

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
**HOUSE BILLS NOS. 835, 90, 707, 373,
641, 510, 516 & 573**
91ST GENERAL ASSEMBLY

Reported from the Committee on Criminal Law, March 15, 2001, with recommendation that the House Committee Substitute for House Bills Nos. 835, 90, 707, 373, 641, 510, 516 & 572 Do Pass.

TED WEDEL, Chief Clerk

2008L.03C

AN ACT

To repeal sections 50.550, 150.465, 214.131, 217.690, 302.020, 302.321, 537.523, 544.170, 558.019, 570.010, 570.030, 570.080, 570.090, 570.120 and 574.085, RSMo 2000, and to enact in lieu thereof twenty new sections relating to crimes and punishment, with penalty provisions.

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

Section A. Sections 50.550, 150.465, 214.131, 217.690, 302.020, 302.321, 537.523, 544.170, 558.019, 570.010, 570.030, 570.080, 570.090, 570.120 and 574.085, RSMo 2000, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 50.550, 50.555, 150.465, 214.131, 217.690, 302.020, 302.286, 302.321, 407.308, 537.523, 544.170, 558.019, 565.310, 570.010, 570.030, 570.080, 570.090, 565.042, 570.120 and 574.085, to read as follows:

50.550. **1.** The annual budget shall present a complete financial plan for the ensuing budget year. It shall set forth all proposed expenditures for the administration, operation and maintenance of all offices, departments, commissions, courts and institutions; the actual or estimated operating deficits or surpluses from prior years; all interest and debt redemption charges during the year and expenditures for capital projects.

2. The budget shall contain adequate provisions for the expenditures necessary for the care of insane pauper patients in state hospitals, for the cost of holding elections and for the costs

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

8 of holding circuit court in the county that are chargeable against the county, for the repair and
9 upkeep of bridges other than on state highways and not in any special road district, and for the
10 salaries, office expenses and deputy and clerical hire of all county officers and agencies.

11 **3.** In addition, the budget shall set forth in detail the anticipated income and other means
12 of financing the proposed expenditures.

13 **4.** All receipts of the county for operation and maintenance shall be credited to the
14 general fund, and all expenditures for these purposes shall be charged to this fund; except, that
15 receipts from the special tax levy for roads and bridges shall be kept in a special fund and
16 expenditures for roads and bridges may be charged to the special fund.

17 **5.** All receipts from the sale of bonds for any purpose shall be credited to the bond fund
18 created for the purpose, and all expenditures for this purpose shall be charged to the fund. All
19 receipts for the retirement of any bond issue shall be credited to a retirement fund for the issue,
20 and all payments to retire the issue shall be charged to the fund. All receipts for interest on
21 outstanding bonds and all premiums and accrued interest on bonds sold shall be credited to the
22 interest fund, and all payments of interest on the bonds shall be charged to the interest fund.

23 **6. Subject to the provisions of section 50.555, the county commission may create a**
24 **fund to be known as the "(name of county) County Crime Reduction Fund".**

25 **7.** The county commission may create other funds as are necessary from time to time.

50.555. 1. A county commission may establish by resolution a fund, the proceeds
2 **of which may be expended only for the purposes provided in subsection 3 of this section.**
3 **The fund shall be designated as a county crime reduction fund and shall be under the**
4 **supervision of a board of trustees consisting of one resident of the county appointed by the**
5 **presiding commission of the county, one resident of the county appointed by the sheriff of**
6 **the county, and one resident of the county appointed by the county prosecuting attorney.**

7 **2. Money from the county crime reduction fund shall be expended only upon the**
8 **approval of a majority of the county crime reduction fund's board of trustees and only for**
9 **the purposes provided for by subsection 3 of this section.**

10 **3. Money from the county crime reduction fund shall be expended only for the**
11 **following purposes:**

12 **(1) Narcotics investigation, prevention and intervention;**

13 **(2) Purchase of law enforcement-related equipment and supplies for the sheriff's**
14 **office;**

15 **(3) Use as matching funds for federal or state law enforcement grants;**

16 **(4) Funding for the reporting of all state and federal crime statistics or information;**

17 **and**

18 **(5) Any law enforcement-related expenses reasonably related to investigation,**

19 **preparation, trial and disposition of criminal cases before the courts of this state, including**
20 **expenses of the prosecuting attorney approved by the board of trustees of the county crime**
21 **fund.**

22 **4. The county commission shall not reduce any law enforcement agency's budget**
23 **as a result of such law enforcement agency receiving funds from the county crime**
24 **reduction fund. The crime reduction fund shall be a supplement to the law enforcement**
25 **agency's funding from county, state and federal sources.**

26 **5. County crime reduction funds shall be audited in the same manner as all other**
27 **county funds.**

150.465. 1. No itinerant vendor as defined in section 150.380, and no peddler as defined
2 in section 150.470, shall offer for sale:

3 (1) Any food solely manufactured and packaged for sale for consumption by a child
4 under the age of two years; or

5 (2) Drugs, devices and cosmetics as defined in section 196.010, RSMo.

6 2. This section shall not apply to authorized agents of a manufacturer of any item
7 enumerated in subsection 1 of this section.

8 3. Violation of this section is a class A misdemeanor.

9 **4. Itinerant vendors and peddlers shall make available upon request of any law**
10 **enforcement officer any receipt from a producer, manufacturer, wholesaler or retailer of**
11 **any new or unused property, as defined in section 570.010, RSMo.**

12 **5. Any forged receipt produced pursuant to subsection 4 of this section shall be**
13 **prosecuted pursuant to section 570.090, RSMo.**

214.131. Every person who shall knowingly destroy, mutilate, disfigure, deface, injure
2 or remove any tomb, monument or gravestone, or other structure placed in any abandoned family
3 cemetery or private burying ground, or any fence, railing, or other work for the protection or
4 ornamentation of any such cemetery or place of burial of any human being, or tomb, monument
5 or gravestone, memento, or memorial, or other structure aforesaid, or of any lot within such
6 cemetery is guilty of [a class A misdemeanor] **institutional vandalism pursuant to section**
7 **574.085, RSMo.** For the purposes of this section and subsection 1 of section 214.132, an
8 "abandoned family cemetery" or "private burying ground" shall include those cemeteries or
9 burying grounds which have not been deeded to the public as provided in chapter 214, and in
10 which no body has been interred for at least twenty-five years.

217.690. 1. When in its opinion there is reasonable probability that an offender of a
2 correctional center can be released without detriment to the community or to himself **or herself**,
3 the board may in its discretion release or parole such person except as otherwise prohibited by
4 law. All paroles shall issue upon order of the board, duly adopted.

5 2. Before ordering the parole of any offender, the board shall have the offender appear
6 before a hearing panel and shall conduct a personal interview with [him] **said offender**, unless
7 waived by the offender. A parole shall be ordered only for the best interest of society, not as an
8 award of clemency; it shall not be considered a reduction of sentence or a pardon. An offender
9 shall be placed on parole only when the board believes that [he] **said offender** is able and willing
10 to fulfill the obligations of a law-abiding citizen. Every offender while on parole shall remain
11 in the legal custody of the department but shall be subject to the orders of the board.

12 3. The board shall adopt rules not inconsistent with law, in accordance with section
13 217.040, with respect to the eligibility of offenders for parole, the conduct of parole hearings or
14 conditions to be imposed upon paroled offenders. Whenever an order for parole is issued it shall
15 recite the conditions of such parole.

16 4. When considering parole for an offender with consecutive sentences **other than**
17 **consecutive sentences for life imprisonment**, the minimum term for eligibility for parole shall
18 be calculated by adding the minimum terms for parole eligibility for each of the consecutive
19 sentences, except the minimum term for parole eligibility shall not exceed the minimum term
20 for parole eligibility for an ordinary life sentence. **When considering parole for an offender**
21 **with consecutive life sentences, the minimum term for parole eligibility shall be calculated**
22 **by adding the minimum terms for parole eligibility for each of the consecutive sentences.**

23 5. Any offender under a sentence for first degree murder who has been denied release
24 on parole after a parole hearing shall not be eligible for another parole hearing until at least three
25 years from the month of the parole denial; however, this subsection shall not prevent a release
26 pursuant to subsection 4 of section 558.011, RSMo.

27 6. Parole hearings shall, at a minimum, contain the following procedures:

28 (1) The victim or person representing the victim who attends a hearing may be
29 accompanied by one other person;

30 (2) The victim or person representing the victim who attends a hearing shall have the
31 option of giving testimony in the presence of the inmate or to the hearing panel without the
32 inmate being present;

33 (3) The victim or person representing the victim may call or write the parole board rather
34 than attend the hearing;

35 (4) The victim or person representing the victim may have a personal meeting with a
36 board member at the board's central office; and

37 (5) The judge, prosecuting attorney or circuit attorney and a representative of the local
38 law enforcement agency investigating the crime shall be allowed to attend the hearing or provide
39 information to the hearing panel in regard to the parole consideration.

40 7. The board shall notify any person of the results of a parole eligibility hearing if the

41 person indicates to the board a desire to be notified.

42 8. The board may, at its discretion, require any offender seeking parole to meet certain
43 conditions during the term of that parole so long as said conditions are not illegal or impossible
44 for the offender to perform. These conditions may include an amount of restitution to the state
45 for the cost of that offender's incarceration.

46 9. Nothing contained in this section shall be construed to require the release of an
47 offender on parole nor to reduce the sentence of an offender heretofore committed.

48 10. Beginning January 1, 2001, the board shall not order a parole unless the offender has
49 obtained a high school diploma or its equivalent, or unless the board is satisfied that the offender,
50 while committed to the custody of the department, has made an honest good-faith effort to obtain
51 a high school diploma or its equivalent; provided that the director may waive this requirement
52 by certifying in writing to the board that the offender has actively participated in mandatory
53 education programs or is academically unable to obtain a high school diploma or its equivalent.

302.020. 1. Unless otherwise provided for by law, it shall be unlawful for any person,
2 except those expressly exempted by section 302.080, to:

3 (1) Operate any vehicle upon any highway in this state unless the person has a valid
4 license;

5 (2) Operate a motorcycle or motortricycle upon any highway of this state unless such
6 person has a valid license that shows the person has successfully passed an examination for the
7 operation of a motorcycle or motortricycle as prescribed by the director. The director may
8 indicate such upon a valid license issued to such person, or shall issue a license restricting the
9 applicant to the operation of a motorcycle or motortricycle if the actual demonstration, required
10 by section 302.173, is conducted on such vehicle;

11 (3) Authorize or knowingly permit a motorcycle or motortricycle owned by such person
12 or under such person's control to be driven upon any highway by any person whose license does
13 not indicate that the person has passed the examination for the operation of a motorcycle or
14 motortricycle or has been issued an instruction permit therefor;

15 (4) Operate a motor vehicle with an instruction permit or license issued to another
16 person.

17 2. Every person operating or riding as a passenger on any motorcycle or motortricycle,
18 as defined in section 301.010, RSMo, upon any highway of this state shall wear protective
19 headgear at all times the vehicle is in motion. The protective headgear shall meet reasonable
20 standards and specifications established by the director.

21 3. Notwithstanding the provisions of section 302.340 any person convicted of violating
22 subdivision (1) or (2) of subsection 1 of this section is guilty of a class A misdemeanor. Any
23 person convicted a third [or subsequent] time of violating subdivision (1) or (2) of subsection

24 1 of this section is guilty of a class D felony. Notwithstanding the provisions of section 302.340,
25 violation of subdivisions (3) and (4) of subsection 1 of this section is a class C misdemeanor and
26 the penalty for failure to wear protective headgear as required by subsection 2 of this section is
27 an infraction for which a fine not to exceed twenty-five dollars may be imposed.
28 Notwithstanding all other provisions of law and court rules to the contrary, no court costs shall
29 be imposed upon any person due to such violation. No points shall be assessed pursuant to
30 section 302.302 for a failure to wear such protective headgear.

31 **4. Any person convicted of violating subdivision (1) or (2) of subsection 1 of this**
32 **section shall be sentenced as provided by sections 558.011, 560.011, and 560.016, RSMo;**
33 **except that any person who is convicted of violating subdivision (1) or (2) of subsection 1**
34 **of this section shall be sentenced to and shall serve a minimum period of incarceration of**
35 **forty-eight hours for a first conviction, ten days for a second conviction, and thirty days**
36 **for a third conviction; and for any conviction after the third, a minimum of one year.**

302.286. 1. No person shall drive a motor vehicle so as to cause it to leave the
2 **premises of an establishment at which motor fuel offered for retail sale was dispensed into**
3 **the fuel tank of such motor vehicle unless payment or authorized charge for motor fuel**
4 **dispensed has been made. A person found guilty or pleading guilty to stealing pursuant**
5 **to section 570.030, RSMo, for the theft of motor fuel as described in this section shall have**
6 **his or her driver's license suspended.**

7 **2. The person shall submit the driver's license to the court upon conviction and the**
8 **court shall forward the driver's license to the department of revenue.**

9 **3. Suspension of a driver's license pursuant to this section shall be made as follows:**

10 **(1) For the first offense, suspension shall be for sixty days, provided that persons**
11 **may apply for hardship licenses pursuant to subsections 3 and 4 of section 302.309 at any**
12 **time following the first thirty days of such suspension;**

13 **(2) For the second offense, suspension shall be for ninety days, provided that**
14 **persons may apply for hardship licenses pursuant to subsections 3 and 4 of section 302.309**
15 **at any time following the first thirty days of such suspension; and**

16 **(3) For the third or any subsequent offense, suspension shall be for one hundred**
17 **eighty days, provided that persons may apply for hardship licenses pursuant to subsections**
18 **3 and 4 of section 302.309 at any time following the first ninety days of such suspension.**

19 **4. At the expiration of the suspension period, and upon payment of a reinstatement**
20 **fee of twenty-five dollars, the director shall terminate the suspension and shall return the**
21 **person's driver's license. The reinstatement fee shall be in addition to any other fees**
22 **required by law, and shall be deposited in the state treasury to the credit of the state**
23 **highway department fund, pursuant to section 302.228.**

302.321. 1. A person commits the crime of driving while revoked if he operates a motor vehicle on a highway when his license or driving privilege has been canceled, suspended or revoked under the laws of this state and acts with criminal negligence with respect to knowledge of the fact that his driving privilege has been canceled, suspended or revoked.

2. Any person convicted of driving while revoked is guilty of a class A misdemeanor. Any person with no prior alcohol-related enforcement contacts as defined in section 302.525, convicted a fourth or subsequent time of driving while revoked and any person with a prior alcohol-related enforcement contact as defined in section 302.525, convicted a third or subsequent time of driving while revoked is guilty of a class D felony. No court shall suspend the imposition of sentence as to such a person nor sentence such person to pay a fine in lieu of a term of imprisonment, nor shall such person be eligible for parole or probation until he has served [a minimum of forty-eight consecutive hours of imprisonment, unless as a condition of such parole or probation, such person performs at least ten days involving at least forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service] **the minimum sentence required by this section.** Driving while revoked is a class D felony on the second or subsequent conviction pursuant to section 577.010, RSMo, or a fourth or subsequent conviction for any other offense.

3. Any person convicted of driving while revoked shall be sentenced as provided by sections 558.011, 560.011, and 560.016, RSMo; except that any person who is convicted of driving while revoked shall be sentenced to and shall serve a minimum period of incarceration of forty-eight hours for a first conviction, ten days for a second conviction, and thirty days for a third conviction; and for any conviction after the third, a minimum of one year.

407.308. 1. A person commits theft of transportation of property service if the person contracts with a transportation of property provider or an agent acting for a transportation provider for the transportation of any property and, after the property has been delivered by the transportation provider to the agreed upon destination within the agreed upon time limitation, the person contracting for the delivery of the property knowingly fails to make payment of the dollar amount or other consideration required pursuant to the contract.

2. Intent to avoid payment is presumed if the person making the contract with the transportation provider or agent acting for the transportation provider does not make the required payment within the time specified in the contract, or if there is not time specified in the contract for payment, within thirty days of the completion of the transportation of property service rendered.

3. Theft of service is a class C felony if the value of the transportation of property

14 **services is seven hundred fifty dollars or more, otherwise theft of transportation of**
15 **property service is a class A misdemeanor.**

537.523. 1. Irrespective of any criminal prosecution or the result thereof, **any owner of**
2 **property adjacent to an abandoned family cemetery or private burying ground, as defined**
3 **in section 214.131, RSMo, any caretaker of an abandoned family cemetery or private**
4 **burying ground, as defined in section 214.131, RSMo, or any person incurring bodily injury**
5 **or damage or loss to [his] such person's property as a result of conduct in violation of section**
6 **574.085[, 574.090 or 574.093] or conduct when the defendant's sentence is enhanced**
7 **pursuant to section 557.035, RSMo, shall have a civil action to secure an injunction, damages**
8 **or other appropriate relief in law or in equity against any and all persons who have violated**
9 **section 574.085[, 574.090 or 574.093] RSMo, or any defendant whose sentence was**
10 **enhanced pursuant to section 557.035, RSMo.**

11 2. In any such action, whether **a defendant's sentence was enhanced pursuant to**
12 **section 557.035, RSMo, or a violation of section 574.085, [574.090 or 574.093] RSMo, has**
13 **occurred shall be determined according to the burden of proof used in other civil actions for**
14 **similar relief.**

15 3. Upon prevailing in such civil action, the plaintiff may recover:

16 (1) Both special and general damages; and

17 (2) Reasonable attorney fees and costs.

544.170. **1. Except as provided in subsection 2 of this section,** all persons arrested and
2 confined in any jail[, calaboose] or other place of confinement by any peace officer, without
3 warrant or other process, for any alleged breach of the peace or other criminal offense, or on
4 suspicion thereof, shall be discharged from said custody within twenty hours from the time of
5 such arrest, unless they shall be charged with a criminal offense by the oath of some credible
6 person, and be held by warrant to answer to such offense[; and every such person shall, while so
7 confined, be permitted at all reasonable hours during the day to consult with counsel or other
8 persons in his behalf; and any person or officer who shall violate the provisions of this section,
9 by refusing to release any person who shall be entitled to such release, or by refusing to permit
10 him to see and consult with counsel or other persons, or who shall transfer any such prisoner to
11 the custody or control of another, or to another place, or prefer against such person a false charge,
12 with intent to avoid the provisions of this section, shall be deemed guilty of a misdemeanor].

13 **2. Upon a determination by the commanding officer, or the delegate thereof, of the**
14 **law enforcement agency making such an arrest, a person arrested for any of the following**
15 **offenses without warrant or other process of law, shall be released from custody within**
16 **thirty-two hours of arrest, unless the person is charged and held pursuant to a warrant to**
17 **answer for such offense:**

- 18 **(1) First degree murder pursuant to section 565.020, RSMo;**
19 **(2) Second degree murder pursuant to section 565.021, RSMo;**
20 **(3) First degree assault pursuant to section 565.050, RSMo;**
21 **(4) Forcible rape pursuant to section 566.030, RSMo;**
22 **(5) Forcible sodomy pursuant to section 566.060, RSMo;**
23 **(6) First degree robbery pursuant to section 659.020, RSMo; or**
24 **(7) Distribution of drugs pursuant to section 195.211, RSMo.**

25 **3. In any confinement to which the provisions of this section apply, the confinee**
26 **shall be permitted at any reasonable time to consult with counsel or other persons acting**
27 **on the confinee's behalf.**

28 **4. Any person who violates the provisions of this section, by refusing to release any**
29 **person who is entitled to release pursuant to this section, or by refusing to permit a**
30 **confinee to consult with counsel or other persons, or who transfers any such confinees to**
31 **the custody or control of another, or to another place, or who falsely charges such person,**
32 **with intent to avoid the provisions of this section, is guilty of a class A misdemeanor.**

558.019. 1. This section shall not be construed to affect the powers of the governor
2 under article IV, section 7, of the Missouri Constitution. This statute shall not affect those
3 provisions of section 565.020, RSMo, section 558.018 or section 571.015, RSMo, which set
4 minimum terms of sentences, or the provisions of section 559.115, RSMo, relating to probation.

5 2. The provisions of this section shall be applicable to all classes of felonies except those
6 set forth in chapter 195, RSMo, and those otherwise excluded in subsection 1 of this section.
7 For the purposes of this section, "prison commitment" means and is the receipt by the department
8 of corrections of a defendant after sentencing. For purposes of this section, prior prison
9 commitments to the department of corrections shall not include commitment to a regimented
10 discipline program established pursuant to section 217.378, RSMo. Other provisions of the law
11 to the contrary notwithstanding, any defendant who has pleaded guilty to or has been found
12 guilty of a felony other than a dangerous felony as defined in section 556.061, RSMo, and is
13 committed to the department of corrections shall be required to serve the following minimum
14 prison terms:

15 (1) If the defendant has one previous prison commitment to the department of
16 corrections for a felony offense, the minimum prison term which the defendant must serve shall
17 be forty percent of his sentence or until the defendant attains seventy years of age, and has served
18 at least forty percent of the sentence imposed, whichever occurs first;

19 (2) If the defendant has two previous prison commitments to the department of
20 corrections for felonies unrelated to the present offense, the minimum prison term which the
21 defendant must serve shall be fifty percent of his sentence or until the defendant attains seventy

22 years of age, and has served at least forty percent of the sentence imposed, whichever occurs
23 first;

24 (3) If the defendant has three or more previous prison commitments to the department
25 of corrections for felonies unrelated to the present offense, the minimum prison term which the
26 defendant must serve shall be eighty percent of his sentence or until the defendant attains seventy
27 years of age, and has served at least forty percent of the sentence imposed, whichever occurs
28 first.

29 3. Other provisions of the law to the contrary notwithstanding, any defendant who has
30 pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061,
31 RSMo, and is committed to the department of corrections shall be required to serve a minimum
32 prison term of eighty-five percent of the sentence imposed by the court or until the defendant
33 attains seventy years of age, and has served at least forty percent of the sentence imposed,
34 whichever occurs first.

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

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

38 (2) Any sentence either alone or in the aggregate with other consecutive sentences for
39 crimes committed at or near the same time which is over seventy-five years shall be calculated
40 to be seventy-five years.

41 5. For purposes of this section, the term "minimum prison term" shall mean time
42 required to be served by the defendant before he is eligible for parole, conditional release or other
43 early release by the department of corrections. Except that the board of probation and parole,
44 in the case of consecutive sentences imposed at the same time pursuant to a course of conduct
45 constituting a common scheme or plan, shall be authorized to convert consecutive sentences to
46 concurrent sentences, when the board finds, after hearing with notice to the prosecuting or circuit
47 attorney, that the sum of the terms results in an unreasonably excessive total term, taking into
48 consideration all factors related to the crime or crimes committed and the sentences received by
49 others similarly situated.

50 6. (1) A sentencing advisory commission is hereby created to consist of eleven
51 members. One member shall be appointed by the speaker of the house. One member shall be
52 appointed by the president pro tem of the senate. One member shall be the director of the
53 department of corrections. Six members shall be appointed by and serve at the pleasure of the
54 governor from among the following: the public defender commission; private citizens; a private
55 member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members
56 shall be appointed by the supreme court, one from a metropolitan area and one from a rural area.
57 All members of the sentencing commission appointed prior to August 28, 1994, shall continue

58 to serve on the sentencing advisory commission at the pleasure of the governor.

59 (2) The commission shall study sentencing practices in the circuit courts throughout the
60 state for the purpose of determining whether and to what extent disparities exist among the
61 various circuit courts with respect to the length of sentences imposed and the use of probation
62 for defendants convicted of the same or similar crimes and with similar criminal histories. The
63 commission shall also study and examine whether and to what extent sentencing disparity among
64 economic and social classes exists in relation to the sentence of death and if so, the reasons
65 therefor. It shall compile statistics, examine cases, draw conclusions, and perform other duties
66 relevant to the research and investigation of disparities in death penalty sentencing among
67 economic and social classes.

68 (3) The commission shall establish a system of recommended sentences, within the
69 statutory minimum and maximum sentences provided by law for each felony committed under
70 the laws of this state. This system of recommended sentences shall be distributed to all
71 sentencing courts within the state of Missouri. The recommended sentence for each crime shall
72 take into account, but not be limited to, the following factors:

73 (a) The nature and severity of each offense;

74 (b) The record of prior offenses by the offender;

75 (c) The data gathered by the commission showing the duration and nature of sentences
76 imposed for each crime; and

77 (d) The resources of the department of corrections and other authorities to carry out the
78 punishments that are imposed.

79 (4) The commission shall publish and distribute its system of recommended sentences
80 on or before July 1, 1995. The commission shall study the implementation and use of the system
81 of recommended sentences until July 1, 1998, and return a final report to the governor, the
82 speaker of the house of representatives, and the president pro tem of the senate. Following the
83 July 1, 1998, report, the commission may revise the recommended sentences every three years.

84 (5) The governor shall select a chairperson who shall call meetings of the commission
85 as required or permitted pursuant to the purpose of the sentencing commission.

86 (6) The members of the commission shall not receive compensation for their duties on
87 the commission, but shall be reimbursed for actual and necessary expenses incurred in the
88 performance of these duties and for which they are not reimbursed by reason of their paid
89 positions.

90 (7) The circuit and associate circuit courts of this state, the office of the state courts
91 administrator, the department of public safety, and the department of corrections shall cooperate
92 with the commission by providing information or access to information needed by the
93 commission. The office of the state courts administrator will provide needed staffing resources.

94 **7. If the imposition or execution of a sentence is suspended, the court may consider**
95 **ordering restorative justice methods pursuant to section 217.777, RSMo, including any or**
96 **all of the following:**

97 **(1) Restitution to any victim for costs incurred as a result of the offender's actions;**

98 **(2) Offender treatment programs;**

99 **(3) Mandatory community services;**

100 **(4) Work release programs in local facilities;**

101 **(5) Community-based residential or nonresidential programs;**

102 **(6) Any other method that the court finds just or appropriate.**

103 **8. If the imposition or execution of a sentence is suspended for a misdemeanor, in**
104 **addition to the provisions of subsection 7 of this section, the court may order the**
105 **assessment and payment of a designated amount of money to a county crime reduction**
106 **fund established by the county commission pursuant to section 50.555, RSMo. Said**
107 **contribution shall not exceed one thousand dollars for any misdemeanor offense. Any**
108 **money deposited into the county crime reduction fund pursuant to this section shall only**
109 **be expended as authorized by section 50.555, RSMo. An annual audit of the fund shall be**
110 **conducted by the county auditor or the state auditor.**

111 **9. The provisions of this section shall apply only to offenses occurring on or after August**
112 **28, 1994.**

565.042. 1. There is hereby created a "Commission on the Death Penalty", to
2 **consist of nine members: one member from each political party in the house of**
3 **representatives, to be appointed by the speaker of the house; one member from each**
4 **political party in the senate, to be appointed by the president pro tem; one member to be**
5 **appointed by the state public defender or designee thereof; one member appointed by the**
6 **attorney general or a designee thereof; and three victims advocacy members to be selected**
7 **as follows: one member to be appointed by the chair of the Missouri state prosecutors**
8 **association, one member to be appointed by the chair of the Missouri police officers**
9 **association, and one member to be appointed by the Missouri victim assistance network.**
10 **The members of the commission shall serve without compensation, but the members shall**
11 **be reimbursed for necessary expenses incurred in the work of the commission, such as**
12 **travel, food, and lodging. The commission shall be appointed and staffed on or before**
13 **December 1, 2001.**

14 **2. An executive director of the commission on the death penalty shall be appointed**
15 **by the commission to administer projects and programs for the operation of the**
16 **commission and shall transmit monthly to the commission a report of the operations of the**
17 **commission for the preceding month.**

18 **3. The commission on the death penalty shall hold public hearings and call before**
19 **it witnesses to testify on issues relevant to the administration of the death penalty in**
20 **Missouri. The commission may create an Internet web site and other means to**
21 **communicate with the public and invite citizen input.**

22 **4. The commission on the death penalty shall be given access to all information**
23 **relating to death penalty cases and first and second degree murder cases maintained by the**
24 **Missouri supreme court, inferior state courts, county and state prosecutor offices, and the**
25 **state public defender system. The commission may contract with universities for research**
26 **assistance in collecting and analyzing information on all aspects of the death penalty as**
27 **administered in Missouri.**

28 **5. The commission shall study all aspects of the death penalty as administered in**
29 **Missouri. As part of this study, the commission on the death penalty may review and**
30 **analyze all cases in which charges of second degree murder or first degree murder**
31 **committed on or after January 1, 1977, were filed. Such review and analysis shall examine**
32 **all available data concerning:**

33 **(1) The facts of the offense including mitigating and aggravating circumstances,**
34 **and information on the impact of the crime;**

35 **(2) The county in which the charges were filed;**

36 **(3) The charges originally filed;**

37 **(4) The crime for which the defendant was convicted or entered a plea of guilty;**

38 **(5) The sentence imposed;**

39 **(6) The age, race, gender, religious preference and economic status of the defendant**
40 **and of the victim;**

41 **(7) Whether evidence exists that the defendant was mentally retarded;**

42 **(8) The cost per disposition and implementation of sentence;**

43 **(9) The identity, number and experience level of defense counsel at trial, appeal,**
44 **and post-conviction;**

45 **(10) The identity, number and experience level of trial and appellate prosecutors,**
46 **including, where appropriate, members of the staff of the attorney general;**

47 **(11) The results of any post-conviction review in state or federal court.**

48 **6. In considering the experience level of attorneys and the adequacy of resources**
49 **as described in subdivisions (9) and (10) of subsection 5 of this section, the commission**
50 **shall consider the experience and training levels required by the Missouri supreme court,**
51 **the experience and training levels required by the courts and legislators of other**
52 **jurisdictions in which the death penalty is imposed and the recommendations of national**
53 **associations.**

54 7. The review conducted by the commission shall include new criminal homicide
55 charges filed during the state period.

56 8. The commission shall report its findings and recommendations regarding the
57 death penalty, including remedies for any deficiencies found by the commission, to the
58 governor, members of the legislature, and the Missouri supreme court by January 1, 2004.

59 9. The commission shall make recommendations for amendments to the statutes
60 and court rules pertaining to cases in which the death penalty is sought or imposed to
61 provide assurances that:

62 (1) Defendants who are sentenced to death are in fact guilty of first degree murder;

63 (2) Defendants in cases in which the death penalty is sought are provided adequate
64 and experienced counsel and adequate resources for the defense of their cases at trial;

65 (3) Defendants in cases in which the death penalty is imposed are provided
66 adequate and experienced counsel and adequate resources for the defense of their cases at
67 the appellate and post-conviction stages;

68 (4) Race does not play an impermissible role in determining which defendants are
69 sentenced to death;

70 (5) Appellate and post-conviction procedures are adequate to provide a fair
71 opportunity for the courts of this state to correct errors and injustices that occurred at trial
72 in cases in which the death penalty is imposed, including but not limited to, allowing access
73 to physical evidence for later testing and analysis; and

74 (6) All prosecutors throughout this state use similar criteria to determine whether
75 to seek the death penalty in a case involving criminal homicide.

565.310. 1. No person shall intentionally engage in or attempt to engage in human
2 cloning. Nothing in this section shall be construed as prohibiting scientific research or cell-
3 based therapies not specifically prohibited by this section.

4 2. Any person who violates the provisions of this section is guilty of a felony
5 punishable by imprisonment for not more than ten years and a fine of not more than ten
6 million dollars.

7 3. As used in this section, the following terms mean:

8 (1) "Human cloning", the use of human somatic cell nuclear transfer technology
9 to produce a human embryo;

10 (2) "Human embryo", a human egg cell with a full genetic composition capable of
11 differentiating and maturing as a complete human being;

12 (3) "Human somatic cell", a cell of a developing or fully developed human being
13 that is not and will not become a sperm or egg cell;

14 (4) "Human somatic cell nuclear transfer", transferring the nucleus of a human

15 **somatic cell into an egg cell from which the nucleus has been removed or rendered inert.**

570.010. As used in this chapter:

2 (1) "Adulterated" means varying from the standard of composition or quality prescribed
3 by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if
4 none, as set by commercial usage;

5 (2) "Appropriate" means to take, obtain, use, transfer, conceal or retain possession of;

6 (3) "Coercion" means a threat, however communicated:

7 (a) To commit any crime; or

8 (b) To inflict physical injury in the future on the person threatened or another; or

9 (c) To accuse any person of any crime; or

10 (d) To expose any person to hatred, contempt or ridicule; or

11 (e) To harm the credit or business repute of any person; or

12 (f) To take or withhold action as a public servant, or to cause a public servant to take or
13 withhold action; or

14 (g) To inflict any other harm which would not benefit the actor.

15

16 A threat of accusation, lawsuit or other invocation of official action is not coercion if the
17 property sought to be obtained by virtue of such threat was honestly claimed as restitution or
18 indemnification for harm done in the circumstances to which the accusation, exposure, lawsuit
19 or other official action relates, or as compensation for property or lawful service. The defendant
20 shall have the burden of injecting the issue of justification as to any threat;

21 (4) "Credit device" means a writing, number or other device purporting to evidence an
22 undertaking to pay for property or services delivered or rendered to or upon the order of a
23 designated person or bearer;

24 (5) "Dealer" means a person in the business of buying and selling goods;

25 (6) "Debit device" means a card, code, number or other device, other than a check, draft
26 or similar paper instrument, by the use of which a person may initiate an electronic fund transfer,
27 including but not limited to devices that enable electronic transfers of benefits to public
28 assistance recipients;

29 (7) "Deceit" means purposely making a representation which is false and which the actor
30 does not believe to be true and upon which the victim relies, as to a matter of fact, law, value,
31 intention or other state of mind. The term "deceit" does not, however, include falsity as to
32 matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary
33 persons in the group addressed. Deception as to the actor's intention to perform a promise shall
34 not be inferred from the fact alone that he did not subsequently perform the promise;

35 (8) "Deprive" means:

- 36 (a) To withhold property from the owner permanently; or
37 (b) To restore property only upon payment of reward or other compensation; or
38 (c) To use or dispose of property in a manner that makes recovery of the property by the
39 owner unlikely;

40 (9) "Misabeled" means varying from the standard of truth or disclosure in labeling
41 prescribed by statute or lawfully promulgated administrative regulations of this state lawfully
42 filed, or if none, as set by commercial usage; or represented as being another person's product,
43 though otherwise accurately labeled as to quality and quantity;

44 (10) **"New and unused property" means tangible personal property that has never**
45 **been used since its production or manufacture and is in its original unopened package or**
46 **container if such property was packaged;**

47 (11) "Of another" property or services is that "of another" if any natural person,
48 corporation, partnership, association, governmental subdivision or instrumentality, other than
49 the actor, has a possessory or proprietary interest therein, except that property shall not be
50 deemed property of another who has only a security interest therein, even if legal title is in the
51 creditor pursuant to a conditional sales contract or other security arrangement;

52 [(11)] (12) "Property" means anything of value, whether real or personal, tangible or
53 intangible, in possession or in action, and shall include but not be limited to the evidence of a
54 debt actually executed but not delivered or issued as a valid instrument;

55 [(12)] (13) "Receiving" means acquiring possession, control or title or lending on the
56 security of the property;

57 [(13)] (14) "Services" includes transportation, telephone, electricity, gas, water, or other
58 public service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and
59 use of vehicles;

60 [(14)] (15) "Writing" includes printing, any other method of recording information,
61 money, coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and
62 any other symbols of value, right, privilege or identification.

570.030. 1. A person commits the crime of stealing if he or she appropriates property
2 or services of another with the purpose to deprive him or her thereof, either without his or her
3 consent or by means of deceit or coercion.

4 2. Evidence of the following is admissible in any criminal prosecution under this section
5 on the issue of the requisite knowledge or belief of the alleged stealer:

6 (1) That he or she failed or refused to pay for property or services of a hotel, restaurant,
7 inn or boardinghouse;

8 (2) That he or she gave in payment for property or services of a hotel, restaurant, inn or
9 boardinghouse a check or negotiable paper on which payment was refused;

10 (3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not
11 pay for property or services;

12 (4) That he or she surreptitiously removed or attempted to remove his or her baggage
13 from a hotel, inn or boardinghouse;

14 **(5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters,**
15 **transfers, makes, alters, counterfeits or reproduces a retail sales receipt, price tag or**
16 **universal price code label, or possesses with intent to cheat or defraud, the device that**
17 **manufactures fraudulent receipts or universal price code labels.**

18 3. Stealing is a class C felony if:

19 (1) The value of the property or services appropriated is [seven] **four** hundred [fifty]
20 **twenty-five** dollars or more; or

21 (2) The actor physically takes the property appropriated from the person of the victim;
22 or

23 (3) The property appropriated consists of:

24 (a) Any motor vehicle, watercraft or aircraft; or

25 (b) Any will or unrecorded deed affecting real property; or

26 (c) Any credit card or letter of credit; or

27 (d) Any firearms; or

28 (e) A United States national flag designed, intended and used for display on buildings
29 or stationary flagstaffs in the open; or

30 (f) Any original copy of an act, bill or resolution, introduced or acted upon by the
31 legislature of the state of Missouri; or

32 (g) Any pleading, notice, judgment or any other record or entry of any court of this state,
33 any other state or of the United States; or

34 (h) Any book of registration or list of voters required by chapter 115, RSMo; or

35 (i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

36 (j) Live fish raised for commercial sale with a value of seventy-five dollars; or

37 (k) Any controlled substance as defined by section 195.010, RSMo.

38 4. If an actor appropriates any material with a value less than one hundred fifty dollars
39 in violation of this section with the intent to use such material to manufacture, compound,
40 produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues,
41 then such violation is a class D felony. The theft of any amount of anhydrous ammonia is a class
42 D felony.

43 5. The theft of any item of property or services [under] **pursuant to** subsection 3 of this
44 section which exceeds [seven hundred fifty] **four hundred twenty-five** dollars may be
45 considered a separate felony and may be charged in separate counts.

46 6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection
47 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection
48 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars
49 is guilty of a class B felony.

50 7. Any violation of this section for which no other penalty is specified in this section is
51 a class A misdemeanor.

 570.080. 1. A person commits the crime of receiving stolen property if for the purpose
2 of depriving the owner of a lawful interest therein, [he] **the person** receives, retains or disposes
3 of property of another knowing that it has been stolen, or believing that it has been stolen.

4 2. Evidence of the following is admissible in any criminal prosecution [under] **pursuant**
5 **to** this section to prove the requisite knowledge or belief of the alleged receiver:

6 (1) That [he] **the person** was found in possession or control of other property stolen on
7 separate occasions from two or more persons;

8 (2) That [he] **the person** received other stolen property in another transaction within the
9 year preceding the transaction charged;

10 (3) That [he] **the person** acquired the stolen property for a consideration which [he] **the**
11 **person** knew was far below its reasonable value.

12 3. Receiving stolen property is a class A misdemeanor unless the property involved has
13 a value of **at least** one hundred fifty dollars **but less than four hundred twenty-five dollars,**
14 **in which case receiving stolen property is a class D felony. If the property involved has a**
15 **value of four hundred twenty-five dollars** or more, or the person receiving the property is a
16 dealer in goods of the type in question, in which cases receiving stolen property is a class C
17 felony.

 570.090. 1. A person commits the crime of forgery if, with the purpose to defraud, [he]
2 **the person:**

3 (1) Makes, completes, alters or authenticates any writing so that it purports to have been
4 made by another or at another time or place or in a numbered sequence other than was in fact the
5 case or with different terms or by authority of one who did not give such authority; or

6 (2) Erases, obliterates or destroys any writing; or

7 (3) Makes or alters anything other than a writing, **including receipts and universal**
8 **product codes**, so that it purports to have a genuineness, antiquity, rarity, ownership or
9 authorship which it does not possess; or

10 (4) Uses as genuine, or possesses for the purpose of using as genuine, or transfers with
11 the knowledge or belief that it will be used as genuine, any writing or other thing **including**
12 **receipts and universal product codes**, which the actor knows has been made or altered in the
13 manner described in this section.

14 2. Forgery is a class C felony.

570.120. 1. A person commits the crime of passing a bad check when:

2 (1) With purpose to defraud, [he] **the person** makes, issues or passes a check or other
3 similar sight order for the payment of money, knowing that it will not be paid by the drawee, or
4 that there is no such drawee; or

5 (2) [He] **The person** makes, issues, or passes a check or other similar sight order for the
6 payment of money, knowing that there are insufficient funds in [his] **that** account or that there
7 is no such account or no drawee and fails to pay the check or sight order within ten days after
8 receiving actual notice in writing that it has not been paid because of insufficient funds or credit
9 with the drawee or because there is no such drawee.

10 2. As used in subdivision (2) of subsection 1 of this section, actual notice in writing
11 means notice of the nonpayment which is actually received by the defendant. Such notice may
12 include the service of summons or warrant upon the defendant for the initiation of the
13 prosecution of the check or checks which are the subject matter of the prosecution if the
14 summons or warrant contains information of the ten-day period during which the instrument may
15 be paid and that payment of the instrument within such ten-day period will result in dismissal
16 of the charges. The requirement of notice shall also be satisfied for written communications
17 which are tendered to the defendant and which the defendant refuses to accept.

18 3. The face amounts of any bad checks passed pursuant to one course of conduct within
19 any ten-day period may be aggregated in determining the grade of the offense.

20 4. Passing bad checks is a class A misdemeanor, unless:

21 (1) The face amount of the check or sight order or the aggregated amounts is one
22 hundred fifty dollars or more; or

23 (2) The issuer had no account with the drawee or if there was no such drawee at the time
24 the check or order was issued, in which cases passing bad checks is a class D felony.

25 5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney
26 or circuit attorney who takes any action [under] **pursuant to** the provisions of this section shall
27 collect from the issuer in such action an administrative handling cost. The cost shall be [five
28 dollars for checks of less than ten dollars, ten dollars for checks of ten dollars but less than one
29 hundred dollars, and twenty-five dollars for checks of one hundred dollars or more] **twenty-five**
30 **dollars for any bad check. For checks of one hundred dollars or more, an additional fee**
31 **of ten percent of the face amount shall be assessed, with a maximum fee for administrative**
32 **handling costs not to exceed fifty dollars total.** Notwithstanding the provisions of sections
33 50.525 to 50.745, RSMo, the costs provided for in this subsection shall be deposited by the
34 county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney
35 or circuit attorney. The funds shall be expended, upon warrants issued by the prosecuting

36 attorney or circuit attorney directing the treasurer to issue checks thereon, only for purposes
37 related to that [previously] authorized in this section. Any revenues that are not required for the
38 purposes of this section may be placed in the general revenue fund of the county or city not
39 within a county.

40 (2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney
41 for office supplies, postage, books, training, office equipment, [capital outlay,] expenses of trial
42 and witness preparation, additional employees for the staff of the prosecuting or circuit attorney
43 and employees' salaries.

44 (3) This fund may be audited by the state auditor's office or the appropriate auditing
45 agency.

46 (4) If the moneys collected and deposited into this fund are not totally expended
47 annually, then the unexpended balance shall remain in said fund and the balance shall be kept
48 in said fund to accumulate from year to year.

49 6. [Notwithstanding any other provisions of law to the contrary, in addition to the
50 administrative handling costs provided for in subsection 5 of this section, the prosecuting
51 attorney or circuit attorney may, in his discretion, collect from the issuer, in addition to the face
52 amount of the check, a reasonable service charge, which along with the face amount of the check
53 shall be turned over to the party to whom the bad check was issued. If the prosecuting attorney
54 or circuit attorney does not collect the service charge and the face amount of the check, the party
55 to whom the check was issued may collect from the issuer a reasonable service charge along with
56 the face amount of the check.] **Notwithstanding any other provision of law to the contrary:**

57 (1) **In addition to the administrative handling costs provided for in subsection 5 of**
58 **this section, the prosecuting attorney or circuit attorney shall collect from the issuer, in**
59 **addition to the face amount of the check, a reasonable service charge, which along with the**
60 **face amount of the check, shall be turned over to the party to whom the bad check was**
61 **issued;**

62 (2) **If a check that is dishonored or returned unpaid by a financial institution is not**
63 **referred to the prosecuting attorney or circuit attorney for any action pursuant to the**
64 **provisions of this section, the party to whom the check was issued, or his or her agent or**
65 **assignee, or a holder, may collect from the issuer, in addition to the face amount of the**
66 **check, a reasonable service charge, not to exceed thirty dollars, plus an amount equal to**
67 **the actual charge by the depository institution for the return of each unpaid or dishonored**
68 **instrument.**

69 7. In all cases where a prosecutor receives notice from the original holder that a person
70 has violated this section with respect to a payroll check or order, the prosecutor, if [he] **such**
71 **prosecutor** determines there is a violation of this section, shall file an information or seek an

72 indictment within sixty days of such notice and may file an information or seek an indictment
73 thereafter if the prosecutor has failed through neglect or mistake to do so within sixty days of
74 such notice and if [he] **such prosecutor** determines there is sufficient evidence shall further
75 prosecute such cases.

76 8. When any financial institution returns a dishonored check to the person who deposited
77 such check, it shall be in substantially the same physical condition as when deposited, or in such
78 condition as to provide the person who deposited the check the information required to identify
79 the person who wrote the check.

574.085. 1. A person commits the crime of institutional vandalism by knowingly
2 vandalizing, defacing or otherwise damaging:

3 (1) Any church, synagogue or other building, structure or place used for religious
4 worship or other religious purpose;

5 (2) Any cemetery, mortuary, military monument or other facility used for the purpose
6 of burial or memorializing the dead;

7 (3) Any school, educational facility, community center, hospital or medical clinic owned
8 and operated by a religious or sectarian group;

9 (4) The grounds adjacent to, and owned or rented by, any institution, facility, building,
10 structure or place described in subdivision (1), (2), or (3) of this subsection;

11 (5) Any personal property contained in any institution, facility, building, structure or
12 place described in subdivision (1), (2), or (3) of this subsection; or

13 (6) Any motor vehicle which is owned, operated, leased or under contract by a school
14 district or a private school for the transportation of school children.

15 2. Institutional vandalism is punishable as follows:

16 (1) Institutional vandalism is a class A misdemeanor[, except as provided in subdivisions
17 (2) and (3) of this subsection] **if the damage to or loss of the property is valued at less than**
18 **five hundred dollars;**

19 (2) Institutional vandalism is a class D felony if the [offender commits any act described
20 in subsection 1 of this section which causes damage to, or loss of, the property of another in an
21 amount in excess of one thousand dollars] **damage to or loss of the property is valued at at**
22 **least five hundred dollars and not more than ten thousand dollars;**

23 (3) Institutional vandalism is a class C felony if the [offender commits any act described
24 in subsection 1 of this section which causes damage to, or loss of, the property of another in an
25 amount in excess of five thousand dollars] **damage to or loss of the property is valued at at**
26 **least ten thousand dollars and less than one hundred thousand dollars;**

27 (4) **Institutional vandalism is a class C felony and the offender shall be sentenced**
28 **to seven years incarceration without possibility of probation or parole, if the damage to or**

29 **loss of the property is valued at at least one hundred thousand dollars.**

30 3. In determining the amount of damage to property or loss of property, for purposes of
31 this section, damage includes the cost of repair or, where necessary, replacement of the property
32 that was damaged or lost.

33 **4. In addition to any other penalty, the offender shall be ordered to pay restitution**
34 **for the damage to or loss of the property.**