

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
**SENATE BILLS NOS. 328,
87, 100 & 55**
90TH GENERAL ASSEMBLY

Reported from the Committee on Civil and Criminal Jurisprudence, March 25, 1999, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bills Nos. 328, 87, 100 and 55, adopted April 13, 1999.

Taken up for Perfection April 13, 1999. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

S0566.04P

AN ACT

To repeal sections 565.024, 570.010, 570.130, 574.090 and 574.093, RSMo 1994, and section 252.043, RSMo Supp. 1998, relating to the criminal code, and to enact in lieu thereof seven new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 565.024, 570.010, 570.130, 574.090 and 574.093, RSMo 1994, and section 252.043, RSMo Supp. 1998, are repealed and seven new sections enacted in lieu thereof, to be known as sections 252.043, 557.035, 565.024, 570.010, 570.130, 570.223 and 577.068, to read as follows:

252.043. The commission may suspend, revoke or deny a hunting permit or privilege for a maximum of five years when a person, while hunting, inflicts injury by firearm or other weapon to another person who is mistaken for game. No suspension, revocation or denial shall occur until an opportunity has been afforded for a hearing before the commission. Any person who is determined by the commission to have inflicted injury by firearm or other weapon shall be required to successfully complete a department-approved hunter safety course before his or her

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

hunting permit or privilege shall be restored. The commission's proceeding shall be a contested case pursuant to chapter 536, RSMo, and any person aggrieved by a final decision shall be entitled to judicial review as provided in chapter 536, RSMo. [If there is a mitigating, exculpatory or other extenuating circumstance or circumstances in connection with the inflicted injury, in addition to the judicial review provided in chapter 536, RSMo, anytime after the commission's ruling, an aggrieved person is entitled to review by the circuit court in the county where the aggrieved person resides. If the court finds a sufficient mitigating, exculpatory or other extenuating circumstance or circumstances in connection with the inflicted injury, the court may modify the commission's suspension or revocation of the aggrieved person's hunting privileges.]

557.035. 1. For all violations of subdivision (1) of subsection 1 of section 569.100, RSMo, or subdivision (1), (2), (3), (4), (6), (7) or (8) of subsection 1 of section 571.030, RSMo, which the state believes to be knowingly motivated because of race, color, religion, national origin, sex, sexual orientation or disability of the victim or victims, the state may charge the crime or crimes under this section, and the violation is a class C felony.

2. For all violations of section 565.070, RSMo; subdivisions (1), (3) and (4) of subsection 1 of section 565.090, RSMo; subdivision (1) of subsection 1 of section 569.090, RSMo; subdivision (1) of subsection 1 of section 569.120, RSMo; section 569.140, RSMo; or section 574.050; which the state believes to be knowingly motivated because of race, color, religion, national origin, sex, sexual orientation or disability of the victim or victims, the state may charge the crime or crimes under this section, and the violation is a class D felony.

3. The court shall assess punishment in all of the cases in which the state pleads and proves any of the motivating factors listed in this section.

4. For the purposes of this section, the following terms mean:

(1) "Disability", a physical or mental impairment which substantially limits one or more of a person's major life activities, being regarded as having such an impairment, or a record of having such an impairment; and

(2) "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.

565.024. 1. A person commits the crime of involuntary manslaughter **in the first degree** if he:

(1) Recklessly causes the death of another person; or

(2) While in an intoxicated condition operates a motor vehicle in this state and, when so operating, acts with criminal negligence to cause the death of any person.

2. Involuntary manslaughter **in the first degree** is a class C felony.

3. A person commits the crime of involuntary manslaughter in the second degree

if he acts with criminal negligence to cause the death of any person.

4. Involuntary manslaughter in the second degree is a class D felony.

570.010. As used in this chapter:

(1) "Adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage;

(2) "Appropriate" means to take, obtain, use, transfer, conceal or retain possession of;

(3) "Coercion" means a threat, however communicated:

(a) To commit any crime; or

(b) To inflict physical injury in the future on the person threatened or another; or

(c) To accuse any person of any crime; or

(d) To expose any person to hatred, contempt or ridicule; or

(e) To harm the credit or business repute of any person; or

(f) To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or

(g) To inflict any other harm which would not benefit the actor. A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful service. The defendant shall have the burden of injecting the issue of justification as to any threat;

(4) "Credit device" means a writing, number or other device purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer;

(5) "Dealer" means a person in the business of buying and selling goods;

(6) **"Debit device" means a card, code, number or other device, other than a check, draft or similar paper instrument, by the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients;**

(7) "Deceit" means purposely making a representation which is false and which the actor does not believe to be true and upon which the victim relies, as to a matter of fact, law, value, intention or other state of mind. The term "deceit" does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. Deception as to the actor's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;

[(7)] **(8)** "Deprive" means:

(a) To withhold property from the owner permanently; or

- (b) To restore property only upon payment of reward or other compensation; or
- (c) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely;

[(8)] **(9)** "Misabeled" means varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage; or represented as being another person's product, though otherwise accurately labeled as to quality and quantity;

[(9)] **(10)** "Of another" property or services is that "of another" if any natural person, corporation, 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;

[(10)] **(11)** "Property" means anything of value, whether real or personal, tangible or intangible, in possession or in action, and shall include but not be limited to the evidence of a debt actually executed but not delivered or issued as a valid instrument;

[(11)] **(12)** "Receiving" means acquiring possession, control or title or lending on the security of the property;

[(12)] **(13)** "Services" includes transportation, telephone, electricity, gas, water, or other public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of vehicles;

[(13)] **(14)** "Writing" includes printing, any other method of recording information, money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and any other symbols of value, right, privilege or identification.

570.130. 1. A person commits the crime of fraudulent use of a credit device **or debit device** if [he] **the person** uses a credit device **or debit device** for the purpose of obtaining services or property, knowing that:

- (1) The device is stolen, fictitious or forged; or
- (2) The device has been revoked or canceled; or
- (3) For any other reason his use of the device is unauthorized.

2. Fraudulent use of a credit device **or debit device** is a class A misdemeanor unless the value of the property or services obtained or sought to be obtained within any thirty-day period is one hundred fifty dollars or more, in which case fraudulent use of a credit device **or debit device** is a class D felony.

570.223. 1. A person commits the crime of identity theft if he knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, transfer or use, one or more means of identification not lawfully issued for his use.

2. Identity theft is punishable by up to six months in jail for the first offense; up to one year in jail for the second offense; and one to five years imprisonment for the third or subsequent offense.

3. In addition to the provisions of subsection 2 of this section, the court may order that the defendant make restitution to any victim of the offense. Restitution may include payment for any costs, including attorney fees, incurred by the victim:

(1) In clearing the credit history or credit rating of the victim; and

(2) In connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising from the actions of the defendant.

[574.090. 1. A person commits the crime of ethnic intimidation in the first degree if, by reason of any motive relating to the race, color, religion or national origin of another individual or group of individuals, he violates subdivision (1) of subsection 1 of section 569.100, RSMo, or subdivision (1), (2), (3), (4), (6), (7) or (8) of subsection 1 of section 571.030, RSMo.

2. Ethnic intimidation in the first degree is a class C felony.]

[574.093. 1. A person commits the crime of ethnic intimidation in the second degree if, by reason of any motive relating to the race, color, religion or national origin of another individual or group of individuals, he violates section 565.070, RSMo; subdivisions (1), (3) and (4) of subsection 1 of section 565.090, RSMo; subdivision (1) of subsection 1 of section 569.090, RSMo; subdivision (1) of subsection 1 of section 569.120, RSMo; section 569.140, RSMo; or section 574.050.

2. Ethnic intimidation in the second degree is a class D felony.]

577.068. 1. A person commits the crime of leaving the scene of a shooting when, being in possession of a firearm or projectile weapon as defined in section 571.010, RSMo, such person discharges such firearm or projectile weapon and causes injury or death to another person and such person, knowing that he has caused such injury or death, leaves the place of the shooting without giving his name, address, and driver's license number, if applicable, to a law enforcement officer. If no such officer is in the vicinity where the shooting occurs, the person must provide such information to the nearest police station or law enforcement officer. A person is not in violation of this section if he leaves the scene of a shooting in order to obtain medical assistance or contact law enforcement authorities to notify them of the shooting, so long as such person returns to the scene of the shooting or otherwise provides the information required by this section to a law enforcement officer within a reasonable time after the shooting.

2. All peace officers and reserve peace officers certified under the provisions of chapter 590, RSMo, shall have authority to investigate shootings and arrest a person who violates subsection 1 of this section, except that conservation agents may enforce

such provisions as to hunting related shootings. For the purpose of this section, a hunting related shooting shall be defined as any shooting in which a person is injured as a result of hunting activity that involves the discharge of a hunting weapon.

3. Leaving the scene of a shooting is a class A misdemeanor, except that it is a class D felony if the person has previously pled guilty to or been found guilty of a violation of this section.

✓

Unofficial

Bill

Copy