest warrant issued in said criminal proceeding, and the arrest warrant was served upon the person, and includes time served on house arrest. The person shall not be entitled to any credit toward the service of a sentence of imprisonment for any time such person was not being held on said arrest warrant because such person posted bond, the arrest warrant was recalled, or the person was otherwise released.

4. The court may take judicial notice of all time the person has served in prison, jail, or custody, or on house arrest for a criminal proceeding by comparing dates of service on arrest warrants with evidence contained within the court file of dates of release and the prosecution and defense attorney may enter into a stipulation with regard to credit for the service of a sentence of imprisonment for all time in prison, jail, or custody, or on house arrest except in no event may the court approve a stipulation that is greater than or less than the time in custody related to an offense.

5. Upon motion and notice by defendant or defense counsel, for any such person who was held in a juvenile detention facility for an offense for which such person was subsequently adjudicated to stand trial as an adult, the

court may also award credit toward the service of a sentence of imprisonment for any time such person was confined in a juvenile detention facility.

6. In the event a criminal proceeding related to an offense is dismissed without prejudice by a court or nolle prossed by the state, upon motion and notice by defendant or defense counsel, the proceeding may be consolidated into the present matter for purposes of calculating credit for the service of a sentence of imprisonment.

7. The officer required by law to deliver a person convicted of an offense in this state to the department of corrections shall endorse upon the papers required by section 217.305 both the dates the offender was in custody and the period of time to be credited toward the service of the sentence of imprisonment, [except as endorsed by such officer] included in the judgment or suspended imposition of sentence and such additional days after the pronouncement of sentence and before the delivery of the person to the department of corrections.

[4.] 8. If a person convicted of an offense escapes from custody, such escape shall interrupt the sentence. The interruption shall continue until such person is returned to the correctional center where the sentence was being served, or in the case of a person committed to the custody of the department of corrections, to any correctional center operated by the department of corrections. An escape shall also interrupt the jail time credit to be applied to a sentence which had not commenced when the escape occurred.

[5.] 9. If a sentence of imprisonment is vacated and a new sentence imposed upon the offender for that offense, all time served under the vacated sentence shall be credited against the new sentence, unless the time has already been

credited to another sentence as provided in subsection 1 of this section.

[6.] 10. If a person released from imprisonment on parole or serving a conditional release term violates any of the conditions of his or her parole or release, he or she may be treated as a parole violator. If the parole board revokes the parole or conditional release, the paroled person shall serve the remainder of the prison term and conditional release term, as an additional prison term, and the conditionally released person shall serve the remainder of the conditional release term as a prison term, unless released on parole.

[7. Subsection 2 of this section shall be applicable to offenses for which the offender was sentenced on or after August 28, 2023.

8. The total amount of credit given shall not exceed the number of days spent in prison, jail, or custody after the offense occurred and before the commencement of the sentence.]

11. A person may only challenge credit awarded or not awarded pursuant to this section by the filing of a petition for a writ of habeas corpus.

558.046. The sentencing court may, upon petition, reduce any term of sentence or probation pronounced by the court or a term of conditional release or parole pronounced by the parole board if the court determines that:

(1) The convicted person was:

(a) Convicted of an offense that did not involve violence or the threat of violence; and

(b) Convicted of an offense that involved alcohol or illegal drugs; and

(2) Since the commission of such offense, the convicted person has successfully completed a detoxification and rehabilitation program; and

(3) The convicted person is not:

(a) A prior offender, a persistent offender, a dangerous offender or a persistent misdemeanor offender as defined by section 558.016; or

(b) A persistent sexual offender as defined in section 566.125[; or

(c) A prior offender, a persistent offender or a class X offender as defined in section 558.019].

559.115. 1. Neither probation nor parole shall be granted by the circuit court between the time the transcript on appeal from the offender's conviction has been filed in appellate court and the disposition of the appeal by such court.

2. Unless otherwise prohibited by subsection [8] 7 of this section, a circuit court only upon its own motion and not that of the state or the offender shall have the power to grant probation to an offender anytime up to one hundred twenty days after such offender has been delivered to the department of corrections but not thereafter. The court may request information and a recommendation from the department concerning the offender and such offender's behavior during the period of incarceration. Except as provided in this section, the court may place the offender on probation in a program created pursuant to section 217.777, or may place the offender on probation with any other conditions authorized by law.

3. The court may recommend placement of an offender in a department of corrections one hundred twenty-day program under this subsection. The department of corrections shall assess each offender to determine the appropriate one

hundred twenty-day program in which to place the offender, which may include placement in the structured cognitive behavioral intervention program or institutional treatment program. The placement of an offender in the structured cognitive behavioral intervention program or institutional treatment program shall be at the sole discretion of the department based on the assessment of the offender and available bed space. When the court recommends and receives placement of an offender in a department of corrections one hundred twenty-day program, the offender shall be released on probation if the department of corrections determines that the offender has successfully completed the program except as follows. Upon successful completion of a program under this subsection, the division of probation and parole shall advise the sentencing court of an offender's probationary release date thirty days prior to release. The court shall follow the recommendation of the department unless the court determines that probation is not appropriate. If the court determines that probation is not appropriate, the court may order the execution of the offender's sentence only after conducting a hearing on the matter within ninety to one hundred twenty days from the date the offender was delivered to the department of corrections. If the department determines the offender has not successfully completed a one hundred twenty-day program under this subsection, the division of probation and parole shall advise the prosecuting attorney and the sentencing court of the defendant's unsuccessful program exit and the defendant shall be removed from the program. The department shall report on the offender's participation in the program and may provide recommendations for terms and conditions of an offender's probation. The court shall then have the

power to grant probation or order the execution of the offender's sentence.

4. If the court is advised that an offender is not eligible for placement in a one hundred twenty-day program under subsection 3 of this section, the court shall consider other authorized dispositions. If the department of corrections one hundred twenty-day program under subsection 3 of this section is full, the court may place the offender in a private program approved by the department of corrections or the court, the expenses of such program to be paid by the offender, or in an available program offered by another organization. If the offender is convicted of a class C, class D, or class E nonviolent felony, the court may order probation while awaiting appointment to treatment.

5. Except when the offender has been found to be a predatory sexual offender pursuant to section 566.125, the court shall request the department of corrections to conduct a sexual offender assessment if the defendant has been found guilty of sexual abuse when classified as a class B felony. Upon completion of the assessment, the department shall provide to the court a report on the offender and may provide recommendations for terms and conditions of an offender's probation. The assessment shall not be considered a one hundred twenty-day program as provided under subsection 3 of this section. The process for granting probation to an offender who has completed the assessment shall be as provided under subsections 2 and 6 of this section.

6. Unless the offender is being granted probation pursuant to successful completion of a one hundred twenty-day program the circuit court shall notify the state in writing when the court intends to grant probation to the offender pursuant to the provisions of this section. The

state may, in writing, request a hearing within ten days of receipt of the court's notification that the court intends to grant probation. Upon the state's request for a hearing, the court shall grant a hearing as soon as reasonably possible. If the state does not respond to the court's notice in writing within ten days, the court may proceed upon its own motion to grant probation.

7. [An offender's first incarceration under this section prior to release on probation shall not be considered a previous prison commitment for the purpose of determining a minimum prison term under the provisions of section 558.019.

8.] Notwithstanding any other provision of law, probation may not be granted pursuant to this section to offenders who have been convicted of murder in the second degree pursuant to section 565.021; forcible rape pursuant to section 566.030 as it existed prior to August 28, 2013; rape in the first degree under section 566.030; forcible sodomy pursuant to section 566.060 as it existed prior to August 28, 2013; sodomy in the first degree under section 566.060; statutory rape in the first degree pursuant to section 566.032; statutory sodomy in the first degree pursuant to section 566.062; child molestation in the first degree pursuant to section 566.067 when classified as a class A felony; abuse of a child pursuant to section 568.060 when classified as a class A felony; or an offender who has been found to be a predatory sexual offender pursuant to section 566.125; any offense under section 557.045; or any offense in which there exists a statutory prohibition against either probation or parole.

566.030. 1. A person commits the offense of rape in the first degree if he or she has sexual intercourse with another person who is incapacitated, incapable of consent,

or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. The offense of rape in the first degree or an attempt to commit rape in the first degree is a class A felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than [five] ten years, not to exceed thirty years, unless:

(1) The offense is an aggravated sexual offense, in which case the authorized term of imprisonment is life imprisonment as defined in section 558.011 or [a term of years not less than fifteen years] life imprisonment without eligibility for probation or parole;

(2) The person is a persistent or predatory sexual offender as defined in section 566.125 and subjected to an extended term of imprisonment under said section;

(3) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment as defined in section 558.011 or life imprisonment without eligibility for probation or parole [until the offender has served not less than thirty years of such sentence or unless the offender has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such rape in the first degree is described under subdivision (4) of this subsection]; or

(4) The victim is a child less than twelve years of age and such rape in the first degree or attempt to commit rape in the first degree was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of

imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. [Subsection 4 of section 558.019 shall not apply to the sentence of a person who has been found guilty of rape in the first degree or attempt to commit rape in the first degree when the victim is less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

4.] No person found guilty of rape in the first degree or an attempt to commit rape in the first degree shall be granted a suspended imposition of sentence or suspended execution of sentence.

566.032. 1. A person commits the offense of statutory rape in the first degree if he or she has sexual intercourse with another person who is less than fourteen years of age.

2. The offense of statutory rape in the first degree or an attempt to commit statutory rape in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than [five] ten years, unless:

(1) The offense is an aggravated sexual offense, or the victim is less than twelve years of age in which case the authorized term of imprisonment is life imprisonment or a term of years not less than [ten] fifteen years; or

(2) The person is a persistent or predatory sexual offender as defined in section 566.125 and subjected to an extended term of imprisonment under said section.

566.060. 1. A person commits the offense of sodomy in the first degree if he or she has deviate sexual intercourse with another person who is incapacitated, incapable of consent, or lacks the capacity to consent, or by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or

consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. The offense of sodomy in the first degree or an attempt to commit sodomy in the first degree is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) The offense is an aggravated sexual offense, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years;

(2) The person is a persistent or predatory sexual offender as defined in section 566.125 and subjected to an extended term of imprisonment under said section;

(3) The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment as defined in section 558.011 or life imprisonment without eligibility for probation or parole [until the offender has served not less than thirty years of such sentence or unless the offender has reached the age of seventy-five years and has served at least fifteen years of such sentence, unless such sodomy in the first degree is described under subdivision (4) of this subsection]; or

(4) The victim is a child less than twelve years of age and such sodomy in the first degree or attempt to commit sodomy in the first degree was outrageously or wantonly vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the required term of imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

3. [Subsection 4 of section 558.019 shall not apply to the sentence of a person who has been found guilty of sodomy in the first degree or an attempt to commit sodomy in the

first degree when the victim is less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

4.] No person found guilty of sodomy in the first degree or an attempt to commit sodomy in the first degree shall be granted a suspended imposition of sentence or suspended execution of sentence.

566.103. 1. A person or entity commits the offense of promoting online sexual solicitation if such person or entity knowingly permits a web-based classified service owned or operated by such person or entity to be used by individuals to post advertisements promoting prostitution, enticing a child to engage in sexual conduct, or promoting sexual trafficking of a child after receiving notice under this section.

2. As used in this section, the term "web-based classified service" means a person or entity in whose name a specific URL or internet domain name is registered which has advertisements for goods and services or personal advertisements.

3. An advertisement may be deemed to promote prostitution, entice a child to engage in sexual conduct, or promote sexual trafficking of a child, if the content of such advertisement would be interpreted by a reasonable person as offering to exchange sexual conduct for goods or services in violation of chapter 567, as seeking a child for the purpose of sexual conduct or commercial sex act, or as offering a child as a participant in sexual conduct or commercial sex act in violation of section 566.151, 566.210, or 566.211.

4. It shall be prima facie evidence that a person or entity acts knowingly if an advertisement is not removed

from the web-based classified service within seventy-two hours of that person or entity being notified that an advertisement has been posted on that service which is prohibited under this section.

5. Notice under this section may be provided by certified mail or facsimile transmission by the attorney general or any prosecuting attorney or circuit attorney.

6. A violation of this section shall be a class E felony, punishable by imprisonment or a fine in the amount of five thousand dollars per day that the advertisement remains posted on the web-based classified service after seventy-two hours of when notice has been provided pursuant to this section, or by both such fine and imprisonment.

7. Original jurisdiction for prosecution of a violation of this section shall be with the local prosecuting attorney or circuit attorney.

566.125. 1. The court shall sentence a person to an extended term of imprisonment if it finds the defendant is a persistent sexual offender and has been found guilty of attempting to commit or committing the following offenses:

- (1) Statutory rape in the first degree or statutory sodomy in the first degree;
- (2) Rape in the first degree or sodomy in the first degree;
- (3) Forcible rape;
- (4) Forcible sodomy;
- (5) Rape;
- (6) Sodomy.

2. A "persistent sexual offender" is one who has previously been found guilty of attempting to commit or committing any of the offenses listed in subsection 1 of this section or one who has previously been found guilty of

an offense in any other jurisdiction which would constitute any of the offenses listed in subsection 1 of this section.

3. The term of imprisonment for one found to be a persistent sexual offender shall be imprisonment for life without eligibility for probation or parole. [Subsection 4 of section 558.019 shall not apply to any person imprisoned under this subsection, and] "Imprisonment for life" shall mean imprisonment for the duration of the person's natural life.

4. The court shall sentence a person to an extended term of imprisonment as provided for in this section if it finds the defendant is a predatory sexual offender and has been found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section or committing child molestation in the first or second degree or sexual abuse when classified as a class B felony.

5. For purposes of this section, a "predatory sexual offender" is a person who:

(1) Has previously been found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section, or committing child molestation in the first or second degree, or sexual abuse when classified as a class B felony; or

(2) Has previously committed an act which would constitute an offense listed in subsection 4 of this section, whether or not the act resulted in a conviction; or

(3) Has committed an act or acts against more than one victim which would constitute an offense or offenses listed in subsection 4 of this section, whether or not the defendant was charged with an additional offense or offenses as a result of such act or acts.

6. A person found to be a predatory sexual offender shall be imprisoned for life with eligibility for parole[, ,

however subsection 4 of section 558.019 shall not apply to persons found to be predatory sexual offenders for the purposes of determining the minimum prison term or the length of sentence as defined or used in such subsection].

Notwithstanding any other provision of law, in no event shall a person found to be a predatory sexual offender receive a final discharge from parole.

7. Notwithstanding any other provision of law, the court shall set the minimum time required to be served before a predatory sexual offender is eligible for parole, conditional release or other early release by the department of corrections. The minimum time to be served by a person found to be a predatory sexual offender who:

(1) Has previously been found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section and is found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section shall be any number of years but not less than thirty years;

(2) Has previously been found guilty of child molestation in the first or second degree, or sexual abuse when classified as a class B felony and is found guilty of attempting to commit or committing any of the offenses listed in subsection 1 of this section shall be any number of years but not less than fifteen years;

(3) Has previously been found guilty of committing or attempting to commit any of the offenses listed in subsection 1 of this section, or committing child molestation in the first or second degree, or sexual abuse when classified as a class B felony shall be any number of years but not less than fifteen years;

(4) Has previously been found guilty of child molestation in the first degree or second degree, or sexual

abuse when classified as a class B felony, and is found guilty of child molestation in the first or second degree, or sexual abuse when classified as a class B felony shall be any number of years but not less than fifteen years;

(5) Is found to be a predatory sexual offender pursuant to subdivision (2) or (3) of subsection 5 of this section shall be any number of years within the range to which the person could have been sentenced pursuant to the applicable law if the person was not found to be a predatory sexual offender.

8. Notwithstanding any provision of law to the contrary, the department of corrections, or any division thereof, may not furlough an individual found to be and sentenced as a persistent sexual offender or a predatory sexual offender.

566.203. 1. A person commits the offense of abusing an individual through forced labor by knowingly providing or obtaining the labor or services of a person:

(1) By causing or threatening to cause serious physical injury to any person;

(2) By physically restraining or threatening to physically restrain another person;

(3) By blackmail;

(4) By means of any scheme, plan, or pattern of behavior intended to cause such person to believe that, if the person does not perform the labor services, the person or another person will suffer serious physical injury, physical restraint, or financial harm; or

(5) By means of the abuse or threatened abuse of the law or the legal process.

2. A person who is found guilty of the crime of abuse through forced labor shall not be required to register as a sexual offender pursuant to the provisions of section

589.400, unless such person is otherwise required to register pursuant to the provisions of such section.

3. The offense of abuse through forced labor is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred fifty thousand dollars.

4. If death results from a violation of this section, or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony, or an attempt to commit sexual abuse when punishable as a class B felony, or an attempt to kill, it shall be punishable for a term of years not less than [five] ten years or life and a fine not to exceed two hundred fifty thousand dollars.

566.209. 1. A person commits the [crime] offense of trafficking for the purposes of sexual exploitation if a person knowingly recruits, entices, harbors, transports, provides, advertises the availability of or obtains by any means, including but not limited to through the use of force, intoxicating or inhibiting substances, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, another person for the use or employment of such person in a commercial sex act, sexual conduct, a sexual performance, or the production of explicit sexual material as defined in section 573.010, without his or her consent, or benefits, financially or by receiving anything of value, from participation in such activities.

2. The [crime] offense of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than five years and not more than twenty years and a fine not to exceed two hundred fifty thousand dollars. If a violation of this section was effected by force, abduction, or coercion, the

crime of trafficking for the purposes of sexual exploitation is a felony punishable by imprisonment for a term of years not less than ten years or life and a fine not to exceed two hundred fifty thousand dollars.

566.210. 1. A person commits the offense of sexual trafficking of a child in the first degree if he or she knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, a person under the age of fourteen to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010, or benefits, financially or by receiving anything of value, from participation in such activities;

(2) Causes a person under the age of fourteen to engage in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010; or

(3) Advertises the availability of a person under the age of fourteen to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010.

2. It shall not be a defense that the defendant believed that the person was fourteen years of age or older.

3. The offense of sexual trafficking of a child in the first degree is a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the offender has served not less than thirty years of such sentence. [Subsection 4 of section 558.019 shall not apply to the sentence of a person who has been found guilty of sexual trafficking of a child

less than fourteen years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.]

566.211. 1. A person commits the offense of sexual trafficking of a child in the second degree if he or she knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means, including but not limited to through the use of force, abduction, coercion, fraud, deception, blackmail, or causing or threatening to cause financial harm, a person under the age of eighteen to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010, or benefits, financially or by receiving anything of value, from participation in such activities;

(2) Causes a person under the age of eighteen to engage in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010; or

(3) Advertises the availability of a person under the age of eighteen to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material as defined in section 573.010.

2. It shall not be a defense that the defendant believed that the person was eighteen years of age or older.

3. The offense of sexual trafficking of a child in the second degree is a felony punishable by imprisonment for a term of years not less than twenty years or life and a fine not to exceed two hundred fifty thousand dollars if the child is under the age of eighteen. If a violation of this section was effected by force, abduction, or coercion, the **[crime]** offense of sexual trafficking of a child shall be a felony for which the authorized term of imprisonment is life

imprisonment without eligibility for probation or parole until the defendant has served [not less than twenty-five years] eighty-five percent of such sentence as provided under section 558.011.

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

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

(2) Knowingly engages in sexual conduct with a person under the age of eighteen years over whom the person is a parent, guardian, or otherwise charged with the care and custody;

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

(4) In the presence of a child less than [seventeen] eighteen years of age or in a residence where a child less than [seventeen] eighteen years of age resides, unlawfully manufactures or attempts to manufacture compounds, possesses, produces, prepares, sells, transports, tests or analyzes any of the following: fentanyl, carfentanil, amphetamine, or methamphetamine, or any analogue thereof.

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

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

(2) Involves fentanyl or carfentanil, or any analogue thereof, in which case:

(a) The offense is a class B felony; and

(b) A person sentenced under this subdivision shall not be eligible for conditional release or parole until he or she has served at least five years of imprisonment;

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

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

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

(1) "Abuse", the infliction of physical, sexual, or mental injury against a child by any person eighteen years of age or older. For purposes of this section, abuse shall not include injury inflicted on a child by accidental means by a person with care, custody, or control of the child, or discipline of a child by a person with care, custody, or control of the child, including spanking, in a reasonable manner;

(2) "Abusive head trauma", a serious physical injury to the head or brain caused by any means, including but not limited to shaking, jerking, pushing, pulling, slamming, hitting, or kicking;

(3) "Mental injury", an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his or her normal range of performance or behavior;

(4) "Neglect", the failure to provide, by those responsible for the care, custody, and control of a child under the age of eighteen years, the care reasonable and necessary to maintain the physical and mental health of the

child, when such failure presents a substantial probability that death or physical injury or sexual injury would result;

(5) "Physical injury", physical pain, illness, or any impairment of physical condition, including but not limited to bruising, lacerations, hematomas, welts, or permanent or temporary disfigurement and impairment of any bodily function or organ;

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

(7) "Serious physical injury", a physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

2. A person commits the offense of abuse or neglect of a child if such person knowingly causes a child who is less than eighteen years of age:

(1) To suffer physical or mental injury as a result of abuse or neglect; or

(2) To be placed in a situation in which the child may suffer physical or mental injury as the result of abuse or neglect.

3. A person commits the offense of abuse or neglect of a child if such person recklessly causes a child who is less than eighteen years of age to suffer from abusive head trauma.

4. A person does not commit the offense of abuse or neglect of a child by virtue of the sole fact that the

person delivers or allows the delivery of a child to a provider of emergency services.

5. (1) A person does not commit the offense of abuse or neglect of a child by virtue of the sole fact that the person allows the child to engage in independent activities without adult supervision and the person is a parent to the child or is responsible for the child's care, provided that the:

(a) Independent activities are appropriate based on the child's age, maturity, and physical and mental abilities; and

(b) Lack of adult supervision does not constitute conduct that is so grossly negligent as to endanger the health or safety of the child.

(2) As used in this subsection, "independent activities" shall include traveling to or from school or nearby locations by bicycle or on foot, playing outdoors, or remaining at home for a reasonable period of time without adult supervision.

6. The offense of abuse or neglect of a child is:

(1) A class D felony[, without eligibility for probation, parole, or conditional release until the defendant has served no less than one year of such sentence], unless the person has previously been found guilty of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct or the injury inflicted on the child is a serious emotional injury or a serious physical injury, in which case abuse or neglect of a child is a class B felony, without eligibility for probation or parole until the defendant has served not less than five years of such sentence; or

(2) A class A felony if the child dies as a result of injuries sustained from conduct chargeable under the provisions of this section.

7. Notwithstanding subsection 6 of this section to the contrary, the offense of abuse or neglect of a child is a class A felony, without eligibility for probation, parole, or conditional release until the defendant has served not less than fifteen years of such sentence, if:

(1) The injury is a serious emotional injury or a serious physical injury;

(2) The child is less than fourteen years of age; and

(3) The injury is the result of sexual abuse or sexual abuse in the first degree as defined under section 566.100 or sexual exploitation of a minor as defined under section 573.023.

8. The circuit or prosecuting attorney may refer a person who is suspected of abuse or neglect of a child to an appropriate public or private agency for treatment or counseling so long as the agency has consented to taking such referrals. Nothing in this subsection shall limit the discretion of the circuit or prosecuting attorney to prosecute a person who has been referred for treatment or counseling pursuant to this subsection.

9. Nothing in this section shall be construed to alter the requirement that every element of any crime referred to herein must be proven beyond a reasonable doubt.

10. Discipline, including spanking administered in a reasonable manner, shall not be construed to be abuse under this section.

589.425. 1. A person commits the crime of failing to register as a sex offender when the person is required to register under sections 589.400 to 589.425 and fails to comply with any requirement of sections 589.400 to 589.425.

Failing to register as a sex offender is a class E felony unless the person is required to register based on having committed an offense in chapter 566 which was an unclassified felony, a class A or B felony, or a felony involving a child under the age of fourteen, in which case it is a class D felony.

2. A person commits the crime of failing to register as a sex offender as a second offense by failing to comply with any requirement of sections 589.400 to 589.425 and he or she has previously pled guilty to or has previously been found guilty of failing to register as a sex offender. Failing to register as a sex offender as a second offense is a class E felony unless the person is required to register based on having committed an offense in chapter 566, or an offense in any other state or foreign country, or under federal, tribal, or military jurisdiction, which if committed in this state would be an offense under chapter 566 which was an unclassified felony, a class A or B felony, or a felony involving a child under the age of fourteen, in which case it is a class D felony.

3. (1) A person commits the crime of failing to register as a sex offender as a third offense by failing to meet the requirements of sections 589.400 to 589.425 and he or she has, on two or more occasions, previously pled guilty to or has previously been found guilty of failing to register as a sex offender. Failing to register as a sex offender as a third offense is a class A felony, which shall be punished by a term of imprisonment of not less than ten years and not more than thirty years.

(2) No court may suspend the imposition or execution of sentence of a person who pleads guilty to or is found guilty of failing to register as a sex offender as a third

offense. No court may sentence such person to pay a fine in lieu of a term of imprisonment.

(3) [A person sentenced under this subsection shall not be eligible for conditional release or parole until he or she has served at least two years of imprisonment.

(4)] Upon release, an offender who has committed failing to register as a sex offender as a third offense shall be electronically monitored as a mandatory condition of supervision. Electronic monitoring may be based on a global positioning system or any other technology which identifies and records the offender's location at all times.

Section 1. In the event that any section, provision, clause, phrase, or word of this act or the application thereof is declared invalid under the Constitution of the United States or the Constitution of the State of Missouri, it is the intent of the general assembly that the remaining sections of this act remain in force and effect as far as they are capable of being carried into execution as intended by the general assembly. The general assembly hereby declares that it would have passed each section, provision, clause, phrase, or word thereof, irrespective of the fact that any one or more sections, provisions, clauses, phrases, or words of this act or the application of this act would be declared unenforceable, unconstitutional, or invalid.

Section B. The repeal and reenactment of sections 558.011, 558.019, and 558.031 of this act shall become effective on January 1, 2028.