

SECOND REGULAR SESSION

HOUSE BILL NO. 1873

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GREGORY.

4321H.021

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 556.061, 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 three new sections relating to the offense of vehicle hijacking, with penalty provisions and a delayed effective date for a certain section.

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

Section A. Section 556.061, 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by house bill no. 215 merged with senate bill no. 36, ninety-seventh general assembly, first regular session, are repealed and three new sections enacted in lieu thereof, to be known as sections 211.071, 556.061, and 570.027, to read as follows:

211.071. 1. If a petition alleges that a child between the ages of twelve and eighteen has committed an offense which would be considered a felony if committed by an adult, the court may, upon its own motion or upon motion by the juvenile officer, the child or the child's custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be transferred to the court of general jurisdiction and prosecuted under the general law; except that if a petition alleges that any child has committed an offense which would be considered first degree murder under section 565.020, second degree murder under section 565.021, first degree assault under section 565.050, forcible rape under section 566.030 as it existed prior to August 28, 2013, rape in the first degree under section 566.030, forcible sodomy under section 566.060 as it existed prior to August 28, 2013, sodomy in the first degree under section 566.060, first

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.

11 degree robbery under section 569.020 as it existed prior to January 1, 2017, or robbery in the first
12 degree under section 570.023, distribution of drugs under section 195.211 as it existed prior to
13 January 1, 2017, [Ø] the manufacturing of a controlled substance under section 579.055, **or**
14 **vehicle hijacking under section 570.027**, or has committed two or more prior unrelated
15 offenses which would be felonies if committed by an adult, the court shall order a hearing, and
16 may in its discretion, dismiss the petition and transfer the child to a court of general jurisdiction
17 for prosecution under the general law.

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

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

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

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

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

- 47 (1) The seriousness of the offense alleged and whether the protection of the community
48 requires transfer to the court of general jurisdiction;
- 49 (2) Whether the offense alleged involved viciousness, force and violence;
- 50 (3) Whether the offense alleged was against persons or property with greater weight
51 being given to the offense against persons, especially if personal injury resulted;
- 52 (4) Whether the offense alleged is a part of a repetitive pattern of offenses which
53 indicates that the child may be beyond rehabilitation under the juvenile code;
- 54 (5) The record and history of the child, including experience with the juvenile justice
55 system, other courts, supervision, commitments to juvenile institutions and other placements;
- 56 (6) The sophistication and maturity of the child as determined by consideration of his
57 or her home and environmental situation, emotional condition and pattern of living;
- 58 (7) The age of the child;
- 59 (8) The program and facilities available to the juvenile court in considering disposition;
- 60 (9) Whether or not the child can benefit from the treatment or rehabilitative programs
61 available to the juvenile court; and
- 62 (10) Racial disparity in certification.
- 63 7. If the court dismisses the petition to permit the child to be prosecuted under the
64 general law, the court shall enter a dismissal order containing:
- 65 (1) Findings showing that the court had jurisdiction of the cause and of the parties;
- 66 (2) Findings showing that the child was represented by counsel;
- 67 (3) Findings showing that the hearing was held in the presence of the child and his or her
68 counsel; and
- 69 (4) Findings showing the reasons underlying the court's decision to transfer jurisdiction.
- 70 8. A copy of the petition and order of the dismissal shall be sent to the prosecuting
71 attorney.
- 72 9. When a petition has been dismissed thereby permitting a child to be prosecuted under
73 the general law and the prosecution of the child results in a conviction, the jurisdiction of the
74 juvenile court over that child is forever terminated, except as provided in subsection 10 of this
75 section, for an act that would be a violation of a state law or municipal ordinance.
- 76 10. If a petition has been dismissed thereby permitting a child to be prosecuted under the
77 general law and the child is found not guilty by a court of general jurisdiction, the juvenile court
78 shall have jurisdiction over any later offense committed by that child which would be considered
79 a misdemeanor or felony if committed by an adult, subject to the certification provisions of this
80 section.

81 11. If the court does not dismiss the petition to permit the child to be prosecuted under
82 the general law, it shall set a date for the hearing upon the petition as provided in section
83 211.171.

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

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

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

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

31 5. The juvenile officer may consult with the office of prosecuting attorney concerning
32 any offense for which the child could be certified as an adult under this section. The prosecuting
33 or circuit attorney shall have access to police reports, reports of the juvenile or deputy juvenile

34 officer, statements of witnesses and all other records or reports relating to the offense alleged to
35 have been committed by the child. The prosecuting or circuit attorney shall have access to the
36 disposition records of the child when the child has been adjudicated pursuant to subdivision (3)
37 of subsection 1 of section 211.031. The prosecuting attorney shall not divulge any information
38 regarding the child and the offense until the juvenile court at a judicial hearing has determined
39 that the child is not a proper subject to be dealt with under the provisions of this chapter.

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

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

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

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

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

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

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

56 (7) The age of the child;

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

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

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62 general law, the court shall enter a dismissal order containing:

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66 counsel; and

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69 attorney.

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71 the general law and the prosecution of the child results in a conviction, the jurisdiction of the
72 juvenile court over that child is forever terminated, except as provided in subsection 10 of this
73 section, for an act that would be a violation of a state law or municipal ordinance.

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75 general law and the child is found not guilty by a court of general jurisdiction, the juvenile court
76 shall have jurisdiction over any later offense committed by that child which would be considered
77 a misdemeanor or felony if committed by an adult, subject to the certification provisions of this
78 section.

79 11. If the court does not dismiss the petition to permit the child to be prosecuted under
80 the general law, it shall set a date for the hearing upon the petition as provided in section
81 211.171.

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

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

6 (2) "Affirmative defense":

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

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

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

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

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

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

21 (5) "Computer", the box that houses the central processing unit (CPU), along with any
22 internal storage devices, such as internal hard drives, and internal communication devices, such
23 as internal modems capable of sending or receiving electronic mail or fax cards, along with any
24 other hardware stored or housed internally. Thus, computer refers to hardware, software and data

25 contained in the main unit. Printers, external modems attached by cable to the main unit,
26 monitors, and other external attachments will be referred to collectively as peripherals and
27 discussed individually when appropriate. When the computer and all peripherals are referred to
28 as a package, the term "computer system" is used. Information refers to all the information on
29 a computer system including both software applications and data;

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

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

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

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

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

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

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

59 (13) "Confinement":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

90 (19) "Dangerous felony", the felonies of arson in the first degree, assault in the first
91 degree, attempted rape in the first degree if physical injury results, attempted forcible rape if
92 physical injury results, attempted sodomy in the first degree if physical injury results, attempted
93 forcible sodomy if physical injury results, rape in the first degree, forcible rape, sodomy in the
94 first degree, forcible sodomy, assault in the second degree if the victim of such assault is a
95 special victim as defined in subdivision (14) of section 565.002, kidnapping in the first degree,

96 kidnapping, murder in the second degree, assault of a law enforcement officer in the first degree,
97 domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree,
98 **vehicle hijacking punished as a class A felony**, statutory rape in the first degree when the
99 victim is a child less than twelve years of age at the time of the commission of the act giving rise
100 to the offense, statutory sodomy in the first degree when the victim is a child less than twelve
101 years of age at the time of the commission of the act giving rise to the offense, child molestation
102 in the first or second degree, abuse of a child if the child dies as a result of injuries sustained
103 from conduct chargeable under section 568.060, child kidnapping, parental kidnapping
104 committed by detaining or concealing the whereabouts of the child for not less than one hundred
105 twenty days under section 565.153, and an "intoxication-related traffic offense" or
106 "intoxication-related boating offense" if the person is found to be a "habitual offender" or
107 "habitual boating offender" as such terms are defined in section 577.001;

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

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

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

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

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

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

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

127 (27) "Forcible compulsion" either:

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

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

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

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

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

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

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

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

142

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

203 (48) "Vessel", any boat or craft propelled by a motor or by machinery, whether or not
204 such motor or machinery is a principal source of propulsion used or capable of being used as a
205 means of transportation on water, or any boat or craft more than twelve feet in length which is
206 powered by sail alone or by a combination of sail and machinery, and used or capable of being
207 used as a means of transportation on water, but not any boat or craft having, as the only means
208 of propulsion, a paddle or oars;

209 (49) "Voluntary act":

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

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

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

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

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

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

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

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

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

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

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

 Section B. The repeal and reenactment of the first occurrence of section 211.071 of this
2 act shall become effective on January 1, 2021, and the repeal and reenactment of the second
3 occurrence of section 211.071 of this act shall become effective on August 28, 2020.

✓