

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1450,

HOUSE BILL NO. 1296,

HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1331,

AND

HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1898

AN ACT

To repeal sections 221.111, 544.170, 545.140, 556.061, 557.021, 562.014, 571.015, 571.070, 578.421, 578.423, 578.425, 579.065, 579.068, and 650.055, RSMo, section 211.071 as enacted by senate bill no. 793 merged with senate bill no. 800, ninety-ninth general assembly, second regular session, and section 211.071 as enacted by house bill no. 215 merged with senate bill no. 36, ninety-seventh general assembly, first regular session, and to enact in lieu thereof twenty-five new sections relating to criminal law, with penalty provisions.

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

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8   are repealed and twenty-five new sections enacted in lieu  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

1 221.111, 491.016, 491.641, 544.170, 545.140, 550.125, 556.061,  
2 557.021, 557.045, 562.014, 570.027, 571.015, 571.070, 577.800,  
3 578.419, 578.421, 578.423, 578.425, 579.065, 579.068, 632.460,  
4 and 650.055, to read as follows:

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

1 discretion, dismiss the petition and transfer the child to a  
2 court of general jurisdiction for prosecution under the general  
3 law.

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

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

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

26 5. The juvenile officer may consult with the office of  
27 prosecuting attorney concerning any offense for which the child  
28 could be certified as an adult under this section. The

1 prosecuting or circuit attorney shall have access to police  
2 reports, reports of the juvenile or deputy juvenile officer,  
3 statements of witnesses and all other records or reports relating  
4 to the offense alleged to have been committed by the child. The  
5 prosecuting or circuit attorney shall have access to the  
6 disposition records of the child when the child has been  
7 adjudicated pursuant to subdivision (3) of subsection 1 of  
8 section 211.031. The prosecuting attorney shall not divulge any  
9 information regarding the child and the offense until the  
10 juvenile court at a judicial hearing has determined that the  
11 child is not a proper subject to be dealt with under the  
12 provisions of this chapter.

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

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

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

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

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

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

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

11          (7) The age of the child;

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

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

16          (10) Racial disparity in certification.

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

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

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

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

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

28          8. A copy of the petition and order of the dismissal shall

1 be sent to the prosecuting attorney.

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

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

15 11. If the court does not dismiss the petition to permit  
16 the child to be prosecuted under the general law, it shall set a  
17 date for the hearing upon the petition as provided in section  
18 211.171.

19 12. The provisions of this section shall become effective  
20 on January 1, 2021.

21 211.071. 1. If a petition alleges that a child between the  
22 ages of twelve and seventeen has committed an offense which would  
23 be considered a felony if committed by an adult, the court may,  
24 upon its own motion or upon motion by the juvenile officer, the  
25 child or the child's custodian, order a hearing and may, in its  
26 discretion, dismiss the petition and such child may be  
27 transferred to the court of general jurisdiction and prosecuted  
28 under the general law; except that if a petition alleges that any

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

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

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

27 4. Written notification of a transfer hearing shall be  
28 given to the juvenile and his or her custodian in the same manner

1 as provided in sections 211.101 and 211.111. Notice of the  
2 hearing may be waived by the custodian. Notice shall contain a  
3 statement that the purpose of the hearing is to determine whether  
4 the child is a proper subject to be dealt with under the  
5 provisions of this chapter, and that if the court finds that the  
6 child is not a proper subject to be dealt with under the  
7 provisions of this chapter, the petition will be dismissed to  
8 allow for prosecution of the child under the general law.

9 5. The juvenile officer may consult with the office of  
10 prosecuting attorney concerning any offense for which the child  
11 could be certified as an adult under this section. The  
12 prosecuting or circuit attorney shall have access to police  
13 reports, reports of the juvenile or deputy juvenile officer,  
14 statements of witnesses and all other records or reports relating  
15 to the offense alleged to have been committed by the child. The  
16 prosecuting or circuit attorney shall have access to the  
17 disposition records of the child when the child has been  
18 adjudicated pursuant to subdivision (3) of subsection 1 of  
19 section 211.031. The prosecuting attorney shall not divulge any  
20 information regarding the child and the offense until the  
21 juvenile court at a judicial hearing has determined that the  
22 child is not a proper subject to be dealt with under the  
23 provisions of this chapter.

24 6. A written report shall be prepared in accordance with  
25 this chapter developing fully all available information relevant  
26 to the criteria which shall be considered by the court in  
27 determining whether the child is a proper subject to be dealt  
28 with under the provisions of this chapter and whether there are

1 reasonable prospects of rehabilitation within the juvenile  
2 justice system. These criteria shall include but not be limited  
3 to:

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

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

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

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

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

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

22 (7) The age of the child;

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

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

27 (10) Racial disparity in certification.

28 7. If the court dismisses the petition to permit the child

1 to be prosecuted under the general law, the court shall enter a  
2 dismissal order containing:

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

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

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

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

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

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

19 10. If a petition has been dismissed thereby permitting a  
20 child to be prosecuted under the general law and the child is  
21 found not guilty by a court of general jurisdiction, the juvenile  
22 court shall have jurisdiction over any later offense committed by  
23 that child which would be considered a misdemeanor or felony if  
24 committed by an adult, subject to the certification provisions of  
25 this section.

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

1 211.171.

2 12. The provisions of this section shall expire on December  
3 31, 2020.

4 217.850. 1. A person commits the offense of unlawful use  
5 of unmanned aircraft over a correctional center if he or she  
6 purposely:

7 (1) Operates an unmanned aircraft within a vertical  
8 distance of four hundred feet over a correctional center's secure  
9 perimeter fence; or

10 (2) Allows an unmanned aircraft to make contact with a  
11 correctional center, including any person or object on the  
12 premises of or within the facility.

13 2. For purposes of this section, "correctional center"  
14 shall include:

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

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

17 (3) Any county or municipal jail.

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

20 (1) An employee of the correctional center at the direction  
21 of the chief administrative officer of the facility;

22 (2) A person who has written consent from the chief  
23 administrative officer of the facility;

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

27 (4) A government official or employee in the exercise of  
28 official duties;

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

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

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

7           (c) The person operating the unmanned aircraft does not  
8 physically enter the prohibited space without an escort provided  
9 by the correctional center;

10          (6) An employee of a railroad in the exercise of official  
11 duties on any land owned or operated by a railroad corporation  
12 regulated by the Federal Railroad Administration; or

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

16          4. The offense of unlawful use of unmanned aircraft over a  
17 correctional center shall be punishable as an infraction unless  
18 the person uses an unmanned aircraft for the purpose of:

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

23          (2) Facilitating an escape from confinement under section  
24 575.210, in which case the offense is a class C felony; or

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

28          5. Each correctional center shall post a sign warning of

1 the provisions of this section. The sign shall be at least  
2 eleven inches by fourteen inches and posted in a conspicuous  
3 place.

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

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

13 (2) Any other alkaloid of any kind or any intoxicating  
14 liquor as the term intoxicating liquor is defined in section  
15 311.020;

16 (3) Any article or item of personal property which a  
17 prisoner is prohibited by law, by rule made pursuant to section  
18 221.060, or by regulation of the department of corrections from  
19 receiving or possessing, except as herein provided;

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

24 (5) Any two-way telecommunications device or the component  
25 parts thereof.

26 2. The violation of subdivision (1) of subsection 1 of this  
27 section shall be a class D felony; the violation of subdivision  
28 (2) or (5) of subsection 1 of this section shall be a class E

1 felony; the violation of subdivision (3) of subsection 1 of this  
2 section shall be a class A misdemeanor; and the violation of  
3 subdivision (4) of subsection 1 of this section shall be a class  
4 B felony.

5 3. The chief operating officer of a county or city jail or  
6 other correctional facility or the administrator of a private  
7 jail may deny visitation privileges to or refer to the county  
8 prosecuting attorney for prosecution any person who knowingly  
9 delivers, attempts to deliver, possesses, deposits, or conceals  
10 in or about the premises of such jail or facility any personal  
11 item which is prohibited by rule or regulation of such jail or  
12 facility. Such rules or regulations, including a list of  
13 personal items allowed in the jail or facility, shall be  
14 prominently posted for viewing both inside and outside such jail  
15 or facility in an area accessible to any visitor, and shall be  
16 made available to any person requesting such rule or regulation.  
17 Violation of this subsection shall be an infraction if not  
18 covered by other statutes.

19 4. Any person who has been found guilty of a violation of  
20 subdivision (2) of subsection 1 of this section involving any  
21 alkaloid shall be entitled to expungement of the record of the  
22 violation. The procedure to expunge the record shall be pursuant  
23 to section 610.123. The record of any person shall not be  
24 expunged if such person has been found guilty of knowingly  
25 delivering, attempting to deliver, possessing, depositing, or  
26 concealing any alkaloid of any controlled substance in or about  
27 the premises of any correctional center, or city or county jail,  
28 or private prison or jail.

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

10           491.016. A statement made by a witness that is not  
11 otherwise admissible is admissible in evidence in a criminal  
12 proceeding in the courts of this state as substantive evidence to  
13 prove the truth of the matter asserted if the court finds, by a  
14 preponderance of the evidence in a hearing conducted outside the  
15 presence of the jury and before trial, that the defendant engaged  
16 in or acquiesced to wrongdoing with the purpose of preventing the  
17 witness from testifying in any proceeding and the witness fails  
18 to appear.

19           491.641. 1. (1) There is hereby created in the state  
20 treasury the "Pretrial Witness Protection Services Fund", which  
21 shall consist of moneys collected under this section. The state  
22 treasurer shall be custodian of the fund. In accordance with  
23 sections 30.170 and 30.180, the state treasurer may approve  
24 disbursements. The fund shall be a dedicated fund and money in  
25 the fund shall be used solely by the department of public safety  
26 for the purposes of witness protection services pursuant to this  
27 section.

28           (2) Notwithstanding the provisions of section 33.080 to the

1 contrary, any moneys remaining in the fund at the end of the  
2 biennium shall not revert to the credit of the general revenue  
3 fund.

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

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

20 3. The department of public safety may authorize funds to  
21 be disbursed to law enforcement agencies for the purchase,  
22 rental, or modification of protected housing facilities for the  
23 purpose of this section. The law enforcement agency may contract  
24 with any department of federal or state government to obtain or  
25 to provide the facilities or services to carry out this section.

26 4. The department of public safety may authorize  
27 expenditures for law enforcement agencies to provide for the  
28 health, safety, and welfare of witnesses and victims, and the

1 families of such witnesses and victims, whenever testimony from,  
2 or a willingness to testify by, such a witness or victim would  
3 place the life of such person, or a member of his or her family  
4 or household, in jeopardy. A law enforcement agency shall submit  
5 an application to the department of public safety which shall  
6 include, but not necessarily be limited to:

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

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

12 (3) Statement of the projected costs over a specified  
13 period of time.

14 544.170. 1. All persons arrested and confined in any jail  
15 or other place of confinement by any peace officer, without  
16 warrant or other process, for any alleged breach of the peace or  
17 other criminal offense, or on suspicion thereof, shall be  
18 discharged from said custody within twenty-four hours from the  
19 time of such arrest, unless they shall be charged with a criminal  
20 offense by the oath of some credible person, and be held by  
21 warrant to answer to such offense.

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

26 3. Any person who violates the provisions of this section,  
27 by refusing to release any person who is entitled to release  
28 pursuant to this section, or by refusing to permit a confinee to

1 consult with counsel or other persons, or who transfers any such  
2 confinees to the custody or control of another, or to another  
3 place, or who falsely charges such person, with intent to avoid  
4 the provisions of this section, is guilty of a class A  
5 misdemeanor.

6 4. Notwithstanding the provisions of subsection 1 of this  
7 section to the contrary, all persons arrested and confined in any  
8 jail or other place of confinement by any peace officer, without  
9 warrant or other process, for a criminal offense involving a  
10 dangerous felony or deadly weapon as defined in section 556.061,  
11 or on suspicion thereof, shall be discharged from said custody  
12 within forty-eight hours from the time of such arrest, unless  
13 they shall be charged with a criminal offense by the oath of some  
14 credible person, and be held by warrant to answer to such  
15 offense.

16 545.140. 1. Notwithstanding Missouri supreme court rule  
17 24.06, two or more defendants may be charged in the same  
18 indictment or information if they are alleged to have  
19 participated in the same act or transaction or in the same series  
20 of acts or transactions constituting an offense. Such defendants  
21 may be charged in one or more counts together or separately and  
22 all of the defendants need not be charged in each count.

23 2. Notwithstanding Missouri supreme court rule 24.07, two  
24 or more offenses may be charged in the same indictment or  
25 information in a separate count for each offense if the offenses  
26 charged, whether felonies or misdemeanors or infractions, or any  
27 combination thereof, are of the same or similar character or are  
28 based on the same act or transaction or on two or more acts or

1 transactions connected together or constituting parts of a common  
2 scheme or plan.

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

9 4. If two or more defendants are charged with being joint  
10 participants in a conspiracy charged under section 562.014, it  
11 shall be presumed that there is no substantial prejudice from  
12 them being charged in the same indictment or information or from  
13 them being tried together.

14 550.125. 1. There is hereby created in the state treasury  
15 the "Change of Venue for Capital Cases Fund", which shall consist  
16 of moneys appropriated to the fund by the general assembly. The  
17 office of state courts administrator shall administer and  
18 disburse moneys in the fund in accordance with subsection 2 of  
19 this section. The fund shall be a dedicated fund and, upon  
20 appropriation, moneys in the fund shall be used solely for the  
21 administration of this section. Notwithstanding the provisions  
22 of section 33.080, any moneys remaining in the fund at the end of  
23 the biennium shall not revert to the credit of the general  
24 revenue fund. The state treasurer shall invest moneys in the  
25 fund in the same manner as other funds are invested. Any  
26 interest and moneys earned on such investments shall be credited  
27 to the fund.

28 2. In a capital case in which a change of venue is taken

1 from one county to any other county, at the conclusion of such  
2 case the county to which the case was transferred may apply to  
3 the office of state courts administrator for reimbursement from  
4 the change of venue for capital cases fund any costs associated  
5 with the sequestering of jurors. The costs of reimbursement  
6 shall not exceed the then approved state rates for travel  
7 reimbursement for lodging and meals.

8 3. The office of state courts administrator shall develop  
9 an application process and other procedures to determine if a  
10 county is eligible for reimbursement under this section. If a  
11 county is eligible for reimbursement, the office of state courts  
12 administrator shall disburse such moneys to the county. In the  
13 event that the amount disbursed is less than the costs set out in  
14 this section, the original county shall reimburse the county to  
15 which the case was transferred for the difference. If the office  
16 of state courts administrator determines a county is not eligible  
17 for reimbursement under this section, the county in which the  
18 capital case originated shall be responsible for reimbursement.

19 4. Any rule or portion of a rule, as that term is defined  
20 in section 536.010, that is created under the authority delegated  
21 in this section shall become effective only if it complies with  
22 and is subject to all of the provisions of chapter 536 and, if  
23 applicable, section 536.028. This section and chapter 536 are  
24 nonseverable, and if any of the powers vested with the general  
25 assembly pursuant to chapter 536 to review, to delay the  
26 effective date, or to disapprove and annul a rule are  
27 subsequently held unconstitutional, then the grant of rulemaking  
28 authority and any rule proposed or adopted after August 28, 2020,

1 shall be invalid and void.

2 556.061. In this code, unless the context requires a  
3 different definition, the following terms shall mean:

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

7 (2) "Affirmative defense":

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

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

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

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

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

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

26 (5) "Computer", the box that houses the central processing  
27 unit (CPU), along with any internal storage devices, such as  
28 internal hard drives, and internal communication devices, such as

1 internal modems capable of sending or receiving electronic mail  
2 or fax cards, along with any other hardware stored or housed  
3 internally. Thus, computer refers to hardware, software and data  
4 contained in the main unit. Printers, external modems attached  
5 by cable to the main unit, monitors, and other external  
6 attachments will be referred to collectively as peripherals and  
7 discussed individually when appropriate. When the computer and  
8 all peripherals are referred to as a package, the term "computer  
9 system" is used. Information refers to all the information on a  
10 computer system including both software applications and data;

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

14 (7) "Computer hardware", all equipment which can collect,  
15 analyze, create, display, convert, store, conceal or transmit  
16 electronic, magnetic, optical or similar computer impulses or  
17 data. Hardware includes, but is not limited to, any data  
18 processing devices, such as central processing units, memory  
19 typewriters and self-contained laptop or notebook computers;  
20 internal and peripheral storage devices, transistor-like binary  
21 devices and other memory storage devices, such as floppy disks,  
22 removable disks, compact disks, digital video disks, magnetic  
23 tape, hard drive, optical disks and digital memory; local area  
24 networks, such as two or more computers connected together to a  
25 central computer server via cable or modem; peripheral input or  
26 output devices, such as keyboards, printers, scanners, plotters,  
27 video display monitors and optical readers; and related  
28 communication devices, such as modems, cables and connections,

1 recording equipment, RAM or ROM units, acoustic couplers,  
2 automatic dialers, speed dialers, programmable telephone dialing  
3 or signaling devices and electronic tone-generating devices; as  
4 well as any devices, mechanisms or parts that can be used to  
5 restrict access to computer hardware, such as physical keys and  
6 locks;

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

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

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

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

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

25 (13) "Confinement":

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

- 1           a. A court orders the person's release; or
- 2           b. The person is released on bail, bond, or recognizance,
- 3           personal or otherwise; or
- 4           c. A public servant having the legal power and duty to
- 5           confine the person authorizes his release without guard and
- 6           without condition that he return to confinement;

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

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

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

16          (14) "Consent": consent or lack of consent may be

17          expressed or implied. Assent does not constitute consent if:

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

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

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

27          (15) "Controlled substance", a drug, substance, or

28          immediate precursor in schedules I through V as defined in

1 chapter 195;

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

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

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

13 (19) "Dangerous felony", the felonies of arson in the first  
14 degree, assault in the first degree, attempted rape in the first  
15 degree if physical injury results, attempted forcible rape if  
16 physical injury results, attempted sodomy in the first degree if  
17 physical injury results, attempted forcible sodomy if physical  
18 injury results, rape in the first degree, forcible rape, sodomy  
19 in the first degree, forcible sodomy, assault in the second  
20 degree if the victim of such assault is a special victim as  
21 defined in subdivision (14) of section 565.002, kidnapping in the  
22 first degree, kidnapping, murder in the second degree, assault of  
23 a law enforcement officer in the first degree, domestic assault  
24 in the first degree, elder abuse in the first degree, robbery in  
25 the first degree, armed criminal action, conspiracy to commit an  
26 offense when the offense is a dangerous felony, vehicle hijacking  
27 when punished as a class A felony, statutory rape in the first  
28 degree when the victim is a child less than twelve years of age

1 at the time of the commission of the act giving rise to the  
2 offense, statutory sodomy in the first degree when the victim is  
3 a child less than twelve years of age at the time of the  
4 commission of the act giving rise to the offense, child  
5 molestation in the first or second degree, abuse of a child if  
6 the child dies as a result of injuries sustained from conduct  
7 chargeable under section 568.060, child kidnapping, parental  
8 kidnapping committed by detaining or concealing the whereabouts  
9 of the child for not less than one hundred twenty days under  
10 section 565.153, and an "intoxication-related traffic offense" or  
11 "intoxication-related boating offense" if the person is found to  
12 be a "habitual offender" or "habitual boating offender" as such  
13 terms are defined in section 577.001;

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

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

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

28 (23) "Digital camera", a camera that records images in a

1 format which enables the images to be downloaded into a computer;

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

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

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

13 (27) "Forcible compulsion" either:

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

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

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

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

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

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

1 calling; or

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

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

6

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

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

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

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

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

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

25 (34) "Of another", property that any entity, including but  
26 not limited to any natural person, corporation, limited liability  
27 company, partnership, association, governmental subdivision or  
28 instrumentality, other than the actor, has a possessory or

1 proprietary interest therein, except that property shall not be  
2 deemed property of another who has only a security interest  
3 therein, even if legal title is in the creditor pursuant to a  
4 conditional sales contract or other security arrangement;

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

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

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

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

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

24 (40) "Public servant", any person employed in any way by a  
25 government of this state who is compensated by the government by  
26 reason of such person's employment, any person appointed to a  
27 position with any government of this state, or any person elected  
28 to a position with any government of this state. It includes,

1 but is not limited to, legislators, jurors, members of the  
2 judiciary and law enforcement officers. It does not include  
3 witnesses;

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

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

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

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

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

28 (46) "Sexual orientation", male or female heterosexuality,

1 homosexuality or bisexuality by inclination, practice, identity  
2 or expression, or having a self-image or identity not  
3 traditionally associated with one's gender;

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

6 (48) "Vessel", any boat or craft propelled by a motor or by  
7 machinery, whether or not such motor or machinery is a principal  
8 source of propulsion used or capable of being used as a means of  
9 transportation on water, or any boat or craft more than twelve  
10 feet in length which is powered by sail alone or by a combination  
11 of sail and machinery, and used or capable of being used as a  
12 means of transportation on water, but not any boat or craft  
13 having, as the only means of propulsion, a paddle or oars;

14 (49) "Voluntary act":

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

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

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

1 program.

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

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

8 3. For the purpose of applying the extended term provisions  
9 of section 558.016 and the minimum prison term provisions of  
10 section 558.019 and for determining the penalty for attempts [and  
11 conspiracies], offenses defined outside of this code shall be  
12 classified as follows:

13 (1) If the offense is a felony:

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

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

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

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

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

26 (2) If the offense is a misdemeanor:

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

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

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

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

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

10 557.045. No person found guilty of, or pleading guilty to,  
11 the following offenses shall be eligible for probation, suspended  
12 imposition or execution of sentence, or conditional release, and  
13 shall be sentenced to a term of imprisonment pursuant to  
14 subdivision (1) of subsection 2 of section 557.011:

15 (1) Second degree murder when a person knowingly causes the  
16 death of another person or, with the purpose of causing serious  
17 physical injury to another person, causes the death of another  
18 person, as defined in subdivision (1) of subsection 1 in section  
19 565.021;

20 (2) Any dangerous felony, as the term is defined in section  
21 556.061, where the person has been previously found guilty of a  
22 class A or B felony or a dangerous felony; or

23 (3) Any dangerous felony, as the term is defined in section  
24 556.061, where the commission of the felony involves the use of a  
25 deadly weapon, as that term is defined in section 556.061.

26 562.014. 1. [Guilt for an offense may be based upon a  
27 conspiracy to commit an offense when a person, with the purpose  
28 of promoting or facilitating the commission of an offense, agrees

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

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

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

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

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

28 (2) The defendant shall have the burden of injecting the

1 issue of renunciation of criminal purpose under subdivision (1)  
2 of this subsection.

3 [6.] 5. For the purpose of time limitations on  
4 prosecutions:

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

10 (2) If an individual abandons the agreement, the conspiracy  
11 is terminated as to him or her only if he or she advises those  
12 with whom he or she has conspired of his or her abandonment or he  
13 or she informs the law enforcement authorities of the existence  
14 of the conspiracy and of his or her participation in it.

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

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

23 6. The offense of conspiracy to commit an offense is a  
24 class C felony.

25 570.027. 1. A person commits the offense of vehicle  
26 hijacking when he or she knowingly uses or threatens the use of  
27 physical force upon another person to seize or attempt to seize  
28 possession or control of a vehicle, as defined in section

1 302.010, from the immediate possession or control of another  
2 person.

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

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

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

11 (2) Is armed with a deadly weapon;

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

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

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

19 571.015. 1. [Except as provided in subsection 4 of this  
20 section,] Any person who commits any felony under the laws of  
21 this state by, with, or through the use, assistance, or aid of a  
22 dangerous instrument or deadly weapon is also guilty of the  
23 [crime] offense of armed criminal action and, upon conviction,  
24 shall be punished by imprisonment by the department of  
25 corrections [and human resources] for a term of not less than  
26 three years and not to exceed fifteen years, unless the person is  
27 unlawfully possessing a firearm, in which case the term of  
28 imprisonment shall be for a term of not less than five years.

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

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

22 3. Any person convicted of a third or subsequent offense of  
23 armed criminal action under subsection 1 of this section shall be  
24 punished by imprisonment by the department of corrections [and  
25 human resources] for a term of not less than ten years, unless  
26 the person is unlawfully possessing a firearm, in which case the  
27 term of imprisonment shall be no less than fifteen years. The  
28 punishment imposed pursuant to this subsection shall be in

1 addition to and consecutive to any punishment provided by law for  
2 the crime committed by, with, or through the use, assistance, or  
3 aid of a dangerous instrument or deadly weapon. No person  
4 convicted under this subsection shall be eligible for parole,  
5 probation, conditional release or suspended imposition or  
6 execution of sentence for a period of ten calendar years.

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

10 571.070. 1. A person commits the offense of unlawful  
11 possession of a firearm if such person knowingly has any firearm  
12 in his or her possession and:

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

17 (2) Such person is a fugitive from justice, is habitually  
18 in an intoxicated or drugged condition, or is currently adjudged  
19 mentally incompetent.

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

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

26 577.800. 1. A person commits the offense of unlawful use  
27 of unmanned aircraft over an open air facility if he or she  
28 purposely:

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

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

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

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

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

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

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

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

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

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

28       (b) The utility or cooperative notifies the open air

1 facility before flying the unmanned aircraft, except during an  
2 emergency; and

3 (c) The person operating the unmanned aircraft does not  
4 physically enter the prohibited space without an escort provided  
5 by the open air facility; or

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

9 4. The offense of unlawful use of unmanned aircraft over an  
10 open air facility shall be punishable as an infraction unless the  
11 person uses an unmanned aircraft for:

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

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

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

22 578.419. Sections 578.419 to 578.437 shall be known and may  
23 be cited as the "Missouri Criminal Street Gangs Prevention Act".

24 578.421. As used in sections 578.421 to 578.437, the  
25 following terms mean:

26 (1) "Criminal street gang", any ongoing organization,  
27 association, or group of three or more persons, whether formal or  
28 informal, having as one of its [primary] motivating activities

1 the commission of one or more of the criminal acts enumerated in  
2 subdivision (2) of this section, [which has a common name or  
3 common identifying sign or symbol,] whose members individually or  
4 collectively engage in or have engaged in a pattern of criminal  
5 gang activity;

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

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

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

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

20 (d) Any violation of the provisions of chapter 579 which  
21 involves the distribution, delivery or manufacture of a substance  
22 prohibited by chapter 579;

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

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

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

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

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

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

7 (k) Promoting prostitution in the first degree, as provided  
8 in section 567.050;

9 (l) Promoting prostitution in the second degree, as  
10 provided in section 567.060;

11 (m) Abuse or neglect of a child, as provided in subsection  
12 6 of section 568.060;

13 (n) Sexual exploitation of a minor, as provided in section  
14 573.023;

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

17 (p) Promoting sexual performance by a child, as provided in  
18 section 573.205; or

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

20 578.423. Any person who actively participates in any  
21 criminal street gang with knowledge that its members engage in or  
22 have engaged in a pattern of criminal street gang activity, and  
23 who willfully promotes, furthers, or assists in any felonious  
24 criminal conduct by gang members shall be [punished by  
25 imprisonment in the county jail for a period not to exceed one  
26 year, or by imprisonment in a state correctional facility for  
27 one, two, or three years] guilty of a class B felony.

28 578.425. Any person who is convicted of a felony [or a

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

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

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

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

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

5           579.065. 1. A person commits the offense of trafficking  
6 drugs in the first degree if, except as authorized by this  
7 chapter or chapter 195, such person knowingly distributes,  
8 delivers, manufactures, produces or attempts to distribute,  
9 deliver, manufacture or produce:

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

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

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

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

27           (5) More than thirty grams [but less than ninety grams] of  
28 a mixture or substance containing a detectable amount of

1 phencyclidine (PCP);

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

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

6 (8) More than thirty grams [but less than ninety grams] of  
7 any material, compound, mixture, or preparation containing any  
8 quantity of the following substances having a stimulant effect on  
9 the central nervous system: amphetamine, its salts, optical  
10 isomers and salts of its optical isomers; methamphetamine, its  
11 salts, optical isomers and salts of its optical isomers;  
12 phenmetrazine and its salts; or methylphenidate; [or]

13 (9) More than thirty grams [but less than ninety grams] of  
14 any material, compound, mixture, or preparation which contains  
15 any quantity of 3,4-methylenedioxymethamphetamine;

16 (10) One gram or more of flunitrazepam for the first  
17 offense;

18 (11) Any amount of gamma-hydroxybutyric acid for the first  
19 offense; or

20 (12) More than ten milligrams of fentanyl or carfentanil,  
21 or any derivative thereof, or any combination thereof, or any  
22 compound, mixture, or substance containing a detectable amount of  
23 fentanyl or carfentanil, or their optical isomers or analogues.

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

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

28 (1) Ninety grams or more of a mixture or substance

1 containing a detectable amount of heroin; or

2 (2) Four hundred fifty grams or more of a mixture or  
3 substance containing a detectable amount of coca leaves, except  
4 coca leaves and extracts of coca leaves from which cocaine,  
5 ecgonine, and derivatives of ecgonine or their salts have been  
6 removed; cocaine salts and their optical and geometric isomers,  
7 and salts of isomers; ecgonine, its derivatives, their salts,  
8 isomers, and salts of isomers; or any compound, mixture, or  
9 preparation which contains any quantity of any of the foregoing  
10 substances; or

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

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

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

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

19 (7) One hundred kilograms or more of a mixture or substance  
20 containing marijuana; or

21 (8) Ninety grams or more of any material, compound,  
22 mixture, or preparation containing any quantity of the following  
23 substances having a stimulant effect on the central nervous  
24 system: amphetamine, its salts, optical isomers and salts of its  
25 optical isomers; methamphetamine, its salts, optical isomers and  
26 salts of its optical isomers; phenmetrazine and its salts; or  
27 methylphenidate; or

28 (9) More than thirty grams of any material, compound,

1 mixture, or preparation containing any quantity of the following  
2 substances having a stimulant effect on the central nervous  
3 system: amphetamine, its salts, optical isomers, and salts of  
4 its optical isomers; methamphetamine, its salts, optical isomers,  
5 and salts of its optical isomers; phenmetrazine and its salts; or  
6 methylphenidate, and the location of the offense was within two  
7 thousand feet of real property comprising a public or private  
8 elementary, vocational, or secondary school, college, community  
9 college, university, or any school bus, in or on the real  
10 property comprising public housing or any other governmental  
11 assisted housing, or within a motor vehicle, or in any structure  
12 or building which contains rooms furnished for the accommodation  
13 or lodging of guests, and kept, used, maintained, advertised, or  
14 held out to the public as a place where sleeping accommodations  
15 are sought for pay or compensation to transient guests or  
16 permanent guests; or

17 (10) Ninety grams or more of any material, compound,  
18 mixture or preparation which contains any quantity of  
19 3,4-methylenedioxymethamphetamine; or

20 (11) More than thirty grams of any material, compound,  
21 mixture, or preparation which contains any quantity of  
22 3,4-methylenedioxymethamphetamine and the location of the offense  
23 was within two thousand feet of real property comprising a public  
24 or private elementary, vocational, or secondary school, college,  
25 community college, university, or any school bus, in or on the  
26 real property comprising public housing or any other governmental  
27 assisted housing, within a motor vehicle, or in any structure or  
28 building which contains rooms furnished for the accommodation or

1 lodging of guests, and kept, used, maintained, advertised, or  
2 held out to the public as a place where sleeping accommodations  
3 are sought for pay or compensation to transient guests or  
4 permanent guests; or

5 (12) One gram or more of flunitrazepam for a second or  
6 subsequent offense; or

7 (13) Any amount of gamma-hydroxybutyric acid for a second  
8 or subsequent offense; or

9 (14) Twenty milligrams or more of fentanyl or carfentanil,  
10 or any derivative thereof, or any combination thereof, or any  
11 compound, mixture, or substance containing a detectable amount of  
12 fentanyl or carfentanil, or their optical isomers or analogues.

13 579.068. 1. A person commits the offense of trafficking  
14 drugs in the second degree if, except as authorized by this  
15 chapter or chapter 195, such person knowingly possesses or has  
16 under his or her control, purchases or attempts to purchase, or  
17 brings into this state:

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

20 (2) More than one hundred fifty grams [but less than four  
21 hundred fifty grams] of a mixture or substance containing a  
22 detectable amount of coca leaves, except coca leaves and extracts  
23 of coca leaves from which cocaine, ecgonine, and derivatives of  
24 ecgonine or their salts have been removed; cocaine salts and  
25 their optical and geometric isomers, and salts of isomers;  
26 ecgonine, its derivatives, their salts, isomers, and salts of  
27 isomers; or any compound, mixture, or preparation which contains  
28 any quantity of any of the foregoing substances;

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

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

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

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

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

14 (8) More than thirty grams [but less than ninety grams] of  
15 any material, compound, mixture, or preparation containing any  
16 quantity of the following substances having a stimulant effect on  
17 the central nervous system: amphetamine, its salts, optical  
18 isomers and salts of its optical isomers; methamphetamine, its  
19 salts, optical isomers and salts of its optical isomers;  
20 phenmetrazine and its salts; or methylphenidate; [or]

21 (9) More than thirty grams [but less than ninety grams] of  
22 any material, compound, mixture, or preparation which contains  
23 any quantity of 3,4-methylenedioxymethamphetamine; or

24 (10) More than ten milligrams of fentanyl or carfentanil,  
25 or any derivative thereof, or any combination thereof, or any  
26 compound, mixture, or substance containing a detectable amount of  
27 fentanyl or carfentanil, or their optical isomers or analogues.

28 2. The offense of trafficking drugs in the second degree is

1 a class C felony.

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

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

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

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

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

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

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

23 (7) One hundred kilograms or more of a mixture or substance  
24 containing marijuana; or

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

26 (9) Ninety grams or more but less than four hundred fifty  
27 grams of any material, compound, mixture, or preparation  
28 containing any quantity of the following substances having a

1 stimulant effect on the central nervous system: amphetamine, its  
2 salts, optical isomers and salts of its optical isomers;  
3 methamphetamine, its salts, optical isomers and salts of its  
4 optical isomers; phenmetrazine and its salts; or methylphenidate;  
5 or

6 (10) Ninety grams or more but less than four hundred fifty  
7 grams of any material, compound, mixture, or preparation which  
8 contains any quantity of 3,4-methylenedioxymethamphetamine; or

9 (11) Twenty milligrams or more of fentanyl or carfentanil,  
10 or any derivative thereof, or any combination thereof, or any  
11 compound, mixture, or substance containing a detectable amount of  
12 fentanyl or carfentanil, or their optical isomers or analogues.

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

17 (1) Any quantity of the following substances having a  
18 stimulant effect on the central nervous system: amphetamine, its  
19 salts, optical isomers and salts of its optical isomers;  
20 methamphetamine, its salts, isomers and salts of its isomers;  
21 phenmetrazine and its salts; or methylphenidate; or

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

23 5. The offense of drug trafficking in the second degree is  
24 a class C felony for the first offense and a class B felony for  
25 any second or subsequent offense for the trafficking of less than  
26 one gram of flunitrazepam.

27 632.460. 1. A person commits the offense of unlawful use  
28 of unmanned aircraft over a mental health hospital if he or she

1 purposely:

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

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

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

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

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

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

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

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

26 (4) A government official or employee in the exercise of  
27 official duties;

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

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

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

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

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

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

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

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

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

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

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

4           650.055. 1. Every individual who:

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

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

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

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

15  
16 shall have a fingerprint and blood or scientifically accepted  
17 biological sample collected for purposes of DNA profiling  
18 analysis.

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

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

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

24           (3) Upon entering or before release from a county jail or  
25 detention facility, state correctional facility, or any other  
26 detention facility or institution, whether operated by a private,  
27 local, or state agency, or any mental health facility if  
28 committed as a sexually violent predator pursuant to sections

1 632.480 to 632.513; or

2 (4) When the state accepts a person from another state  
3 under any interstate compact, or under any other reciprocal  
4 agreement with any county, state, or federal agency, or any other  
5 provision of law, whether or not the person is confined or  
6 released, the acceptance is conditional on the person providing a  
7 DNA sample if the person was found guilty of a felony offense in  
8 any other jurisdiction; or

9 (5) If such individual is under the jurisdiction of the  
10 department of corrections. Such jurisdiction includes persons  
11 currently incarcerated, persons on probation, as defined in  
12 section 217.650, and on parole, as also defined in section  
13 217.650; or

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

16 3. The Missouri state highway patrol and department of  
17 corrections shall be responsible for ensuring adherence to the  
18 law. Any person required to provide a DNA sample pursuant to  
19 this section shall be required to provide such sample, without  
20 the right of refusal, at a collection site designated by the  
21 Missouri state highway patrol and the department of corrections.  
22 Authorized personnel collecting or assisting in the collection of  
23 samples shall not be liable in any civil or criminal action when  
24 the act is performed in a reasonable manner. Such force may be  
25 used as necessary to the effectual carrying out and application  
26 of such processes and operations. The enforcement of these  
27 provisions by the authorities in charge of state correctional  
28 institutions and others having custody or jurisdiction over

1 individuals included in subsection 1 of this section which shall  
2 not be set aside or reversed is hereby made mandatory. The board  
3 of probation or parole shall recommend that an individual on  
4 probation or parole who refuses to provide a DNA sample have his  
5 or her probation or parole revoked. In the event that a person's  
6 DNA sample is not adequate for any reason, the person shall  
7 provide another sample for analysis.

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

13 5. Unauthorized use or dissemination of individually  
14 identifiable DNA information in a database for purposes other  
15 than criminal justice or law enforcement is a class A  
16 misdemeanor.

17 6. Implementation of sections 650.050 to 650.100 shall be  
18 subject to future appropriations to keep Missouri's DNA system  
19 compatible with the Federal Bureau of Investigation's DNA  
20 databank system.

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

28 (1) Peace officers, as defined in section 590.010, and

1 other employees of law enforcement agencies who need to obtain  
2 such records to perform their public duties;

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

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

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

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

13 8. Any person who obtains records pursuant to the  
14 provisions of this section shall use such records only for  
15 investigative and prosecutorial purposes, including but not  
16 limited to use at any criminal trial, hearing, or proceeding; or  
17 for law enforcement identification purposes, including  
18 identification of human remains. Such records shall be  
19 considered strictly confidential and shall only be released as  
20 authorized by this section.

21 9. (1) An individual may request expungement of his or her  
22 DNA sample and DNA profile through the court issuing the reversal  
23 or dismissal, or through the court granting an expungement of all  
24 official records under section 568.040. A certified copy of the  
25 court order establishing that such conviction has been reversed,  
26 guilty plea has been set aside, or expungement has been granted  
27 under section 568.040 shall be sent to the Missouri state highway  
28 patrol crime laboratory. Upon receipt of the court order, the

1 laboratory will determine that the requesting individual has no  
2 other qualifying offense as a result of any separate plea or  
3 conviction and no other qualifying arrest prior to expungement.

4 (2) A person whose DNA record or DNA profile has been  
5 included in the state DNA database in accordance with this  
6 section and sections 650.050, 650.052, and 650.100 may request  
7 expungement on one or more of the following grounds [that the  
8 conviction has been reversed, the guilty plea on which the  
9 authority for including that person's DNA record or DNA profile  
10 was based has been set aside, or an expungement of all official  
11 records has been granted by the court under section 568.040]:

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

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

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

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

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

27 (f) The court finds at a preliminary hearing that there is  
28 no probable cause to try that person for any charge which, upon

1 conviction, would authorize the inclusion of that person's DNA  
2 record or DNA profile;

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

6 (3) Upon receipt of a written request for expungement, a  
7 certified copy of the final court order reversing the conviction,  
8 setting aside the plea, or granting an expungement of all  
9 official records under section 568.040, and any other information  
10 necessary to ascertain the validity of the request, the Missouri  
11 state highway patrol crime laboratory shall expunge all DNA  
12 records and identifiable information in the state DNA database  
13 pertaining to the person and destroy the DNA sample of the  
14 person, unless the Missouri state highway patrol determines that  
15 the person is otherwise obligated to submit a DNA sample. Within  
16 thirty days after the receipt of the court order, the Missouri  
17 state highway patrol shall notify the individual that it has  
18 expunged his or her DNA sample and DNA profile, or the basis for  
19 its determination that the person is otherwise obligated to  
20 submit a DNA sample.

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

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

1 delay in expunging DNA records.

2 [10. When a DNA sample is taken from an individual pursuant  
3 to subdivision (2) of subsection 1 of this section and the  
4 prosecutor declines prosecution and notifies the arresting agency  
5 of that decision, the arresting agency shall notify the Missouri  
6 state highway patrol crime laboratory within ninety days of  
7 receiving such notification. Within thirty days of being  
8 notified by the arresting agency that the prosecutor has declined  
9 prosecution, the Missouri state highway patrol crime laboratory  
10 shall determine whether the individual has any other qualifying  
11 offenses or arrests that would require a DNA sample to be taken  
12 and retained. If the individual has no other qualifying offenses  
13 or arrests, the crime laboratory shall expunge all DNA records in  
14 the database taken at the arrest for which the prosecution was  
15 declined pertaining to the person and destroy the DNA sample of  
16 such person.

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

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

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

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

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

3  
4 If the state highway patrol crime laboratory receives notice  
5 under this subsection, such crime laboratory shall determine,  
6 within thirty days, whether the individual has any other  
7 qualifying offenses or arrests that would require a DNA sample to  
8 be taken. If the individual has no other qualifying arrests or  
9 offenses, the crime laboratory shall expunge all DNA records in  
10 the database pertaining to such person and destroy the person's  
11 DNA sample.]