

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1133
99TH GENERAL ASSEMBLY

1890H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 479.170, 488.029, 488.5050, 557.035, 565.076, 565.091, 566.010, 575.280, 577.001, 577.010, and 595.045, RSMo, and to enact in lieu thereof twelve new sections relating to criminal offenses, with penalty provisions and an emergency clause.

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

Section A. Sections 479.170, 488.029, 488.5050, 557.035, 565.076, 565.091, 566.010, 2 575.280, 577.001, 577.010, and 595.045, RSMo, are repealed and twelve new sections enacted 3 in lieu thereof, to be known as sections 252.069, 479.170, 488.029, 488.5050, 557.035, 565.076, 4 565.091, 566.010, 575.280, 577.001, 577.010, and 595.045, to read as follows:

252.069. Any agent of the conservation commission may enforce the provisions of 2 sections 577.070 and 577.080 and arrest violators only upon the water, the banks thereof, 3 or upon public land.

479.170. 1. If, in the progress of any trial before a municipal judge, it shall appear to the 2 judge that the accused ought to be put upon trial for an offense against the criminal laws of the 3 state and not cognizable before him as municipal judge, he shall immediately stop all further 4 proceedings before him as municipal judge and cause the complaint to be made before some 5 associate circuit judge within the county.

6 2. For purposes of this section, any offense involving the operation of a motor vehicle 7 in an intoxicated condition as defined in section 577.001 shall not be cognizable in municipal 8 court, if the defendant has been convicted, found guilty, or pled guilty to two or more previous 9 intoxication-related traffic offenses as defined in section ~~577.023~~ **577.001**, or has had two or 10 more previous alcohol-related enforcement contacts as defined in section 302.525.

488.029. There shall be assessed and collected a surcharge of one hundred fifty dollars 2 in all criminal cases for any violation of chapter 195 **or chapter 579** in which a crime laboratory

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

3 makes analysis of a controlled substance, but no such surcharge shall be assessed when the costs
4 are waived or are to be paid by the state or when a criminal proceeding or the defendant has been
5 dismissed by the court. The moneys collected by clerks of the courts pursuant to the provisions
6 of this section shall be collected and disbursed as provided by sections 488.010 to 488.020. All
7 such moneys shall be payable to the director of revenue, who shall deposit all amounts collected
8 pursuant to this section to the credit of the state forensic laboratory account to be administered
9 by the department of public safety pursuant to section 650.105.

488.5050. 1. In addition to any other surcharges authorized by statute, the clerk of each
2 court of this state shall collect the surcharges provided for in subsection 2 of this section.

3 2. A surcharge of thirty dollars shall be assessed as costs in each circuit court proceeding
4 filed within this state in all criminal cases in which the defendant is found guilty of a felony,
5 except when the defendant is found guilty of a class B felony, class A felony, or an unclassified
6 felony, under chapter 195 **or chapter 579**, in which case, the surcharge shall be sixty dollars.
7 A surcharge of fifteen dollars shall be assessed as costs in each court proceeding filed within this
8 state in all other criminal cases, except for traffic violation cases in which the defendant is found
9 guilty of a misdemeanor.

10 3. Notwithstanding any other provisions of law, the moneys collected by clerks of the
11 courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed
12 in accordance with sections 488.010 to 488.020, and shall be payable to the state treasurer.

13 4. The state treasurer shall deposit such moneys or other gifts, grants, or moneys received
14 on a monthly basis into the "DNA Profiling Analysis Fund", which is hereby created in the state
15 treasury. The fund shall be administered by the department of public safety. The moneys
16 deposited into the DNA profiling analysis fund shall be used only by the highway patrol crime
17 lab to fulfill the purposes of the DNA profiling system pursuant to section 650.052.
18 Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the
19 fund at the end of the biennium shall not revert to the credit of the general revenue fund.

20 5. The provisions of subsections 1 and 2 of this section shall expire on August 28, 2019.

557.035. 1. For all violations of **section 565.054 or 565.090**, subdivision (1) of
2 subsection 1 of section 569.100, or subdivision (1), (2), (3), (4), (6), (7) or (8) of subsection 1
3 of section 571.030, which the state believes to be knowingly motivated because of race, color,
4 religion, national origin, sex, sexual orientation or disability of the victim or victims, the state
5 may charge the offense or offenses under this section, and the violation is a class D felony.

6 2. For all violations of section ~~[565.054]~~ **565.056**; ~~[subdivisions (1), (3) and (4) of~~
7 ~~subsection 1 of section 565.090;]~~ subdivision (1) of subsection 1 of section 569.090; subdivision
8 (1) of subsection 1 of section 569.120; section 569.140; or section 574.050; which the state
9 believes to be knowingly motivated because of race, color, religion, national origin, sex, sexual

10 orientation or disability of the victim or victims, the state may charge the offense or offenses
11 under this section, and the violation is a class E felony.

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

565.076. 1. A person commits the offense of domestic assault in the fourth degree if the
2 act involves a domestic victim, as the term "domestic victim" is defined under section 565.002,
3 and:

4 (1) The person attempts to cause or recklessly causes physical injury, physical pain, or
5 illness to such domestic victim;

6 (2) With criminal negligence the person causes physical injury to such domestic victim
7 by means of a deadly weapon or dangerous instrument;

8 (3) The person purposely places such domestic victim in apprehension of immediate
9 physical injury by any means;

10 (4) The person recklessly engages in conduct which creates a substantial risk of death
11 or serious physical injury to such domestic victim;

12 (5) The person knowingly causes physical contact with such domestic victim knowing
13 he or she will regard the contact as offensive; or

14 (6) The person knowingly attempts to cause or causes the isolation of such domestic
15 victim by unreasonably and substantially restricting or limiting his or her access to other persons,
16 telecommunication devices or transportation for the purpose of isolation.

17 2. The offense of domestic assault in the fourth degree is a class A misdemeanor, unless
18 the person has previously been found guilty of the offense of **domestic** assault [~~of a domestic~~
19 ~~victim~~], **of any assault offense under this chapter, or of any offense against a domestic**
20 **victim committed in violation of any county or municipal ordinance in any state, any state**
21 **law, any federal law, or any military law which if committed in this state** two or more
22 times[;] **would be a violation of this section**, in which case it is a class E felony. The offenses
23 described in this subsection may be against the same domestic victim or against different
24 domestic victims.

565.091. 1. A person commits the offense of harassment in the second degree if he or
2 she, without good cause, engages in any act with the purpose to cause emotional distress to
3 another person.

4 2. The offense of harassment in the second degree is a class A misdemeanor, **unless the**
5 **person has previously pleaded guilty to or been found guilty of a violation of this section,**
6 **of any offense committed in violation of any county or municipal ordinance in any state,**
7 **any state law, any federal law, or any military law which if committed in this state would**

8 **be chargeable or indictable as a violation of any offense listed in this subsection, in which**
9 **case it is a class E felony.**

10 **3. This section shall not apply to activities of federal, state, county, or municipal law**
11 **enforcement officers conducting investigations of violations of federal, state, county, or**
12 **municipal law.**

566.010. As used in this chapter and chapter 568, the following terms mean:

2 (1) "Aggravated sexual offense", any sexual offense, in the course of which, the actor:

3 (a) Inflicts serious physical injury on the victim; [☒]

4 (b) Displays a deadly weapon or dangerous instrument in a threatening manner; [☒]

5 (c) Subjects the victim to sexual intercourse or deviate sexual intercourse with more than
6 one person; [☒]

7 (d) Had previously been found guilty of an offense under this chapter or under section
8 573.200, child used in sexual performance; section 573.205, promoting sexual performance by
9 a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child
10 pornography in the first degree; section 573.035, promoting child pornography in the second
11 degree; section 573.037, possession of child pornography; or section 573.040, furnishing
12 pornographic materials to minors; or has previously been found guilty of an offense in another
13 jurisdiction which would constitute an offense under this chapter or said sections;

14 (e) Commits the offense as part of an act or series of acts performed by two or more
15 persons as part of an established or prescribed pattern of activity; or

16 (f) Engages in the act that constitutes the offense with a person the actor knows to be,
17 without regard to legitimacy, the actor's:

18 a. Ancestor or descendant by blood or adoption;

19 b. Stepchild while the marriage creating that relationship exists;

20 c. Brother or sister of the whole or half blood; or

21 d. Uncle, aunt, nephew, or niece of the whole blood;

22 (2) "Commercial sex act", any sex act on account of which anything of value is given
23 to or received by any person;

24 (3) "Deviate sexual intercourse", any act involving the genitals of one person and the
25 hand, mouth, tongue, or anus of another person or a sexual act involving the penetration,
26 however slight, of the penis, female genitalia, or the anus by a finger, instrument or object done
27 for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of
28 terrorizing the victim;

29 (4) "Forced labor", a condition of servitude induced by means of:

30 (a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that,
 31 if the person does not enter into or continue the servitude, such person or another person will
 32 suffer substantial bodily harm or physical restraint; or

33 (b) The abuse or threatened abuse of the legal process;

34 (5) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;

35 (6) "Sexual contact", any touching of another person with the genitals or any touching
 36 of the genitals or anus of another person, or the breast of a female person, or such touching
 37 through the clothing, for the purpose of arousing or gratifying the sexual desire of any person or
 38 for the purpose of terrorizing the victim;

39 (7) "Sexual intercourse", any penetration, however slight, of the female genitalia by the
 40 penis.

575.280. 1. A person commits the offense of acceding to corruption if he or she:

2 (1) Is a judge, juror, special master, referee or arbitrator and knowingly solicits, accepts,
 3 or agrees to accept any benefit, direct or indirect, on the representation or understanding that it
 4 will influence his or her official action in a judicial proceeding pending in any court or before
 5 such official or juror;

6 (2) Is a witness or prospective witness in any official proceeding and knowingly solicits,
 7 accepts, or agrees to accept any benefit, direct or indirect, on the representation or understanding
 8 that he or she will disobey a subpoena or other legal process, absent himself or herself, avoid
 9 subpoena or other legal process, withhold evidence, information or documents, or testify falsely.

10 2. The offense of acceding to corruption under subdivision ~~[(2)]~~ **(1)** of subsection 1 of
 11 this section ~~[is a class A misdemeanor. The offense, when committed under subdivision (1) of~~
 12 ~~subsection 1 of this section,] is a class C felony[, unless the offense is committed in a felony~~
 13 ~~prosecution, or on the representation or understanding of testifying falsely, in which case it is a~~
 14 ~~class E felony]. **The offense of acceding to corruption under subdivision (2) of subsection**
 15 **1 of this section in a felony prosecution or on the representation or understanding of**
 16 **testifying falsely is a class D felony. Otherwise acceding to corruption is a class A**
 17 **misdemeanor.**~~

577.001. As used in this chapter, the following terms mean:

2 (1) "Aggravated offender", a person who has been found guilty of:

3 (a) Three or more intoxication-related traffic offenses committed on separate occasions;
 4 or

5 (b) Two or more intoxication-related traffic offenses committed on separate occasions
 6 where at least one of the intoxication-related traffic offenses is an offense committed in violation
 7 of any state law, county or municipal ordinance, any federal offense, or any military offense in

8 which the defendant was operating a vehicle while intoxicated and another person was injured
9 or killed;

10 (2) "Aggravated boating offender", a person who has been found guilty of:

11 (a) Three or more intoxication-related boating offenses; or

12 (b) Two or more intoxication-related boating offenses committed on separate occasions
13 where at least one of the intoxication-related boating offenses is an offense committed in
14 violation of any state law, county or municipal ordinance, any federal offense, or any military
15 offense in which the defendant was operating a vessel while intoxicated and another person was
16 injured or killed;

17 (3) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for
18 off-highway use which is fifty inches or less in width, with an unladen dry weight of one
19 thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed
20 to be straddled by the operator, or with a seat designed to carry more than one person, and
21 handlebars for steering control;

22 (4) "Court", any circuit, associate circuit, or municipal court, including traffic court, but
23 not any juvenile court or drug court;

24 (5) "Chronic offender", a person who has been found guilty of:

25 (a) Four or more intoxication-related traffic offenses committed on separate occasions;
26 or

27 (b) Three or more intoxication-related traffic offenses committed on separate occasions
28 where at least one of the intoxication-related traffic offenses is an offense committed in violation
29 of any state law, county or municipal ordinance, any federal offense, or any military offense in
30 which the defendant was operating a vehicle while intoxicated and another person was injured
31 or killed; or

32 (c) Two or more intoxication-related traffic offenses committed on separate occasions
33 where both intoxication-related traffic offenses were offenses committed in violation of any state
34 law, county or municipal ordinance, any federal offense, or any military offense in which the
35 defendant was operating a vehicle while intoxicated and another person was injured or killed;

36 (6) "Chronic boating offender", a person who has been found guilty of:

37 (a) Four or more intoxication-related boating offenses; or

38 (b) Three or more intoxication-related boating offenses committed on separate occasions
39 where at least one of the intoxication-related boating offenses is an offense committed in
40 violation of any state law, county or municipal ordinance, any federal offense, or any military
41 offense in which the defendant was operating a vessel while intoxicated and another person was
42 injured or killed; or

43 (c) Two or more intoxication-related boating offenses committed on separate occasions
44 where both intoxication-related boating offenses were offenses committed in violation of any
45 state law, county or municipal ordinance, any federal offense, or any military offense in which
46 the defendant was operating a vessel while intoxicated and another person was injured or killed;

47 (7) "Continuous alcohol monitoring", automatically testing breath, blood, or transdermal
48 alcohol concentration levels and tampering attempts at least once every hour, regardless of the
49 location of the person who is being monitored, and regularly transmitting the data. Continuous
50 alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of
51 section 217.690;

52 (8) "Controlled substance", a drug, substance, or immediate precursor in schedules I to
53 V listed in section 195.017;

54 (9) "Drive", "driving", "operates" or "operating", [~~means~~] physically driving or operating
55 a vehicle or vessel;

56 (10) "Flight crew member", the pilot in command, copilots, flight engineers, and flight
57 navigators;

58 (11) "Habitual offender", a person who has been found guilty of:

59 (a) Five or more intoxication-related traffic offenses committed on separate occasions;
60 or

61 (b) Four or more intoxication-related traffic offenses committed on separate occasions
62 where at least one of the intoxication-related traffic offenses is an offense committed in violation
63 of any state law, county or municipal ordinance, any federal offense, or any military offense in
64 which the defendant was operating a vehicle while intoxicated and another person was injured
65 or killed; or

66 (c) Three or more intoxication-related traffic offenses committed on separate occasions
67 where at least two of the intoxication-related traffic offenses were offenses committed in
68 violation of any state law, county or municipal ordinance, any federal offense, or any military
69 offense in which the defendant was operating a vehicle while intoxicated and another person was
70 injured or killed; [~~or~~

71 ~~— (d) While driving while intoxicated, the defendant acted with criminal negligence to:~~

72 ~~— a. Cause the death of any person not a passenger in the vehicle operated by the~~
73 ~~defendant, including the death of an individual that results from the defendant's vehicle leaving~~
74 ~~a highway, as defined by section 301.010, or the highway's right-of-way; or~~

75 ~~— b. Cause the death of two or more persons; or~~

76 ~~— c. Cause the death of any person while he or she has a blood alcohol content of at least~~
77 ~~eighteen-hundredths of one percent by weight of alcohol in such person's blood;]~~

78 (12) "Habitual boating offender", a person who has been found guilty of:

79 (a) Five or more intoxication-related boating offenses; or

80 (b) Four or more intoxication-related boating offenses committed on separate occasions
81 where at least one of the intoxication-related boating offenses is an offense committed in
82 violation of any state law, county or municipal ordinance, any federal offense, or any military
83 offense in which the defendant was operating a vessel while intoxicated and another person was
84 injured or killed; or

85 (c) Three or more intoxication-related boating offenses committed on separate occasions
86 where at least two of the intoxication-related boating offenses were offenses committed in
87 violation of any state law, county or municipal ordinance, any federal offense, or any military
88 offense in which the defendant was operating a vessel while intoxicated and another person was
89 injured or killed; or

90 (d) While boating while intoxicated, the defendant acted with criminal negligence to:

91 a. Cause the death of any person not a passenger in the vessel operated by the defendant,
92 including the death of an individual that results from the defendant's vessel leaving the water;
93 or

94 b. Cause the death of two or more persons; or

95 c. Cause the death of any person while he or she has a blood alcohol content of at least
96 eighteen-hundredths of one percent by weight of alcohol in such person's blood;

97 (13) "Intoxicated" or "intoxicated condition", when a person is under the influence of
98 alcohol, a controlled substance, or drug, or any combination thereof;

99 (14) "Intoxication-related boating offense", operating a vessel while intoxicated; boating
100 while intoxicated; operating a vessel with excessive blood alcohol content or an offense in which
101 the defendant was operating a vessel while intoxicated and another person was injured or killed
102 in violation of any state law, county or municipal ordinance, any federal offense, or any military
103 offense;

104 (15) "Intoxication-related traffic offense", driving while intoxicated, driving with
105 excessive blood alcohol content, driving under the influence of alcohol or drugs in violation of
106 a **state law**, county or municipal ordinance, **any federal offense, or any military offense**, or an
107 offense in which the defendant was operating a vehicle while intoxicated and another person was
108 injured or killed in violation of any state law, county or municipal ordinance, any federal offense,
109 or any military offense;

110 (16) "Law enforcement officer" or "arresting officer", includes the definition of law
111 enforcement officer in section 556.061 and military policemen conducting traffic enforcement
112 operations on a federal military installation under military jurisdiction in the state of Missouri;

113 (17) "Operate a vessel", to physically control the movement of a vessel in motion under
114 mechanical or sail power in water;

- 115 (18) "Persistent offender", a person who has been found guilty of:
 116 (a) Two or more intoxication-related traffic offenses committed on separate occasions;
 117 or
 118 (b) One intoxication-related traffic offense committed in violation of any state law,
 119 county or municipal ordinance, federal offense, or military offense in which the defendant was
 120 operating a vehicle while intoxicated and another person was injured or killed;
 121 (19) "Persistent boating offender", a person who has been found guilty of:
 122 (a) Two or more intoxication-related boating offenses committed on separate occasions;
 123 or
 124 (b) One intoxication-related boating offense committed in violation of any state law,
 125 county or municipal ordinance, federal offense, or military offense in which the defendant was
 126 operating a vessel while intoxicated and another person was injured or killed;
 127 (20) "Prior offender", a person who has been found guilty of one intoxication-related
 128 traffic offense, where such prior offense occurred within five years of the occurrence of the
 129 intoxication-related traffic offense for which the person is charged;
 130 (21) "Prior boating offender", a person who has been found guilty of one
 131 intoxication-related boating offense, where such prior offense occurred within five years of the
 132 occurrence of the intoxication-related boating offense for which the person is charged.

- 577.010. 1. A person commits the offense of driving while intoxicated if he or she
 2 operates a vehicle while in an intoxicated condition.
 3 2. The offense of driving while intoxicated is:
 4 (1) A class B misdemeanor;
 5 (2) A class A misdemeanor if:
 6 (a) The defendant is a prior offender; or
 7 (b) A person less than seventeen years of age is present in the vehicle;
 8 (3) A class E felony if:
 9 (a) The defendant is a persistent offender; or
 10 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
 11 physical injury to another person;
 12 (4) A class D felony if:
 13 (a) The defendant is an aggravated offender;
 14 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
 15 physical injury to a law enforcement officer or emergency personnel; or
 16 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
 17 serious physical injury to another person;
 18 (5) A class C felony if:

- 19 (a) The defendant is a chronic offender;
- 20 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
21 serious physical injury to a law enforcement officer or emergency personnel; or
- 22 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
23 the death of another person;
- 24 (6) A class B felony if:
- 25 (a) The defendant is a habitual offender; ~~[or]~~
- 26 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
27 the death of a law enforcement officer or emergency personnel;
- 28 **(c) While driving while intoxicated, the defendant acts with criminal negligence to**
29 **cause the death of any person not a passenger in the vehicle operated by the defendant,**
30 **including the death of an individual that results from the defendant's vehicle leaving a**
31 **highway, as defined in section 301.010, or the highway's right-of-way;**
- 32 **(d) While driving while intoxicated, the defendant acts with criminal negligence to**
33 **cause the death of two or more persons; or**
- 34 **(e) While driving while intoxicated, the defendant acts with criminal negligence to**
35 **cause the death of any person while he or she has a blood alcohol content of at least**
36 **eighteen-hundredths of one percent by weight of alcohol in such person's blood;**
- 37 (7) A class A felony if the defendant ~~[is a habitual offender as a result of being]~~ **has**
38 **previously been** found guilty of an ~~[act described under paragraph (d) of subdivision (11) of~~
39 ~~section 577.001]~~ **offense under paragraphs (a) to (e) of subdivision (6) of this subsection** and
40 is found guilty of a subsequent violation of such ~~[paragraph]~~ **paragraphs.**
- 41 3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty
42 of the offense of driving while intoxicated as a first offense shall not be granted a suspended
43 imposition of sentence:
- 44 (1) Unless such person shall be placed on probation for a minimum of two years; or
- 45 (2) In a circuit where a DWI court or docket created under section 478.007 or other
46 court-ordered treatment program is available, and where the offense was committed with
47 fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless
48 the individual participates and successfully completes a program under such DWI court or docket
49 or other court-ordered treatment program.
- 50 4. If a person is found guilty of a second or subsequent offense of driving while
51 intoxicated, the court may order the person to submit to a period of continuous alcohol
52 monitoring or verifiable breath alcohol testing performed a minimum of four times per day as
53 a condition of probation.

54 5. If a person is not granted a suspended imposition of sentence for the reasons described
55 in subsection 3 of this section:

56 (1) If the individual operated the vehicle with fifteen-hundredths to twenty-hundredths
57 of one percent by weight of alcohol in such person's blood, the required term of imprisonment
58 shall be not less than forty-eight hours;

59 (2) If the individual operated the vehicle with greater than twenty-hundredths of one
60 percent by weight of alcohol in such person's blood, the required term of imprisonment shall be
61 not less than five days.

62 6. A person found guilty of the offense of driving while intoxicated:

63 (1) As a prior offender, persistent offender, aggravated offender, chronic offender, or
64 habitual offender shall not be granted a suspended imposition of sentence or be sentenced to pay
65 a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

66 (2) As a prior offender shall not be granted parole or probation until he or she has served
67 a minimum of ten days imprisonment:

68 (a) Unless as a condition of such parole or probation such person performs at least thirty
69 days of community service under the supervision of the court in those jurisdictions which have
70 a recognized program for community service; or

71 (b) The offender participates in and successfully completes a program established under
72 section 478.007 or other court-ordered treatment program, if available, and as part of either
73 program, the offender performs at least thirty days of community service under the supervision
74 of the court;

75 (3) As a persistent offender shall not be eligible for parole or probation until he or she
76 has served a minimum of thirty days imprisonment:

77 (a) Unless as a condition of such parole or probation such person performs at least sixty
78 days of community service under the supervision of the court in those jurisdictions which have
79 a recognized program for community service; or

80 (b) The offender participates in and successfully completes a program established under
81 section 478.007 or other court-ordered treatment program, if available, and as part of either
82 program, the offender performs at least sixty days of community service under the supervision
83 of the court;

84 (4) As an aggravated offender shall not be eligible for parole or probation until he or she
85 has served a minimum of sixty days imprisonment;

86 (5) As a chronic or habitual offender shall not be eligible for parole or probation until
87 he or she has served a minimum of two years imprisonment; and

88 (6) Any probation or parole granted under this subsection may include a period of
89 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four
90 times per day.

595.045. 1. There is established in the state treasury the "Crime Victims' Compensation
2 Fund". A surcharge of seven dollars and fifty cents shall be assessed as costs in each court
3 proceeding filed in any court in the state in all criminal cases including violations of any county
4 ordinance or any violation of criminal or traffic laws of the state, including an infraction and
5 violation of a municipal ordinance; except that no such fee shall be collected in any proceeding
6 in any court when the proceeding or the defendant has been dismissed by the court or when costs
7 are to be paid by the state, county, or municipality. A surcharge of seven dollars and fifty cents
8 shall be assessed as costs in a juvenile court proceeding in which a child is found by the court
9 to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031.

10 2. Notwithstanding any other provision of law to the contrary, the moneys collected by
11 clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected
12 and disbursed in accordance with sections 488.010 to 488.020 and shall be payable to the
13 director of the department of revenue.

14 3. The director of revenue shall deposit annually the amount of two hundred fifty
15 thousand dollars to the state forensic laboratory account administered by the department of public
16 safety to provide financial assistance to defray expenses of crime laboratories if such analytical
17 laboratories are registered with the federal Drug Enforcement Agency or the Missouri department
18 of health and senior services. Subject to appropriations made therefor, such funds shall be
19 distributed by the department of public safety to the crime laboratories serving the courts of this
20 state making analysis of a controlled substance or analysis of blood, breath or urine in relation
21 to a court proceeding.

22 4. The remaining funds collected under subsection 1 of this section shall be denoted to
23 the payment of an annual appropriation for the administrative and operational costs of the office
24 for victims of crime and, if a statewide automated crime victim notification system is established
25 pursuant to section 650.310, to the monthly payment of expenditures actually incurred in the
26 operation of such system. Additional remaining funds shall be subject to the following
27 provisions:

28 (1) On the first of every month, the director of revenue or the director's designee shall
29 determine the balance of the funds in the crime victims' compensation fund available to satisfy
30 the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections
31 595.050 and 595.055;

32 (2) Beginning on September 1, 2004, and on the first of each month, the director of
33 revenue or the director's designee shall deposit fifty percent of the balance of funds available to

34 the credit of the crime victims' compensation fund and fifty percent to the services to victims'
35 fund established in section 595.100.

36 5. The director of revenue or such director's designee shall at least monthly report the
37 moneys paid pursuant to this section into the crime victims' compensation fund and the services
38 to victims fund to the department of public safety.

39 6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this
40 section shall be collected and disbursed as provided by sections 488.010 to 488.020. Five percent
41 of such moneys shall be payable to the city treasury of the city from which such funds were
42 collected. The remaining ninety-five percent of such moneys shall be payable to the director of
43 revenue. The funds received by the director of revenue pursuant to this subsection shall be
44 distributed as follows:

45 (1) On the first of every month, the director of revenue or the director's designee shall
46 determine the balance of the funds in the crime victims' compensation fund available to satisfy
47 the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections
48 595.050 and 595.055;

49 (2) Beginning on September 1, 2004, and on the first of each month the director of
50 revenue or the director's designee shall deposit fifty percent of the balance of funds available to
51 the credit of the crime victims' compensation fund and fifty percent to the services to victims'
52 fund established in section 595.100.

53 7. These funds shall be subject to a biennial audit by the Missouri state auditor. Such
54 audit shall include all records associated with crime victims' compensation funds collected, held
55 or disbursed by any state agency.

56 8. In addition to the moneys collected pursuant to subsection 1 of this section, the court
57 shall enter a judgment in favor of the state of Missouri, payable to the crime victims'
58 compensation fund, of sixty-eight dollars upon a plea of guilty or a finding of guilt for a class
59 A or B felony; forty-six dollars upon a plea of guilty or finding of guilt for a class C ~~[œ]~~, D, or
60 E felony; and ten dollars upon a plea of guilty or a finding of guilt for any misdemeanor under
61 Missouri law except for those in chapter 252 relating to fish and game, chapter 302 relating to
62 drivers' and commercial drivers' license, chapter 303 relating to motor vehicle financial
63 responsibility, chapter 304 relating to traffic regulations, chapter 306 relating to watercraft
64 regulation and licensing, and chapter 307 relating to vehicle equipment regulations. Any clerk
65 of the court receiving moneys pursuant to such judgments shall collect and disburse such crime
66 victims' compensation judgments in the manner provided by sections 488.010 to 488.020. Such
67 funds shall be payable to the state treasury and deposited to the credit of the crime victims'
68 compensation fund.

69 9. The clerk of the court processing such funds shall maintain records of all dispositions
70 described in subsection 1 of this section and all dispositions where a judgment has been entered
71 against a defendant in favor of the state of Missouri in accordance with this section; all payments
72 made on judgments for alcohol-related traffic offenses; and any judgment or portion of a
73 judgment entered but not collected. These records shall be subject to audit by the state auditor.
74 The clerk of each court transmitting such funds shall report separately the amount of dollars
75 collected on judgments entered for alcohol-related traffic offenses from other crime victims'
76 compensation collections or services to victims collections.

77 10. The department of revenue shall maintain records of funds transmitted to the crime
78 victims' compensation fund by each reporting court and collections pursuant to subsection 16 of
79 this section and shall maintain separate records of collection for alcohol-related offenses.

80 11. The state courts administrator shall include in the annual report required by section
81 476.350 the circuit court caseloads and the number of crime victims' compensation judgments
82 entered.

83 12. All awards made to injured victims under sections 595.010 to 595.105 and all
84 appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and
85 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance
86 remaining in the crime victims' compensation fund at the end of each biennium shall not be
87 subject to the provision of section 33.080 requiring the transfer of such unexpended balance to
88 the ordinary revenue fund of the state, but shall remain in the crime victims' compensation fund.
89 In the event that there are insufficient funds in the crime victims' compensation fund to pay all
90 claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime
91 victims' compensation fund, then no claim shall be paid until funds have again accumulated in
92 the crime victims' compensation fund. When sufficient funds become available from the fund,
93 awards which have not been paid shall be paid in chronological order with the oldest paid first.
94 In the event an award was to be paid in installments and some remaining installments have not
95 been paid due to a lack of funds, then when funds do become available that award shall be paid
96 in full. All such awards on which installments remain due shall be paid in full in chronological
97 order before any other postdated award shall be paid. Any award pursuant to this subsection is
98 specifically not a claim against the state, if it cannot be paid due to a lack of funds in the crime
99 victims' compensation fund.

100 13. When judgment is entered against a defendant as provided in this section and such
101 sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement,
102 payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to
103 such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be
104 paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall

105 be entered on the court record. Under no circumstances shall the general revenue fund be used
106 to reimburse court costs or pay for such judgment. The director of the department of corrections
107 shall have the authority to pay into the crime victims' compensation fund from an offender's
108 compensation or account the amount owed by the offender to the crime victims' compensation
109 fund, provided that the offender has failed to pay the amount owed to the fund prior to entering
110 a correctional facility of the department of corrections.

111 14. All interest earned as a result of investing funds in the crime victims' compensation
112 fund shall be paid into the crime victims' compensation fund and not into the general revenue of
113 this state.

114 15. Any person who knowingly makes a fraudulent claim or false statement in
115 connection with any claim hereunder is guilty of a class A misdemeanor.

116 16. The department may receive gifts and contributions for the benefit of crime victims.
117 Such gifts and contributions shall be credited to the crime victims' compensation fund as used
118 solely for compensating victims under the provisions of sections 595.010 to 595.075.

Section B. Because immediate action is necessary to prevent a delay in the
2 implementation of revisions made to the criminal code, the repeal and reenactment of sections
3 479.170, 488.029, 488.5050, 557.035, 565.076, 565.091, 566.010, 575.280, 577.001, 577.010,
4 and 595.045 of this act and the enactment of section 252.069 of this act is deemed necessary for
5 the immediate preservation of the public health, welfare, peace, and safety, and is hereby
6 declared to be an emergency act within the meaning of the constitution, and the repeal and
7 reenactment of sections 479.170, 488.029, 488.5050, 557.035, 565.076, 565.091, 566.010,
8 575.280, 577.001, 577.010, and 595.045 of this act and the enactment of section 252.069 of this
9 act shall be in full force and effect upon its passage and approval.

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