

SECOND REGULAR SESSION

# SENATE BILL NO. 561

100TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR ONDER.

Pre-filed December 1, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

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## 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 four new sections relating to the offense of vehicle hijacking, with penalty provisions.

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*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  
2 bill no. 793 merged with senate bill no. 800, ninety-ninth general assembly,  
3 second regular session, and section 211.071 as enacted by house bill no. 215  
4 merged with senate bill no. 36, ninety-seventh general assembly, first regular  
5 session, are repealed and four new sections enacted in lieu thereof, to be known  
6 as sections 211.071, 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  
2 and eighteen has committed an offense which would be considered a felony if  
3 committed by an adult, the court may, upon its own motion or upon motion by the  
4 juvenile officer, the child or the child's custodian, order a hearing and may, in its  
5 discretion, dismiss the petition and such child may be transferred to the court of  
6 general jurisdiction and prosecuted under the general law; except that if a  
7 petition alleges that any child has committed an offense which would be  
8 considered first degree murder under section 565.020, second degree murder  
9 under section 565.021, first degree assault under section 565.050, forcible rape  
10 under section 566.030 as it existed prior to August 28, 2013, rape in the first  
11 degree under section 566.030, forcible sodomy under section 566.060 as it existed

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

12 prior to August 28, 2013, sodomy in the first degree under section 566.060, first  
13 degree robbery under section 569.020 as it existed prior to January 1, 2017, or  
14 robbery in the first degree under section 570.023, distribution of drugs under  
15 section 195.211 as it existed prior to January 1, 2017, [or] the manufacturing of  
16 a controlled substance under section 579.055, **or vehicle hijacking under**  
17 **section 570.027**, or has committed two or more prior unrelated offenses which  
18 would be felonies if committed by an adult, the court shall order a hearing, and  
19 may in its discretion, dismiss the petition and transfer the child to a court of  
20 general jurisdiction for prosecution under the general law.

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

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

31           4. Written notification of a transfer hearing shall be given to the juvenile  
32 and his or her custodian in the same manner as provided in sections 211.101 and  
33 211.111. Notice of the hearing may be waived by the custodian. Notice shall  
34 contain a statement that the purpose of the hearing is to determine whether the  
35 child is a proper subject to be dealt with under the provisions of this chapter, and  
36 that if the court finds that the child is not a proper subject to be dealt with under  
37 the provisions of this chapter, the petition will be dismissed to allow for  
38 prosecution of the child under the general law.

39           5. The juvenile officer may consult with the office of prosecuting attorney  
40 concerning any offense for which the child could be certified as an adult under  
41 this section. The prosecuting or circuit attorney shall have access to police  
42 reports, reports of the juvenile or deputy juvenile officer, statements of witnesses  
43 and all other records or reports relating to the offense alleged to have been  
44 committed by the child. The prosecuting or circuit attorney shall have access to  
45 the disposition records of the child when the child has been adjudicated pursuant  
46 to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney  
47 shall not divulge any information regarding the child and the offense until the

48 juvenile court at a judicial hearing has determined that the child is not a proper  
49 subject to be dealt with under the provisions of this chapter.

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

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

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

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

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

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

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

71 (7) The age of the child;

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

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

76 (10) Racial disparity in certification.

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

79 (1) Findings showing that the court had jurisdiction of the cause and of  
80 the parties;

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

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

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

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

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

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

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

102 **12. The provisions of this section shall become effective on**  
103 **January 1, 2021.**

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

17 jurisdiction for prosecution under the general law.

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

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

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29 and his or her custodian in the same manner as provided in sections 211.101 and  
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32 child is a proper subject to be dealt with under the provisions of this chapter, and  
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50 be dealt with under the provisions of this chapter and whether there are  
51 reasonable prospects of rehabilitation within the juvenile justice system. These  
52 criteria shall include but not be limited to:

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54 the community requires transfer to the court of general jurisdiction;

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

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

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

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

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

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

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

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82 transfer jurisdiction.

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84 prosecuting attorney.

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87 conviction, the jurisdiction of the juvenile court over that child is forever  
88 terminated, except as provided in subsection 10 of this section, for an act that

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92 general jurisdiction, the juvenile court shall have jurisdiction over any later  
93 offense committed by that child which would be considered a misdemeanor or  
94 felony if committed by an adult, subject to the certification provisions of this  
95 section.

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

99 **12. The provisions of this section shall expire on December 31,**  
100 **2020.**

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

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

6 (2) "Affirmative defense":

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

9 (b) If the defense is submitted to the trier of fact the defendant has the  
10 burden of 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  
13 supported by evidence; and

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

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

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

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

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

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

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

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

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

60 (11) "Computer-related documentation", written, recorded, printed or



61 electronically stored material which explains or illustrates how to configure or  
62 use computer hardware, software or other related items;

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

65 (13) "Confinement":

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

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

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

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

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

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

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

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

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

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

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

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

94 (16) "Criminal negligence", failure to be aware of a substantial and  
95 unjustifiable risk that circumstances exist or a result will follow, and such failure  
96 constitutes a gross deviation from the standard of care which a reasonable person

97 would exercise in the situation;

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

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

103 (19) "Dangerous felony", the felonies of arson in the first degree, assault  
104 in the first degree, attempted rape in the first degree if physical injury results,  
105 attempted forcible rape if physical injury results, attempted sodomy in the first  
106 degree if physical injury results, attempted forcible sodomy if physical injury  
107 results, rape in the first degree, forcible rape, sodomy in the first degree, forcible  
108 sodomy, assault in the second degree if the victim of such assault is a special  
109 victim as defined in subdivision (14) of section 565.002, kidnapping in the first  
110 degree, kidnapping, murder in the second degree, assault of a law enforcement  
111 officer in the first degree, domestic assault in the first degree, elder abuse in the  
112 first degree, robbery in the first degree, **vehicle hijacking punished as a class**  
113 **A felony**, statutory rape in the first degree when the victim is a child less than  
114 twelve years of age at the time of the commission of the act giving rise to the  
115 offense, statutory sodomy in the first degree when the victim is a child less than  
116 twelve years of age at the time of the commission of the act giving rise to the  
117 offense, child molestation in the first or second degree, abuse of a child if the  
118 child dies as a result of injuries sustained from conduct chargeable under section  
119 568.060, child kidnapping, parental kidnapping committed by detaining or  
120 concealing the whereabouts of the child for not less than one hundred twenty  
121 days under section 565.153, and an "intoxication-related traffic offense" or  
122 "intoxication-related boating offense" if the person is found to be a "habitual  
123 offender" or "habitual boating offender" as such terms are defined in section  
124 577.001;

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

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

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

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

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

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

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

148 (27) "Forcible compulsion" either:

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

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

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

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

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

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

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

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

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

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

168 (a) Conduct or attendant circumstances, means a person is aware of the

169 nature of his or her conduct or that those circumstances exist; or

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

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

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

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

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

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

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

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

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

202 (40) "Public servant", any person employed in any way by a government  
203 of this state who is compensated by the government by reason of such person's  
204 employment, any person appointed to a position with any government of this

205 state, or any person elected to a position with any government of this state. It  
206 includes, but is not limited to, legislators, jurors, members of the judiciary and  
207 law enforcement officers. It does not include witnesses;

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

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

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

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

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

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

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

233 (48) "Vessel", any boat or craft propelled by a motor or by machinery,  
234 whether or not such motor or machinery is a principal source of propulsion used  
235 or capable of being used as a means of transportation on water, or any boat or  
236 craft more than twelve feet in length which is powered by sail alone or by a  
237 combination of sail and machinery, and used or capable of being used as a means  
238 of transportation on water, but not any boat or craft having, as the only means  
239 of propulsion, a paddle or oars;

240 (49) "Voluntary act":

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

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

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

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

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

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

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

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

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

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

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

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