

SECOND REGULAR SESSION

HOUSE BILL NO. 2332

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CORLEW.

6047H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 562.014, 565.030, 578.007, 579.015, RSMo, sections 557.021 and 577.060 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 557.021 as enacted by house bill nos. 1340 & 1348, eighty-fourth general assembly, second regular session, and section 577.060 as enacted by house bill no. 3, eighty-fifth general assembly, first extraordinary session, and to enact in lieu thereof six new sections relating to criminal offenses, with penalty provisions.

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

Section A. Sections 562.014, 565.030, 578.007, 579.015, RSMo, sections 557.021 and
2 577.060 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular
3 session, section 557.021 as enacted by house bill nos. 1340 & 1348, eighty-fourth general
4 assembly, second regular session, and section 577.060 as enacted by house bill no. 3, eighty-fifth
5 general assembly, first extraordinary session, are repealed and six new sections enacted in lieu
6 thereof, to be known as sections 557.021, 562.014, 565.030, 577.060, 578.007, and 579.015, to
7 read as follows:

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

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

5 3. For the purpose of applying the extended term provisions of section 558.016 and the
6 minimum prison term provisions of section 558.019 and for determining the penalty for attempts
7 and conspiracies, offenses defined outside of this code shall be classified as follows:

8 (1) If the offense is a felony:

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.

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

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

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

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

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

17 (2) If the offense is a misdemeanor:

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

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

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

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

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

562.014. 1. Guilt for an offense may be based upon a conspiracy to commit an offense
2 when a person, with the purpose of promoting or facilitating the commission of an offense,
3 agrees with another person or persons that they or one or more of them will engage in conduct
4 which constitutes such offense.

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

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

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

15 5. (1) No person shall be convicted of an offense based upon a conspiracy to commit
16 an offense if, after conspiring to commit the offense, he or she prevented the accomplishment
17 of the objectives of the conspiracy under circumstances manifesting a renunciation of his or her
18 criminal purpose.

19 (2) The defendant shall have the burden of injecting the issue of renunciation of criminal
20 purpose under subdivision (1) of this subsection.

21 6. For the purpose of time limitations on prosecutions:

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

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

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

31 8. Unless otherwise set forth in the statute creating the offense, when guilt for a felony
32 or misdemeanor is based upon a conspiracy to commit that offense, the felony or misdemeanor
33 shall be classified one step lower than the class provided for the felony or misdemeanor in the
34 statute creating the offense.

565.030. 1. Where murder in the first degree is charged but not submitted or where the
2 state waives the death penalty, the submission to the trier and all subsequent proceedings in the
3 case shall proceed as in all other criminal cases [with a single stage trial in which guilt and
4 punishment are submitted together].

5 2. Where murder in the first degree is submitted to the trier without a waiver of the death
6 penalty, the trial shall proceed in two stages before the same trier. At the first stage the trier shall
7 decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of
8 punishment shall not be submitted to the trier at the first stage. If an offense is charged other
9 than murder in the first degree in a count together with a count of murder in the first degree, the
10 trial judge shall assess punishment on any such offense according to law, after the defendant is
11 found guilty of such offense and after he finds the defendant to be a prior offender pursuant to
12 chapter 558.

13 3. If murder in the first degree is submitted and the death penalty was not waived but the
14 trier finds the defendant guilty of a lesser homicide, a second stage of the trial shall proceed at
15 which the only issue shall be the punishment to be assessed and declared. No further evidence
16 shall be received. If the trier is a jury it shall be instructed on the law. The attorneys may then
17 argue as in other criminal cases the issue of punishment, after which the trier shall assess and
18 declare the punishment as in all other criminal cases.

19 4. If the trier at the first stage of a trial where the death penalty was not waived finds the
20 defendant guilty of murder in the first degree, a second stage of the trial shall proceed at which
21 the only issue shall be the punishment to be assessed and declared. Evidence in aggravation and
22 mitigation of punishment, including but not limited to evidence supporting any of the
23 aggravating or mitigating circumstances listed in subsection 2 or 3 of section 565.032, may be

24 presented subject to the rules of evidence at criminal trials. Such evidence may include, within
25 the discretion of the court, evidence concerning the murder victim and the impact of the crime
26 upon the family of the victim and others. Rebuttal and surrebuttal evidence may be presented.
27 The state shall be the first to proceed. If the trier is a jury it shall be instructed on the law. The
28 attorneys may then argue the issue of punishment to the jury, and the state shall have the right
29 to open and close the argument. The trier shall assess and declare the punishment at life
30 imprisonment without eligibility for probation, parole, or release except by act of the governor:

31 (1) If the trier finds by a preponderance of the evidence that the defendant is
32 intellectually disabled; or

33 (2) If the trier does not find beyond a reasonable doubt at least one of the statutory
34 aggravating circumstances set out in subsection 2 of section 565.032; or

35 (3) If the trier concludes that there is evidence in mitigation of punishment, including
36 but not limited to evidence supporting the statutory mitigating circumstances listed in subsection
37 3 of section 565.032, which is sufficient to outweigh the evidence in aggravation of punishment
38 found by the trier; or

39 (4) If the trier decides under all of the circumstances not to assess and declare the
40 punishment at death. If the trier is a jury it shall be so instructed.

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42 If the trier assesses and declares the punishment at death it shall, in its findings or verdict, set out
43 in writing the aggravating circumstance or circumstances listed in subsection 2 of section
44 565.032 which it found beyond a reasonable doubt. If the trier is a jury it shall be instructed
45 before the case is submitted that if it is unable to decide or agree upon the punishment the court
46 shall assess and declare the punishment at life imprisonment without eligibility for probation,
47 parole, or release except by act of the governor or death. The court shall follow the same
48 procedure as set out in this section whenever it is required to determine punishment for murder
49 in the first degree.

50 5. Upon written agreement of the parties and with leave of the court, the issue of the
51 defendant's intellectual disability may be taken up by the court and decided prior to trial without
52 prejudicing the defendant's right to have the issue submitted to the trier of fact as provided in
53 subsection 4 of this section.

54 6. As used in this section, the terms "intellectual disability" or "intellectually disabled"
55 refer to a condition involving substantial limitations in general functioning characterized by
56 significantly subaverage intellectual functioning with continual extensive related deficits and
57 limitations in two or more adaptive behaviors such as communication, self-care, home living,
58 social skills, community use, self-direction, health and safety, functional academics, leisure and
59 work, which conditions are manifested and documented before eighteen years of age.

60 7. The provisions of this section shall only govern offenses committed on or after August
61 28, 2001.

577.060. 1. A person commits the offense of leaving the scene of an accident when:

2 (1) Being the operator of a vehicle or a vessel involved in an accident resulting in injury
3 or death or damage to property of another person; and

4 (2) Having knowledge of such accident he or she leaves the place of the injury, damage
5 or accident without stopping and giving the following information to the other party or to a law
6 enforcement officer, or if no law enforcement officer is in the vicinity, then to the nearest law
7 enforcement agency:

8 (a) His or her name;

9 (b) His or her residence, including city and street number;

10 (c) The registration or license number for his or her vehicle or vessel; and

11 (d) His or her operator's license number, if any.

12 2. For the purposes of this section, all law enforcement officers shall have jurisdiction,
13 when invited by an injured person, to enter the premises of any privately owned property for the
14 purpose of investigating an accident and performing all necessary duties regarding such accident.

15 3. The offense of leaving the scene of an accident is:

16 (1) A class A misdemeanor; or

17 (2) A class E felony if:

18 (a) Physical injury was caused to another party; or

19 (b) Damage in excess of one thousand dollars was caused to the property of another
20 person; or

21 (c) The defendant has previously been found guilty of any offense **in violation of this**
22 **section; or** committed in another jurisdiction which, if committed in this state, would be a
23 violation of an offense [in] **of** this section.

24 4. A law enforcement officer who investigates or receives information of an accident
25 involving an all-terrain vehicle and also involving the loss of life or serious physical injury shall
26 make a written report of the investigation or information received and such additional facts
27 relating to the accident as may come to his or her knowledge, mail the information to the
28 department of public safety, and keep a record thereof in his or her office.

29 5. The provisions of this section shall not apply to the operation of all-terrain vehicles
30 when property damage is sustained in sanctioned all-terrain vehicle races, derbies and rallies.

578.007. The provisions of sections 578.005 to 578.023 **and section 574.130** shall not
2 apply to:

3 (1) Care or treatment performed by a licensed veterinarian within the provisions of
4 chapter 340;

- 5 (2) Bona fide scientific experiments;
- 6 (3) Hunting, fishing, or trapping as allowed by chapter 252, including all practices and
7 privileges as allowed under the Missouri Wildlife Code;
- 8 (4) Facilities and publicly funded zoological parks currently in compliance with the
9 federal "Animal Welfare Act" as amended;
- 10 (5) Rodeo practices currently accepted by the Professional Rodeo Cowboy's Association;
- 11 (6) The killing of an animal by the owner thereof, the agent of such owner, or by a
12 veterinarian at the request of the owner thereof;
- 13 (7) The lawful, humane killing of an animal by an animal control officer, the operator
14 of an animal shelter, a veterinarian, or law enforcement or health official;
- 15 (8) With respect to farm animals, normal or accepted practices of animal husbandry;
- 16 (9) The killing of an animal by any person at any time if such animal is outside of the
17 owned or rented property of the owner or custodian of such animal and the animal is injuring any
18 person or farm animal but shall not include police or guard dogs while working;
- 19 (10) The killing of house or garden pests; or
- 20 (11) Field trials, training and hunting practices as accepted by the Professional
21 Houndsmen of Missouri.

579.015. 1. A person commits the offense of possession of a controlled substance if he
2 or she knowingly possesses a controlled substance, except as authorized by this chapter or
3 chapter 195.

4 2. The offense of possession of any controlled substance except thirty-five grams or less
5 of marijuana or any synthetic cannabinoid is a class D felony.

6 3. The offense of possession of more than ten grams but **thirty-five grams or less** [than
7 thirty-six grams] of marijuana or any synthetic cannabinoid is a class A misdemeanor.

8 4. The offense of possession of not more than ten grams of marijuana or any synthetic
9 cannabinoid is a class D misdemeanor. If the defendant has previously been found guilty of any
10 offense of the laws related to controlled substances of this state, or of the United States, or any
11 state, territory, or district, the offense is a class A misdemeanor. Prior findings of guilt shall be
12 pleaded and proven in the same manner as required by section 558.021.

13 5. In any complaint, information, or indictment, and in any action or proceeding brought
14 for the enforcement of any provision of this chapter or chapter 195, it shall not be necessary to
15 include any exception, excuse, proviso, or exemption contained in this chapter or chapter 195,
16 and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the
17 defendant.

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