

SENATE BILL NO. 1115

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

4421S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 211.141, 556.061, 558.016, 558.019, 571.015, 571.070, 574.010, 574.040, 574.050, 574.060, 574.070, and 610.130, RSMo, and to enact in lieu thereof thirteen new sections relating to criminal laws, with penalty provisions.

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

Section A. Sections 211.141, 556.061, 558.016, 558.019,
2 571.015, 571.070, 574.010, 574.040, 574.050, 574.060, 574.070,
3 and 610.130, RSMo, are repealed and thirteen new sections
4 enacted in lieu thereof, to be known as sections 56.601,
5 211.141, 556.061, 558.016, 558.019, 571.015, 571.070, 574.010,
6 574.040, 574.050, 574.060, 574.070, and 610.130, to read as
7 follows:

**56.601. 1. If the governor determines that a threat
2 to public safety and health exists in a circuit or
3 prosecuting attorney's jurisdiction after:**

**(1) Reviewing federal, state, or local crime
4 statistics; and**

**(2) Finding that the number of occurrences of homicide
5 cases in the twelve months immediately preceding exceeds a
6 rate of thirty-five cases per every one hundred thousand
7 people within the circuit or prosecuting attorney's
8 jurisdiction;
9
10**

**the governor may appoint a special prosecutor who shall
11 serve for a period of up to five years. The special
12**

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

13 prosecutor shall be employed at the will of the governor,
14 shall not be required to reside in the jurisdiction to which
15 he or she was appointed to serve, and shall be an attorney.

16 2. (1) The special prosecutor shall have exclusive
17 jurisdiction to initiate and prosecute the following felony
18 offenses:

- 19 (a) First degree murder under section 565.020;
- 20 (b) Second degree murder under section 565.021;
- 21 (c) Assault in the first degree under section 565.050;
- 22 (d) Assault in the second degree under section 565.052;
- 23 (e) Robbery in the first degree under section 570.023;
- 24 (f) Robbery in the second degree under section 570.025;
- 25 (g) Vehicle hijacking under section 570.027; and
- 26 (h) Armed criminal action under section 571.015.

27 (2) The special prosecutor shall have exclusive
28 jurisdiction to initiate and prosecute criminal offenses
29 against law enforcement agencies.

30 (3) For felony offenses listed under subdivision (1)
31 of this subsection, as well as criminal offenses against law
32 enforcement officers under subdivision (2) of this
33 subsection, the special prosecutor shall have all powers,
34 duties, and responsibilities granted to the circuit or
35 prosecuting attorney in the jurisdiction under sections
36 56.087, 56.130, and 56.360. If an offense leads to criminal
37 charges for which the special prosecutor has exclusive
38 jurisdiction, the special prosecutor shall also have
39 exclusive jurisdiction over all other charges stemming from
40 the same criminal event. After the special prosecutor has
41 filed criminal charges in a case over which he or she has
42 exclusive jurisdiction, the special prosecutor shall
43 continue to have exclusive jurisdiction over the entire
44 criminal case regardless of whether the charges are later

45 reduced. If the circuit or prosecuting attorney has
46 commenced prosecution prior to the appointment of the
47 special prosecutor for any offense which the special
48 prosecutor has exclusive jurisdiction under this section,
49 the circuit or prosecuting attorney shall immediately
50 withdraw from the prosecution and the special prosecutor may
51 adopt or amend any complaint, information, or indictment
52 filed by the circuit or prosecuting attorney.

53 3. (1) Moneys for the special prosecutor shall be
54 provided by the state from the general revenue fund. The
55 special prosecutor shall be paid the same salary as an
56 associate circuit court judge and, upon his or her
57 appointment, shall become a member of the prosecuting
58 attorneys and circuit attorneys' retirement system as set
59 forth under sections 56.800 to 56.840.

60 (2) The special prosecutor shall have a budget, which
61 shall be provided by the state from the general revenue
62 fund, to hire up to fifteen assistant special prosecuting
63 attorneys and up to fifteen staff members including, but not
64 limited to, assistants, clerks, reporters, grand jury
65 reporters, legal investigators, and stenographers, as the
66 special prosecutor deems necessary. The assistant special
67 prosecuting attorneys and staff of the special prosecutor
68 shall be subject to the same duties and responsibilities as
69 those in the circuit or prosecuting attorney's office. The
70 salaries of all employees hired by the special prosecutor
71 shall be set and determined by the special prosecutor but
72 shall be within the budget provided by the state.

73 (3) If, at the end of the first five-year term of the
74 special prosecutor, the governor, after reviewing federal,
75 state, or local crime statistics or finding that the number
76 of occurrences of homicide cases in the twelve months

77 **immediately preceding exceeds a rate of thirty-five cases**
78 **per every one hundred thousand people within the circuit or**
79 **prosecuting attorney's jurisdiction, determines that a**
80 **threat to public safety and health still exists, the**
81 **governor may continue to appoint the special prosecutor for**
82 **five-year terms as provided under this section.**

211.141. 1. When a child is taken into custody as
2 provided in section 211.131, the person taking the child
3 into custody shall, unless it has been otherwise ordered by
4 the court, return the child to his or her parent, guardian
5 or legal custodian on the promise of such person to bring
6 the child to court, if necessary, at a stated time or at
7 such times as the court may direct. The court may also
8 impose other conditions relating to activities of the
9 child. If these additional conditions are not met, the
10 court may order the child detained as provided in section
11 211.151. If additional conditions are imposed, the child
12 shall be notified that failure to adhere to the conditions
13 may result in the court imposing more restrictive conditions
14 or ordering the detention of the child. If the person
15 taking the child into custody believes it desirable, he may
16 request the parent, guardian or legal custodian to sign a
17 written promise to bring the child into court and
18 acknowledging any additional conditions imposed on the child.

19 2. If the child is not released as provided in
20 subsection 1 of this section, he or she may be conditionally
21 released or detained in any place of detention specified in
22 section 211.151 but only on order of the court specifying
23 the reason for the conditional release or the detention.
24 The parent, guardian or legal custodian of the child shall
25 be notified of the terms of the conditional release or the
26 place of detention as soon as possible.

27 3. The juvenile officer may conditionally release or
28 detain a child for a period not to exceed twenty-four hours
29 if it is impractical to obtain a written order from the
30 court because of the unreasonableness of the hour or the
31 fact that it is a Sunday or holiday. The conditional
32 release shall be as provided in subsection 1 of this
33 section, and the detention shall be as provided in section
34 211.151. A written record of such conditional release or
35 detention shall be kept and a report in writing filed with
36 the court. In the event that the judge is absent from his
37 circuit, or is unable to act, the approval of another
38 circuit judge of the same or adjoining circuit must be
39 obtained as a condition or continuing the conditional
40 release or detention of a child for more than twenty-four
41 hours.

42 4. In any matter referred to the juvenile court
43 pursuant to section 211.031, the juvenile officer shall make
44 a risk and needs assessment of the child and, before the
45 disposition of the matter, shall report the results of the
46 assessment to the juvenile court. **The juvenile officer**
47 **shall use a cumulative total of points assessed for all**
48 **alleged offenses committed to determine whether or not the**
49 **court shall order the child to be detained as provided in**
50 **section 211.151.** The assessment shall be written on a
51 standardized form approved by the office of state courts
52 administrator.

53 5. The division, in cooperation with juvenile officers
54 and juvenile courts, shall at least biennially review a
55 random sample of assessments of children and the disposition
56 of each child's case to recommend assessment and disposition
57 equity throughout the state. Such review shall identify any
58 evidence of racial disparity in certification. Such review

59 shall be conducted in a manner which protects the
60 confidentiality of the cases examined.

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

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

7 (2) "Affirmative defense":

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

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

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

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

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

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

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

31 sending or receiving electronic mail or fax cards, along
32 with any other hardware stored or housed internally. Thus,
33 computer refers to hardware, software and data contained in
34 the main unit. Printers, external modems attached by cable
35 to the main unit, monitors, and other external attachments
36 will be referred to collectively as peripherals and
37 discussed individually when appropriate. When the computer
38 and all peripherals are referred to as a package, the term
39 "computer system" is used. Information refers to all the
40 information on a computer system including both software
41 applications and data;

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

45 (7) "Computer hardware", all equipment which can
46 collect, analyze, create, display, convert, store, conceal
47 or transmit electronic, magnetic, optical or similar
48 computer impulses or data. Hardware includes, but is not
49 limited to, any data processing devices, such as central
50 processing units, memory typewriters and self-contained
51 laptop or notebook computers; internal and peripheral
52 storage devices, transistor-like binary devices and other
53 memory storage devices, such as floppy disks, removable
54 disks, compact disks, digital video disks, magnetic tape,
55 hard drive, optical disks and digital memory; local area
56 networks, such as two or more computers connected together
57 to a central computer server via cable or modem; peripheral
58 input or output devices, such as keyboards, printers,
59 scanners, plotters, video display monitors and optical
60 readers; and related communication devices, such as modems,
61 cables and connections, recording equipment, RAM or ROM
62 units, acoustic couplers, automatic dialers, speed dialers,

63 programmable telephone dialing or signaling devices and
64 electronic tone-generating devices; as well as any devices,
65 mechanisms or parts that can be used to restrict access to
66 computer hardware, such as physical keys and locks;

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

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

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

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

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

86 (13) "Confinement":

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

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

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

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

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

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

99 b. The person is under sentence to serve a term of
100 confinement which is not continuous, or is serving a
101 sentence under a work-release program, and in either such
102 case is not being held in a place of confinement or is not
103 being held under guard by a person having the legal power
104 and duty to transport the person to or from a place of
105 confinement;

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

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

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

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

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

122 (16) "Criminal negligence", failure to be aware of a
123 substantial and unjustifiable risk that circumstances exist
124 or a result will follow, and such failure constitutes a

125 gross deviation from the standard of care which a reasonable
126 person would exercise in the situation;

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

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

133 (19) "Dangerous felony", the felonies of arson in the
134 first degree, assault in the first degree, attempted rape in
135 the first degree if physical injury results, attempted
136 forcible rape if physical injury results, attempted sodomy
137 in the first degree if physical injury results, attempted
138 forcible sodomy if physical injury results, rape in the
139 first degree, forcible rape, sodomy in the first degree,
140 forcible sodomy, assault in the second degree if the victim
141 of such assault is a special victim as defined in
142 subdivision (14) of section 565.002, kidnapping in the first
143 degree, kidnapping, murder in the second degree, assault of
144 a law enforcement officer in the first degree, domestic
145 assault in the first degree, elder abuse in the first
146 degree, robbery in the first degree, armed criminal action,
147 conspiracy to commit an offense when the offense is a
148 dangerous felony, vehicle hijacking when punished as a class
149 A felony, statutory rape in the first degree when the victim
150 is a child less than twelve years of age at the time of the
151 commission of the act giving rise to the offense, statutory
152 sodomy in the first degree when the victim is a child less
153 than twelve years of age at the time of the commission of
154 the act giving rise to the offense, child molestation in the
155 first or second degree, abuse of a child if the child dies
156 as a result of injuries sustained from conduct chargeable

157 under section 568.060, child kidnapping, parental kidnapping
158 committed by detaining or concealing the whereabouts of the
159 child for not less than one hundred twenty days under
160 section 565.153, and an "intoxication-related traffic
161 offense" or "intoxication-related boating offense" if the
162 person is found to be a "habitual offender" or "habitual
163 boating offender" as such terms are defined in section
164 577.001, **and rioting as defined under section 574.050;**

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

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

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

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

184 (24) "Disability", a mental, physical, or
185 developmental impairment that substantially limits one or
186 more major life activities or the ability to provide
187 adequately for one's care or protection, whether the
188 impairment is congenital or acquired by accident, injury or

189 disease, where such impairment is verified by medical
190 findings;

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

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

196 (27) "Forcible compulsion" either:

197 (a) Physical force that overcomes reasonable
198 resistance; or

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

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

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

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

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

214 (b) Where people assemble for purposes of business,
215 government, education, religion, entertainment, or public
216 transportation; or

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

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

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

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

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

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

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

240 (34) "Of another", property that any entity, including
241 but not limited to any natural person, corporation, limited
242 liability company, partnership, association, governmental
243 subdivision or instrumentality, other than the actor, has a
244 possessory or proprietary interest therein, except that
245 property shall not be deemed property of another who has
246 only a security interest therein, even if legal title is in
247 the creditor pursuant to a conditional sales contract or
248 other security arrangement;

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

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

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

257 (38) "Possess" or "possessed", having actual or
258 constructive possession of an object with knowledge of its
259 presence. A person has actual possession if such person has
260 the object on his or her person or within easy reach and
261 convenient control. A person has constructive possession if
262 such person has the power and the intention at a given time
263 to exercise dominion or control over the object either
264 directly or through another person or persons. Possession
265 may also be sole or joint. If one person alone has
266 possession of an object, possession is sole. If two or more
267 persons share possession of an object, possession is joint;

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

270 (40) "Public servant", any person employed in any way
271 by a government of this state who is compensated by the
272 government by reason of such person's employment, any person
273 appointed to a position with any government of this state,
274 or any person elected to a position with any government of
275 this state. It includes, but is not limited to,
276 legislators, jurors, members of the judiciary and law
277 enforcement officers. It does not include witnesses;

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

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

287 (43) "Serious emotional injury", an injury that
288 creates a substantial risk of temporary or permanent medical
289 or psychological damage, manifested by impairment of a
290 behavioral, cognitive or physical condition. Serious
291 emotional injury shall be established by testimony of
292 qualified experts upon the reasonable expectation of
293 probable harm to a reasonable degree of medical or
294 psychological certainty;

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

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

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

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

312 (48) "Vessel", any boat or craft propelled by a motor
313 or by machinery, whether or not such motor or machinery is a

314 principal source of propulsion used or capable of being used
315 as a means of transportation on water, or any boat or craft
316 more than twelve feet in length which is powered by sail
317 alone or by a combination of sail and machinery, and used or
318 capable of being used as a means of transportation on water,
319 but not any boat or craft having, as the only means of
320 propulsion, a paddle or oars;

321 (49) "Voluntary act":

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

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

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

558.016. 1. The court may sentence a person who has
2 been found guilty of an offense to a term of imprisonment as
3 authorized by section 558.011 or to a term of imprisonment
4 authorized by a statute governing the offense if it finds
5 the defendant is a prior offender or a persistent
6 misdemeanor offender. The court may sentence a person to an
7 extended term of imprisonment if:

8 (1) The defendant is a persistent offender or a
9 dangerous offender, and the person is sentenced under
10 subsection 7 of this section;

11 (2) The statute under which the person was found
12 guilty contains a sentencing enhancement provision that is
13 based on a prior finding of guilt or a finding of prior
14 criminal conduct and the person is sentenced according to
15 the statute; or

16 (3) A more specific sentencing enhancement provision
17 applies that is based on a prior finding of guilt or a
18 finding of prior criminal conduct.

19 2. A "prior offender" is one who has been found guilty
20 of one felony.

21 3. A "persistent offender" is one who has been found
22 guilty of two or more felonies committed at different times,
23 **or one who has been found guilty of a dangerous felony as**
24 **defined in subdivision (19) of section 556.061.**

25 4. A "dangerous offender" is one who:

26 (1) Is being sentenced for a felony during the
27 commission of which he knowingly murdered or endangered or
28 threatened the life of another person or knowingly inflicted
29 or attempted or threatened to inflict serious physical
30 injury on another person; and

31 (2) Has been found guilty of a class A or B felony or
32 a dangerous felony.

33 5. A "persistent misdemeanor offender" is one who has
34 been found guilty of two or more offenses, committed at
35 different times that are classified as A or B misdemeanors
36 under the laws of this state.

37 6. The findings of guilt shall be prior to the date of
38 commission of the present offense.

39 7. The court shall sentence a person, who has been
40 found to be a persistent offender or a dangerous offender,
41 and is found guilty of a class B, C, D, or E felony to the
42 authorized term of imprisonment for the offense that is one
43 class higher than the offense for which the person is found
44 guilty.

558.019. 1. This section shall not be construed to
2 affect the powers of the governor under Article IV, Section
3 7, of the Missouri Constitution. This statute shall not
4 affect those provisions of section 565.020[,], **or** section
5 566.125, [or section 571.015,] which set minimum terms of
6 sentences, or the provisions of section 559.115, relating to
7 probation.

8 2. The provisions of subsections 2 to 5 of this
9 section shall only be applicable to the offenses contained
10 in sections 565.021, 565.023, 565.024, 565.027, 565.050,
11 565.052, 565.054, 565.072, 565.073, 565.074, 565.090,
12 565.110, 565.115, 565.120, 565.153, 565.156, 565.225,
13 565.300, 566.030, 566.031, 566.032, 566.034, 566.060,
14 566.061, 566.062, 566.064, 566.067, 566.068, 566.069,
15 566.071, 566.083, 566.086, 566.100, 566.101, 566.103,
16 566.111, 566.115, 566.145, 566.151, 566.153, 566.203,
17 566.206, 566.209, 566.210, 566.211, 566.215, 568.030,
18 568.045, 568.060, 568.065, 568.175, 569.040, 569.160,
19 570.023, 570.025, 570.030 when punished as a class A, B, or
20 C felony, 570.145 when punished as a class A or B felony,
21 570.223 when punished as a class B or C felony, 571.020,
22 571.030, 571.070, 573.023, 573.025, 573.035, 573.037,
23 573.200, 573.205, **574.040, 574.050, 574.060**, 574.070,
24 574.080, 574.115, 575.030, 575.150, 575.153, 575.155,
25 575.157, 575.200 when punished as a class A felony, 575.210,
26 575.230 when punished as a class B felony, 575.240 when

27 punished as a class B felony, 576.070, 576.080, 577.010,
28 577.013, 577.078, 577.703, 577.706, 579.065, and 579.068
29 when punished as a class A or B felony. For the purposes of
30 this section, "prison commitment" means and is the receipt
31 by the department of corrections of an offender after
32 sentencing. For purposes of this section, prior prison
33 commitments to the department of corrections shall not
34 include an offender's first incarceration prior to release
35 on probation under section 217.362 or 559.115. Other
36 provisions of the law to the contrary notwithstanding, any
37 offender who has been found guilty of a felony other than a
38 dangerous felony as defined in section 556.061 and is
39 committed to the department of corrections shall be required
40 to serve the following minimum prison terms:

41 (1) If the offender has one previous prison commitment
42 to the department of corrections for a felony offense, the
43 minimum prison term which the offender must serve shall be
44 forty percent of his or her sentence or until the offender
45 attains seventy years of age, and has served at least thirty
46 percent of the sentence imposed, whichever occurs first;

47 (2) If the offender has two previous prison
48 commitments to the department of corrections for felonies
49 unrelated to the present offense, the minimum prison term
50 which the offender must serve shall be fifty percent of his
51 or her sentence or until the offender attains seventy years
52 of age, and has served at least forty percent of the
53 sentence imposed, whichever occurs first;

54 (3) If the offender has three or more previous prison
55 commitments to the department of corrections for felonies
56 unrelated to the present offense, the minimum prison term
57 which the offender must serve shall be eighty percent of his
58 or her sentence or until the offender attains seventy years

59 of age, and has served at least forty percent of the
60 sentence imposed, whichever occurs first.

61 3. Other provisions of the law to the contrary
62 notwithstanding, any offender who has been found guilty of a
63 dangerous felony as defined in section 556.061 and is
64 committed to the department of corrections shall be required
65 to serve a minimum prison term of eighty-five percent of the
66 sentence imposed by the court or until the offender attains
67 seventy years of age, and has served at least forty percent
68 of the sentence imposed, whichever occurs first.

69 4. For the purpose of determining the minimum prison
70 term to be served, the following calculations shall apply:

71 (1) A sentence of life shall be calculated to be
72 thirty years;

73 (2) Any sentence either alone or in the aggregate with
74 other consecutive sentences for offenses committed at or
75 near the same time which is over seventy-five years shall be
76 calculated to be seventy-five years.

77 5. For purposes of this section, the term "minimum
78 prison term" shall mean time required to be served by the
79 offender before he or she is eligible for parole,
80 conditional release or other early release by the department
81 of corrections.

82 6. An offender who was convicted of, or pled guilty
83 to, a felony offense other than those offenses listed in
84 subsection 2 of this section prior to August 28, 2019, shall
85 no longer be subject to the minimum prison term provisions
86 under subsection 2 of this section, and shall be eligible
87 for parole, conditional release, or other early release by
88 the department of corrections according to the rules and
89 regulations of the department.

90 7. (1) A sentencing advisory commission is hereby
91 created to consist of eleven members. One member shall be
92 appointed by the speaker of the house. One member shall be
93 appointed by the president pro tem of the senate. One
94 member shall be the director of the department of
95 corrections. Six members shall be appointed by and serve at
96 the pleasure of the governor from among the following: the
97 public defender commission; private citizens; a private
98 member of the Missouri Bar; the board of probation and
99 parole; and a prosecutor. Two members shall be appointed by
100 the supreme court, one from a metropolitan area and one from
101 a rural area. All members shall be appointed to a four-year
102 term. All members of the sentencing commission appointed
103 prior to August 28, 1994, shall continue to serve on the
104 sentencing advisory commission at the pleasure of the
105 governor.

106 (2) The commission shall study sentencing practices in
107 the circuit courts throughout the state for the purpose of
108 determining whether and to what extent disparities exist
109 among the various circuit courts with respect to the length
110 of sentences imposed and the use of probation for offenders
111 convicted of the same or similar offenses and with similar
112 criminal histories. The commission shall also study and
113 examine whether and to what extent sentencing disparity
114 among economic and social classes exists in relation to the
115 sentence of death and if so, the reasons therefor, if
116 sentences are comparable to other states, if the length of
117 the sentence is appropriate, and the rate of rehabilitation
118 based on sentence. It shall compile statistics, examine
119 cases, draw conclusions, and perform other duties relevant
120 to the research and investigation of disparities in death
121 penalty sentencing among economic and social classes.

122 (3) The commission shall study alternative sentences,
123 prison work programs, work release, home-based
124 incarceration, probation and parole options, and any other
125 programs and report the feasibility of these options in
126 Missouri.

127 (4) The governor shall select a chairperson who shall
128 call meetings of the commission as required or permitted
129 pursuant to the purpose of the sentencing commission.

130 (5) The members of the commission shall not receive
131 compensation for their duties on the commission, but shall
132 be reimbursed for actual and necessary expenses incurred in
133 the performance of these duties and for which they are not
134 reimbursed by reason of their other paid positions.

135 (6) The circuit and associate circuit courts of this
136 state, the office of the state courts administrator, the
137 department of public safety, and the department of
138 corrections shall cooperate with the commission by providing
139 information or access to information needed by the
140 commission. The office of the state courts administrator
141 will provide needed staffing resources.

142 8. Courts shall retain discretion to lower or exceed
143 the sentence recommended by the commission as otherwise
144 allowable by law, and to order restorative justice methods,
145 when applicable.

146 9. If the imposition or execution of a sentence is
147 suspended, the court may order any or all of the following
148 restorative justice methods, or any other method that the
149 court finds just or appropriate:

150 (1) Restitution to any victim or a statutorily created
151 fund for costs incurred as a result of the offender's
152 actions;

153 (2) Offender treatment programs;

154 (3) Mandatory community service;
155 (4) Work release programs in local facilities; and
156 (5) Community-based residential and nonresidential
157 programs.

158 10. Pursuant to subdivision (1) of subsection 9 of
159 this section, the court may order the assessment and payment
160 of a designated amount of restitution to a county law
161 enforcement restitution fund established by the county
162 commission pursuant to section 50.565. Such contribution
163 shall not exceed three hundred dollars for any charged
164 offense. Any restitution moneys deposited into the county
165 law enforcement restitution fund pursuant to this section
166 shall only be expended pursuant to the provisions of section
167 50.565.

168 11. A judge may order payment to a restitution fund
169 only if such fund had been created by ordinance or
170 resolution of a county of the state of Missouri prior to
171 sentencing. A judge shall not have any direct supervisory
172 authority or administrative control over any fund to which
173 the judge is ordering a person to make payment.

174 12. A person who fails to make a payment to a county
175 law enforcement restitution fund may not have his or her
176 probation revoked solely for failing to make such payment
177 unless the judge, after evidentiary hearing, makes a finding
178 supported by a preponderance of the evidence that the person
179 either willfully refused to make the payment or that the
180 person willfully, intentionally, and purposefully failed to
181 make sufficient bona fide efforts to acquire the resources
182 to pay.

183 13. Nothing in this section shall be construed to
184 allow the sentencing advisory commission to issue

185 recommended sentences in specific cases pending in the
186 courts of this state.

571.015. 1. Any person who commits any felony under
2 the laws of this state by, with, or through the use,
3 assistance, or aid of a dangerous instrument or deadly
4 weapon is also guilty of the offense of armed criminal
5 action; **the offense of armed criminal action shall be an**
6 **unclassified felony** and, upon conviction, shall be punished
7 by imprisonment by the department of corrections for a term
8 of not less than three years [and not to exceed fifteen
9 years], unless the person is unlawfully possessing a
10 firearm, in which case the term of imprisonment shall be for
11 a term of not less than five years. The punishment imposed
12 pursuant to this subsection shall be in addition to and
13 consecutive to any punishment provided by law for the crime
14 committed by, with, or through the use, assistance, or aid
15 of a dangerous instrument or deadly weapon. No person
16 convicted under this subsection shall be eligible for
17 [parole,] probation, conditional release, or suspended
18 imposition or execution of sentence [for a period of three
19 calendar years].

20 2. Any person convicted of a second offense of armed
21 criminal action under subsection 1 of this section shall be
22 punished by imprisonment by the department of corrections
23 for a term of not less than five years [and not to exceed
24 thirty years], unless the person is unlawfully possessing a
25 firearm, in which case the term of imprisonment shall be for
26 a term not less than fifteen years. The punishment imposed
27 pursuant to this subsection shall be in addition to and
28 consecutive to any punishment provided by law for the crime
29 committed by, with, or through the use, assistance, or aid
30 of a dangerous instrument or deadly weapon. No person

31 convicted under this subsection shall be eligible for
32 [parole,] probation, conditional release, or suspended
33 imposition or execution of sentence [for a period of five
34 calendar years].

35 3. Any person convicted of a third or subsequent
36 offense of armed criminal action under subsection 1 of this
37 section shall be punished by imprisonment by the department
38 of corrections for a term of not less than ten years, unless
39 the person is unlawfully possessing a firearm, in which case
40 the term of imprisonment shall be no less than fifteen
41 years. The punishment imposed pursuant to this subsection
42 shall be in addition to and consecutive to any punishment
43 provided by law for the crime committed by, with, or through
44 the use, assistance, or aid of a dangerous instrument or
45 deadly weapon. No person convicted under this subsection
46 shall be eligible for [parole,] probation, conditional
47 release, or suspended imposition or execution of sentence
48 [for a period of ten calendar years].

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

4 (1) Such person has been convicted of a felony under
5 the laws of this state, or of a crime under the laws of any
6 state or of the United States which, if committed within
7 this state, would be a felony; or

8 (2) Such person is a fugitive from justice, is
9 habitually in an intoxicated or drugged condition, or is
10 currently adjudged mentally incompetent.

11 2. Unlawful possession of a firearm is a class [D] C
12 felony, unless a person has been convicted of a dangerous
13 felony as defined in section 556.061, **or the person has a**

14 **prior conviction for unlawful possession of a firearm** in
15 which case it is a class [C] **B felony**.

16 3. The provisions of subdivision (1) of subsection 1
17 of this section shall not apply to the possession of an
18 antique firearm.

574.010. 1. A person commits the offense of peace
2 disturbance if he or she:

3 (1) Unreasonably and knowingly disturbs or alarms
4 another person or persons by:

5 (a) Loud noise; or

6 (b) Offensive language addressed in a face-to-face
7 manner to a specific individual and uttered under
8 circumstances which are likely to produce an immediate
9 violent response from a reasonable recipient; or

10 (c) Threatening to commit a felonious act against any
11 person under circumstances which are likely to cause a
12 reasonable person to fear that such threat may be carried
13 out; or

14 (d) Fighting; or

15 (e) Creating a noxious and offensive odor;

16 (2) Is in a public place or on private property of
17 another without consent and purposely causes inconvenience
18 to another person or persons by unreasonably and physically
19 obstructing:

20 (a) Vehicular or pedestrian traffic; or

21 (b) The free ingress or egress to or from a public or
22 private place.

23 2. The offense of peace disturbance is a class [B] **A**
24 misdemeanor upon the first conviction. Upon a second or
25 subsequent conviction, peace disturbance is a class [A
26 misdemeanor] **E felony**. Upon a third or subsequent
27 conviction, a person shall be sentenced to pay a fine of no

28 less than one thousand dollars and no more than five
29 thousand dollars.

574.040. 1. A person commits the offense of unlawful
2 assembly if he or she knowingly assembles with six or more
3 other persons and agrees with such persons to violate any of
4 the criminal laws of this state or of the United States with
5 force or violence.

6 2. The offense of unlawful assembly is a class **[B] A**
7 misdemeanor.

574.050. 1. A person commits the offense of rioting
2 if he or she knowingly assembles with six or more other
3 persons **[and agrees with such persons to violate any of the**
4 **criminal laws of this state or of the United States with**
5 **force or violence]**, and thereafter, while still so
6 assembled, **[does violate any of said laws with force or**
7 **violence]** **violates any of the criminal laws of this state or**
8 **of the United States.**

9 2. The offense of rioting is a class **[A misdemeanor]** **D**
10 **felony. A second or subsequent conviction under this**
11 **section shall be a class C felony.**

574.060. 1. A person commits the offense of refusal
2 to disperse if, being present at the scene of an unlawful
3 assembly, or at the scene of a riot, he or she knowingly
4 fails or refuses to obey the lawful command of a law
5 enforcement officer to depart from the scene of such
6 unlawful assembly or riot.

7 2. The offense of refusal to disperse is a class **[C] A**
8 misdemeanor.

574.070. 1. As used in this section, the following
2 terms mean:

3 (1) "Civil disorder", any public disturbance involving
4 acts of violence by assemblages of three or more persons,

5 which causes an immediate danger of or results in damage or
6 injury to the property or person of any other individual;

7 (2) "Explosive or incendiary device", includes:

8 (a) Dynamite and all other forms of high explosives;

9 (b) Any explosive bomb, grenade, missile, or similar
10 device; and

11 (c) Any incendiary bomb or grenade, fire bomb, or
12 similar device, including any device which consists of or
13 includes a breakable container containing a flammable liquid
14 or compound and a wick composed of any material which, when
15 ignited, is capable of igniting such flammable liquid or
16 compound, and can be carried or thrown by one individual
17 acting alone;

18 (3) "Firearm", any weapon which is designed to or may
19 readily be converted to expel any projectile by the action
20 of an explosive, or the frame or receiver of any such weapon;

21 (4) "Law enforcement officer", any officer or employee
22 of the United States, any state, any political subdivision
23 of a state, or the District of Columbia. The term "law
24 enforcement officer" shall specifically include, but shall
25 not be limited to, members of the National Guard, as defined
26 in Section 101(9) of Title 10, United States Code, and
27 members of the organized militia of any state or territory
28 of the United States, the Commonwealth of Puerto Rico, or
29 the District of Columbia, not included within the definition
30 of National Guard as defined by Section 101(9) of Title 10,
31 United States Code, and members of the Armed Forces of the
32 United States.

33 2. A person commits the offense of promoting civil
34 disorder if he or she teaches or demonstrates to any other
35 person the use, application, or construction of any firearm,
36 explosive, or incendiary device capable of causing injury or

37 death to any person, knowing or intending that such firearm,
38 explosive, or incendiary device be used in furtherance of a
39 civil disorder.

40 3. The offense of promoting civil disorder is a class
41 **[D] C** felony.

42 4. Nothing contained in this section shall be
43 construed to prohibit the training or teaching of the use of
44 weapons for law enforcement purposes, hunting, recreation,
45 competition, or other lawful uses and activities.

610.130. 1. After a period of not less than ten
2 years, an individual who has pleaded guilty or has been
3 convicted for a first intoxication-related traffic offense
4 or intoxication-related boating offense which is a
5 misdemeanor or a county or city ordinance violation, **or for**
6 **an intoxication-related traffic offense that is a class D**
7 **felony under subdivision (4) of subsection 2 of section**
8 **577.010 or an intoxication-related boating offense that is a**
9 **class D felony under subdivision (4) of subsection 2 of**
10 **section 577.013, and [which] that** is not a conviction for
11 driving a commercial motor vehicle while under the influence
12 of alcohol and who since such date has not been convicted of
13 any intoxication-related traffic offense or intoxication-
14 related boating offense may apply to the court in which he
15 or she pled guilty or was sentenced for an order to expunge
16 from all official records all recordations of his or her
17 arrest, plea, trial or conviction.

18 2. If the court determines, after hearing, that such
19 person has not been convicted of any subsequent intoxication-
20 related traffic offense or intoxication-related boating
21 offense, has no other subsequent alcohol-related enforcement
22 contacts as defined in section 302.525, and has no other
23 intoxication-related traffic offense or intoxication-related

24 boating offenses or alcohol-related enforcement actions
25 pending at the time of the hearing on the application, the
26 court shall enter an order of expungement.

27 3. Upon granting of the order of expungement, the
28 records and files maintained in any administrative or court
29 proceeding in an associate or circuit division of the
30 circuit court under this section shall be confidential and
31 only available to the parties or by order of the court for
32 good cause shown. The effect of such order shall be to
33 restore such person to the status he or she occupied prior
34 to such arrest, plea or conviction and as if such event had
35 never taken place. No person as to whom such order has been
36 entered shall be held thereafter under any provision of any
37 law to be guilty of perjury or otherwise giving a false
38 statement by reason of his or her failure to recite or
39 acknowledge such arrest, plea, trial, conviction or
40 expungement in response to any inquiry made of him or her
41 for any purpose whatsoever and no such inquiry shall be made
42 for information relating to an expungement under this
43 section. A person shall only be entitled to one expungement
44 pursuant to this section. Nothing contained in this section
45 shall prevent the director from maintaining such records as
46 to ensure that an individual receives only one expungement
47 pursuant to this section for the purpose of informing the
48 proper authorities of the contents of any record maintained
49 pursuant to this section.

50 4. The provisions of this section shall not apply to
51 any individual who has been issued a commercial driver's
52 license or is required to possess a commercial driver's
53 license issued by this state or any other state.

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