

HOUSE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
SENATE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 5

1 AN ACT

2 To repeal sections 56.807, 84.570, 217.362,  
3 217.750, 217.760, 478.610, 513.653, 556.061,  
4 557.036, 558.011, 558.016, 558.019, 559.026,  
5 559.115, 565.081, 565.082, 565.083, 568.045,  
6 570.030, 570.040, 571.030, 589.400, 589.407,  
7 589.414, and 595.209, RSMo, and to enact in  
8 lieu thereof twenty-eight new sections  
9 relating to crime, with penalty provisions  
10 and an emergency clause.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
12 AS FOLLOWS:

13 Section A. Sections 56.807, 84.570, 217.362, 217.750,  
14 217.760, 478.610, 513.653, 556.061, 557.036, 558.011, 558.016,  
15 558.019, 559.026, 559.115, 565.081, 565.082, 565.083, 568.045,  
16 570.030, 570.040, 571.030, 589.400, 589.407, 589.414, and  
17 595.209, RSMo, are repealed and twenty-eight new sections enacted  
18 in lieu thereof, to be known as sections 56.807, 84.570, 217.362,  
19 217.750, 217.760, 478.610, 488.026, 488.5026, 513.653, 556.061,

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in boldface type in the above law is proposed language.**

1 557.036, 558.011, 558.016, 558.019, 559.026, 559.115, 565.081,  
2 565.082, 565.083, 565.350, 568.045, 570.030, 570.040, 571.030,  
3 589.400, 589.407, 589.414, and 595.209, to read as follows:

4 56.807. 1. Beginning August 28, 1989, and continuing  
5 monthly thereafter until August 27, 2003, the funds for  
6 prosecuting attorneys and circuit attorneys provided for in  
7 subsection 2 of this section shall be paid from county or city  
8 funds.

9 2. Beginning [thirty days after the establishment of this  
10 system] August 28, 1989, and continuing monthly thereafter until  
11 August 27, 2003, each county treasurer shall pay to the system  
12 the following amounts to be drawn from the general revenues of  
13 the county:

14 (1) For counties of the third and fourth classification  
15 except as provided in subdivision (3) of this subsection, three  
16 hundred seventy-five dollars;

17 (2) For counties of the second classification, five hundred  
18 forty-one dollars and sixty-seven cents;

19 (3) For counties of the first classification, counties  
20 which pursuant to section 56.363 elect to make the position of  
21 prosecuting attorney a full-time position after August 28, 2001,  
22 or whose county commission has elected a full-time retirement  
23 benefit pursuant to subsection 3 of section 56.363, and the city  
24 of St. Louis, one thousand two hundred ninety-one dollars and  
25 sixty-seven cents.

1           3. Beginning August 28, 1989, and continuing until August  
2 27, 2003, the county treasurer shall at least monthly transmit  
3 the sums specified in subsection 2 of this section to the  
4 Missouri office of prosecution services for deposit to the credit  
5 of the "Missouri Prosecuting Attorneys and Circuit Attorneys'  
6 Retirement System Fund", which is hereby created. All moneys  
7 held by the state treasurer on behalf of the system shall be paid  
8 to the system within ninety days after August 28, 1993. Moneys  
9 in the Missouri prosecuting attorneys and circuit attorneys'  
10 retirement system fund shall be used only for the purposes  
11 provided in sections 56.800 to 56.840 and for no other purpose.

12           4. Beginning August 28, 2003, the funds for prosecuting  
13 attorneys and circuit attorneys provided for in this section  
14 shall be paid from county or city funds and the surcharge  
15 established in this section and collected as provided by this  
16 section and sections 488.010 to 488.020, RSMo.

17           5. Beginning August 28, 2003, each county treasurer shall  
18 pay to the system the following amounts to be drawn from the  
19 general revenues of the county:

20           (1) For counties of the third and fourth classification  
21 except as provided in subdivision (3) of this subsection, one  
22 hundred eighty-seven dollars;

23           (2) For counties of the second classification, two hundred  
24 seventy-one dollars;

25           (3) For counties of the first classification, counties

1 which pursuant to section 56.363, elect to make the position of  
2 prosecuting attorney a full-time position after August 28, 2001,  
3 or whose county commission has elected a full-time retirement  
4 benefit pursuant to subsection 3 of section 56.363, and the city  
5 of St. Louis, six hundred forty-six dollars.

6 6. Beginning August 28, 2003, the county treasurer shall at  
7 least monthly transmit the sums specified in subsection 5 of this  
8 section to the Missouri office of prosecution services for  
9 deposit to the credit of the Missouri prosecuting attorneys and  
10 circuit attorneys' retirement system fund. Moneys in the  
11 Missouri prosecuting attorneys and circuit attorneys retirement  
12 system fund shall be used only for the purposes provided in  
13 sections 56.800 to 56.840, and for no other purpose.

14 7. Beginning August 28, 2003, the following surcharge for  
15 prosecuting attorneys and circuit attorneys shall be collected  
16 and paid as follows:

17 (1) There shall be assessed and collected a surcharge of  
18 four dollars in all criminal cases filed in the courts of this  
19 state including violation of any county ordinance or any  
20 violation of criminal or traffic laws of this state, including  
21 infractions, but no such surcharge shall be assessed when the  
22 costs are waived or are to be paid by the state, county, or  
23 municipality or when a criminal proceeding or the defendant has  
24 been dismissed by the court or against any person who has pled  
25 guilty and paid their fine pursuant to subsection 4 of section

1 476.385, RSMo. For purposes of this section, the term "county  
2 ordinance" shall include any ordinance of the city of St. Louis;

3 (2) The clerk responsible for collecting court costs in  
4 criminal cases shall collect and disburse such amounts as  
5 provided by sections 488.010 to 488.026, RSMo. Such funds shall  
6 be payable to the prosecuting attorneys and circuit attorneys'  
7 retirement fund moneys credited to the prosecuting attorneys and  
8 circuit attorneys' retirement fund and shall be used only for the  
9 purposes provided for in sections 56.800 to 56.840 and for no  
10 other purpose.

11 8. The board may accept gifts, donations, grants and  
12 bequests from private or public sources to the Missouri  
13 prosecuting attorneys and circuit attorneys' retirement system  
14 fund.

15 [5.] 9. No state moneys shall be used to fund section  
16 56.700 and sections 56.800 to 56.840 unless provided for by law.

17 84.570. 1. No person shall be appointed policeman or  
18 officer of police who shall have been convicted of any offense,  
19 the punishment of which may be confinement in the state  
20 penitentiary; nor shall any person be appointed who is not proven  
21 to be of good character, or who is not proven to be a bona fide  
22 citizen [and resident of such city for a period of at least one  
23 year and a citizen] of the United States, or who cannot read and  
24 write the English language and who does not possess ordinary  
25 physical strength and courage, nor shall any person be originally

1 appointed to said police force who is less than twenty-one years  
2 of age[; provided, however, that the board of police  
3 commissioners may, upon recommendation of the chief, waive the  
4 requirement of residency in the appointment of any policeman or  
5 officer of police for the period during which such appointee  
6 shall be on probationary status; provided, however, that on  
7 completion of the probationary period such policeman or officer  
8 of police becomes a bona fide resident of such city].

9 Notwithstanding any other provision of law, the board shall have  
10 the sole authority to determine conditions of employment for  
11 police officers pursuant to section 84.460.

12 2. The board shall from time to time require open  
13 competitive examinations or tests for determining the  
14 qualifications and fitness of all applicants for appointment to  
15 positions on the police force. Such examinations and tests shall  
16 be practical and shall relate to matters which fairly measure the  
17 relative fitness of the candidates to discharge the duties of the  
18 positions to which they seek to be appointed. Notice of such  
19 examinations and tests shall be given not less than ten days in  
20 advance thereof by public advertisement in at least one newspaper  
21 of general circulation in such city, and by posting notice in the  
22 police headquarters building. A list of those qualifying in such  
23 examinations shall be established, listing those qualified in  
24 order of rank. When an appointment is to be made, the  
25 appointment shall be made from such eligible list.

1           3. The board shall also establish rules for:

2           (1) Temporary employment for not exceeding sixty days in  
3 the absence of any eligible list;

4           (2) Hours of work of police employees and officers subject  
5 to the provisions of section 84.510; and

6           (3) Attendance regulations and leaves of absence.

7           217.362. 1. The department of corrections shall design and  
8 implement an intensive long-term program for the treatment of  
9 chronic nonviolent offenders with serious substance abuse  
10 addictions who have not pleaded guilty to or been convicted of a  
11 dangerous felony as defined in section 556.061, RSMo.

12           2. Prior to sentencing, any judge considering an offender  
13 for this program shall notify the department. The potential  
14 candidate for the program shall be screened by the department to  
15 determine eligibility. The department shall, by regulation,  
16 establish eligibility criteria and inform the court of such  
17 criteria. The department shall notify the court as to the  
18 offender's eligibility and the availability of space in the  
19 program. Notwithstanding any other provision of law to the  
20 contrary, except as provided for in section 558.019, RSMo, if an  
21 offender is eligible and there is adequate space, the court may  
22 sentence a person to the program which shall consist of  
23 institutional drug or alcohol treatment for a period of at least  
24 twelve and no more than twenty-four months, as well as a term of  
25 incarceration. The department shall determine the nature,

1 intensity, duration, and completion criteria of the education,  
2 treatment, and aftercare portions of any program services  
3 provided. Execution of the offender's term of incarceration  
4 shall be suspended pending completion of said program.

5 Allocation of space in the program may be distributed by the  
6 department in proportion to drug arrest patterns in the state. If  
7 the court is advised that an offender is not eligible or that  
8 there is no space available, the court shall consider other  
9 authorized dispositions.

10 3. [Notwithstanding any other provision of the law to the  
11 contrary, upon successful completion of the program, the board of  
12 probation and parole may advise the sentencing court of the  
13 eligibility of the individual for probation. The original  
14 sentencing court shall hold a hearing to make a determination as  
15 to the fitness of the offender to be placed on probation. The  
16 court shall follow the recommendation of the board unless the  
17 court makes a determination that such a placement would be an  
18 abuse of discretion. If an offender successfully completes the  
19 program before the end of the twenty-four-month period, the  
20 department may petition the court and request that probation be  
21 granted immediately.] Upon successful completion of the program,  
22 the board of probation and parole shall advise the sentencing  
23 court of an offender's probationary release date thirty days  
24 prior to release. If the court determines that probation is not  
25 appropriate the court may order the execution of the offender's

1 sentence.

2 4. If it is determined by the department that the offender  
3 has not successfully completed the program, or that the offender  
4 is not cooperatively participating in the program, the offender  
5 shall be removed from the program and the court shall be advised.  
6 Failure of an offender to complete the program shall cause the  
7 offender to serve the sentence prescribed by the court and void  
8 the right to be considered for probation on this sentence.

9 5. An offender's first incarceration in a department of  
10 corrections program pursuant to this section prior to release on  
11 probation shall not be considered a previous prison commitment  
12 for the purpose of determining a minimum prison term pursuant to  
13 the provisions of section 558.019, RSMo.

14 217.750. 1. At the request of a judge of any circuit  
15 court, the board shall provide probation services for such court  
16 as provided in subsection 2 of this section.

17 2. The board shall provide probation services for any  
18 person convicted of any class of felony. The board shall not [be  
19 required to] provide probation services for any class of  
20 misdemeanor except those class A misdemeanors the basis of which  
21 is contained in chapters 565[, ] and 566 [and 570], RSMo, or in  
22 section 568.050, RSMo, 455.085, RSMo, or section 455.538, RSMo.  
23 [The board may in its discretion accept other persons for  
24 supervision who have been convicted of driving while intoxicated  
25 under the provisions of section 577.023, RSMo.]

1           217.760. 1. In all felony cases and class A misdemeanor  
2 cases, the basis of which misdemeanor cases are contained in  
3 chapters 565[, ] and 566, [and 570,] RSMo, and section 577.023,  
4 RSMo, at the request of a circuit judge of any circuit court, the  
5 board shall assign one or more state probation and parole  
6 officers to make an investigation of the person convicted of the  
7 crime or offense before sentence is imposed. In all felony cases  
8 in which the recommended sentence established by the sentencing  
9 advisory commission pursuant to subsection 6 of section 558.019,  
10 RSMo, includes probation but the recommendation of the  
11 prosecuting attorney or circuit attorney does not include  
12 probation, the board of probation and parole shall, prior to  
13 sentencing, provide the judge with a report on available  
14 alternatives to incarceration. If a presentence investigation  
15 report is completed then the available alternatives shall be  
16 included in the presentence investigation report.

17           2. The report of the presentence investigation or preparole  
18 investigation shall contain any prior criminal record of the  
19 defendant and such information about his or her characteristics,  
20 his or her financial condition, his or her social history [and],  
21 the circumstances affecting his or her behavior as may be helpful  
22 in imposing sentence or in granting probation or in the  
23 correctional treatment of the defendant, information concerning  
24 the impact of the crime upon the victim, the recommended sentence  
25 established by the sentencing advisory commission and available

1 alternatives to incarceration including opportunities for  
2 restorative justice, as well as a recommendation by the probation  
3 and parole officer. The officer shall secure such other  
4 information as may be required by the court and, whenever it is  
5 practicable and needed, such investigation shall include a  
6 physical and mental examination of the defendant.

7 478.610. 1. There shall be three circuit judges in the  
8 thirteenth judicial circuit consisting of the counties of Boone  
9 and Callaway. These judges shall sit in divisions numbered one,  
10 two and three. Beginning on January 1, 2007, there shall be four  
11 circuit judges in the thirteenth judicial circuit and these  
12 judges shall sit in divisions numbered one, two, three, and four.

13 2. The circuit judge in division two shall be elected in  
14 1980. The circuit judges in divisions one and three shall be  
15 elected in 1982. The circuit judge in division four shall be  
16 elected in 2006 for a two-year term and thereafter in 2008 for a  
17 full six-year term.

18 3. The authority for a majority of judges of the thirteenth  
19 judicial circuit to appoint or retain a commissioner pursuant to  
20 section 478.003 shall expire August 28, 2001. As of such date,  
21 there shall be one additional associate circuit judge position in  
22 Boone County than is provided pursuant to section 478.320.

23 488.026. As provided by section 56.807, RSMo, there shall  
24 be assessed and collected a surcharge of four dollars in all  
25 criminal cases filed in the courts of this state, including

1 violations of any county ordinance or any violation of criminal  
2 or traffic laws of this state, including infractions, but no such  
3 surcharges shall be assessed when the costs are waived or are to  
4 be paid by the state, county, or municipality or when a criminal  
5 proceeding or the defendant has been dismissed by the court or  
6 against any person who has pled guilty and paid their fine  
7 pursuant to subsection 4 of section 476.385, RSMo. For purposes  
8 of this section, the term "county ordinance" shall include any  
9 ordinance of the City of St. Louis. The clerk responsible for  
10 collecting court costs in criminal cases shall collect and  
11 disburse such amounts as provided by sections 488.010 to 488.020.  
12 Such funds shall be payable to the prosecuting attorneys and  
13 circuit attorneys' retirement fund.

14 488.5026. 1. Upon approval of the governing body of a  
15 city, county, or a city not within a county, a surcharge of two  
16 dollars shall be assessed as costs in each court proceeding filed  
17 in any court in any city, county, or city not within a county  
18 adopting such a surcharge, in all criminal cases including  
19 violations of any county ordinance or any violation of criminal  
20 or traffic laws of the state, including an infraction and  
21 violation of a municipal ordinance; except that no such fee shall  
22 be collected in any proceeding in any court when the proceeding  
23 or the defendant has been dismissed by the court or when costs  
24 are to be paid by the state, county, or municipality. A  
25 surcharges of two dollars shall be assessed as costs in a juvenile

1 court proceeding in which a child is found by the court to come  
2 within the applicable provisions of subdivision (3) of subsection  
3 1 of section 211.031, RSMo.

4 2. Notwithstanding any other provision of law, the moneys  
5 collected by clerks of the courts pursuant to the provisions of  
6 subsection 1 of this section shall be collected and disbursed in  
7 accordance with sections 488.010 to 488.020, and shall be payable  
8 to the treasurer of the governmental unit authorizing such  
9 surcharge.

10 3. The treasurer shall deposit funds generated by the  
11 surcharge into the "Inmate Security Fund". Funds deposited shall  
12 be utilized to develop biometric identification systems to insure  
13 that inmates can be properly identified and tracked within the  
14 local jail system.

15 513.653. 1. Law enforcement agencies involved in using the  
16 federal forfeiture system under federal law shall be required at  
17 the end of their respective fiscal year to acquire an independent  
18 audit of the federal seizures and the proceeds received therefrom  
19 and provide this audit to their respective governing body and to  
20 the department of public safety. A copy of such audit shall be  
21 provided to the state auditor's office. This audit shall be paid  
22 for out of the proceeds of such federal forfeitures. The  
23 department of public safety shall not issue funds to any law  
24 enforcement agency that fails to comply with the provisions of  
25 this section.

1           2. Intentional or knowing failure to comply with the audit  
2 requirement contained in this section shall be a class A  
3 misdemeanor, punishable by a fine of up to one thousand dollars.

4           556.061. In this code, unless the context requires a  
5 different definition, the following shall apply:

6           (1) "Affirmative defense" has the meaning specified in  
7 section 556.056;

8           (2) "Burden of injecting the issue" has the meaning  
9 specified in section 556.051;

10          (3) "Commercial film and photographic print processor", any  
11 person who develops exposed photographic film into negatives,  
12 slides or prints, or who makes prints from negatives or slides,  
13 for compensation. The term commercial film and photographic  
14 print processor shall include all employees of such persons but  
15 shall not include a person who develops film or makes prints for  
16 a public agency;

17          (4) "Confinement":

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

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

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

24           c. A public servant having the legal power and duty to  
25 confine the person authorizes his release without guard and

1 without condition that he return to confinement;

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

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

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

11 (5) "Consent": consent or lack of consent may be expressed  
12 or implied. Assent does not constitute consent if:

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

16 (b) It is given by a person who by reason of youth, mental  
17 disease or defect, or intoxication, is manifestly unable or known  
18 by the actor to be unable to make a reasonable judgment as to the  
19 nature or harmfulness of the conduct charged to constitute the  
20 offense; or

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

22 (6) "Criminal negligence" has the meaning specified in  
23 section 562.016, RSMo;

24 (7) "Custody", a person is in custody when the person has  
25 been arrested but has not been delivered to a place of

1 confinement;

2 (8) "Dangerous felony" means the felonies of arson in the  
3 first degree, assault in the first degree, attempted forcible  
4 rape if physical injury results, attempted forcible sodomy if  
5 physical injury results, forcible rape, forcible sodomy,  
6 kidnaping, murder in the second degree, assault of a law  
7 enforcement officer in the first degree, domestic assault in the  
8 first degree, elder abuse in the first degree, [and], robbery in  
9 the first degree, statutory rape in the first degree when the  
10 victim is a child less than twelve years of age at the time of  
11 the commission of the act giving rise to the offense, statutory  
12 sodomy in the first degree when the victim is a child less than  
13 twelve years of age at the time of the commission of the act  
14 giving rise to the offense, and abuse of a child pursuant to  
15 subdivision (2) of subsection 3 of section 568.060, RSMo;

16 (9) "Dangerous instrument" means any instrument, article or  
17 substance, which, under the circumstances in which it is used, is  
18 readily capable of causing death or other serious physical  
19 injury;

20 (10) "Deadly weapon" means any firearm, loaded or unloaded,  
21 or any weapon from which a shot, readily capable of producing  
22 death or serious physical injury, may be discharged, or a  
23 switchblade knife, dagger, billy, blackjack or metal knuckles;

24 (11) "Felony" has the meaning specified in section 556.016;

25 (12) "Forcible compulsion" means either:

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

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

5 (13) "Incapacitated" means that physical or mental  
6 condition, temporary or permanent, in which a person is  
7 unconscious, unable to appraise the nature of such person's  
8 conduct, or unable to communicate unwillingness to an act. A  
9 person is not incapacitated with respect to an act committed upon  
10 such person if he or she became unconscious, unable to appraise  
11 the nature of such person's conduct or unable to communicate  
12 unwillingness to an act, after consenting to the act;

13 (14) "Infraction" has the meaning specified in section  
14 556.021;

15 (15) "Inhabitable structure" has the meaning specified in  
16 section 569.010, RSMo;

17 (16) "Knowingly" has the meaning specified in section  
18 562.016, RSMo;

19 (17) "Law enforcement officer" means any public servant  
20 having both the power and duty to make arrests for violations of  
21 the laws of this state, and federal law enforcement officers  
22 authorized to carry firearms and to make arrests for violations  
23 of the laws of the United States;

24 (18) "Misdemeanor" has the meaning specified in section  
25 556.016;

1 (19) "Offense" means any felony, misdemeanor or infraction;

2 (20) "Physical injury" means physical pain, illness, or any  
3 impairment of physical condition;

4 (21) "Place of confinement" means any building or facility  
5 and the grounds thereof wherein a court is legally authorized to  
6 order that a person charged with or convicted of a crime be held;

7 (22) "Possess" or "possessed" means having actual or  
8 constructive possession of an object with knowledge of its  
9 presence. A person has actual possession if such person has the  
10 object on his or her person or within easy reach and convenient  
11 control. A person has constructive possession if such person has  
12 the power and the intention at a given time to exercise dominion  
13 or control over the object either directly or through another  
14 person or persons. Possession may also be sole or joint. If one  
15 person alone has possession of an object, possession is sole. If  
16 two or more persons share possession of an object, possession is  
17 joint;

18 (23) "Public servant" means any person employed in any way  
19 by a government of this state who is compensated by the  
20 government by reason of such person's employment, any person  
21 appointed to a position with any government of this state, or any  
22 person elected to a position with any government of this state.  
23 It includes, but is not limited to, legislators, jurors, members  
24 of the judiciary and law enforcement officers. It does not  
25 include witnesses;

1 (24) "Purposely" has the meaning specified in section  
2 562.016, RSMo;

3 (25) "Recklessly" has the meaning specified in section  
4 562.016, RSMo;

5 (26) "Ritual" or "ceremony" means an act or series of acts  
6 performed by two or more persons as part of an established or  
7 prescribed pattern of activity;

8 (27) "Serious emotional injury", an injury that creates a  
9 substantial risk of temporary or permanent medical or  
10 psychological damage, manifested by impairment of a behavioral,  
11 cognitive or physical condition. Serious emotional injury shall  
12 be established by testimony of qualified experts upon the  
13 reasonable expectation of probable harm to a reasonable degree of  
14 medical or psychological certainty;

15 (28) "Serious physical injury" means physical injury that  
16 creates a substantial risk of death or that causes serious  
17 disfigurement or protracted loss or impairment of the function of  
18 any part of the body;

19 (29) "Sexual conduct" means acts of human masturbation;  
20 deviate sexual intercourse; sexual intercourse; or physical  
21 contact with a person's clothed or unclothed genitals, pubic  
22 area, buttocks, or the breast of a female in an act of apparent  
23 sexual stimulation or gratification;

24 (30) "Sexual contact" means any touching of the genitals or  
25 anus of any person, or the breast of any female person, or any

1 such touching through the clothing, for the purpose of arousing  
2 or gratifying sexual desire of any person;

3 (31) "Sexual performance", any performance, or part  
4 thereof, which includes sexual conduct by a child who is less  
5 than seventeen years of age;

6 (32) "Voluntary act" has the meaning specified in section  
7 562.011, RSMo.

8 557.036. 1. [Subject to the limitation provided in  
9 subsection 3 of this section,] Upon a finding of guilt upon  
10 verdict or plea, the court shall decide the extent or duration of  
11 sentence or other disposition to be imposed under all the  
12 circumstances, having regard to the nature and circumstances of  
13 the offense and the history and character of the defendant and  
14 render judgment accordingly.

15 2. [The court shall instruct the jury as to the range of  
16 punishment authorized by statute and upon a finding of guilt to  
17 assess and declare the punishment as a part of their verdict,  
18 unless:] Where an offense is submitted to the jury, the trial  
19 shall proceed in two stages. At the first stage, the jury shall  
20 decide only whether the defendant is guilty or not guilty of any  
21 submitted offense. The issue of punishment shall not be  
22 submitted to the jury at the first stage.

23 3. If the jury at the first stage of a trial finds the  
24 defendant guilty of the submitted offense, the second stage of  
25 the trial shall proceed. The issue at the second stage of the

1 trial shall be the punishment to be assessed and declared.

2 Evidence supporting or mitigating punishment may be presented.

3 Such evidence may include, within the discretion of the court,  
4 evidence concerning the impact of the crime upon the victim, the  
5 victim's family and others, the nature and circumstances of the  
6 offense, and the history and character of the defendant.

7 Rebuttal and surrebuttal evidence may be presented. The state  
8 shall be the first to proceed. The court shall instruct the jury  
9 as to the range of punishment authorized by statute for each  
10 submitted offense. The attorneys may argue the issue of  
11 punishment to the jury, and the state shall have the right to  
12 open and close the argument. The jury shall assess and declare  
13 the punishment as authorized by statute.

14 4. A second stage of the trial shall not proceed and the  
15 court, and not the jury, shall assess punishment if:

16 (1) The defendant requests in writing, prior to voir dire,  
17 that the court assess the punishment in case of a finding of  
18 guilt; or

19 (2) The state pleads and proves the defendant is a prior  
20 offender, persistent offender, dangerous offender, or persistent  
21 misdemeanor offender as defined in section 558.016, RSMo, a  
22 persistent sexual offender as defined in section 558.018, RSMo,  
23 or a predatory sexual offender as defined in section 558.018,  
24 RSMo.

1 If the jury [finds the defendant guilty but] cannot agree on the  
2 punishment to be assessed, the court shall proceed as provided in  
3 subsection 1 of this section. If [there be a trial by jury and  
4 the jury is to assess punishment and if], after due deliberation  
5 by the jury, the court finds the jury cannot agree on punishment,  
6 then the court may instruct the jury that if it cannot agree on  
7 punishment that [it may return its verdict without assessing  
8 punishment and] the court will assess punishment.

9 [3.] 5. If the jury returns a verdict of guilty in the  
10 first stage and declares a term of imprisonment [as provided in  
11 subsection 2 of this section] in the second stage, the court  
12 shall proceed as provided in subsection 1 of this section except  
13 that any term of imprisonment imposed cannot exceed the term  
14 declared by the jury unless the term declared by the jury is less  
15 than the authorized lowest term for the offense, in which event  
16 the court cannot impose a term of imprisonment greater than the  
17 lowest term provided for the offense.

18 [4.] 6. If the defendant is found to be a prior offender,  
19 persistent offender, dangerous offender or persistent misdemeanor  
20 offender as defined in section 558.016, RSMo:

21 (1) If he has been found guilty of an offense, the court  
22 shall proceed as provided in section 558.016, RSMo; or

23 (2) If he has been found guilty of a class A felony, the  
24 court may impose any sentence authorized for the class A felony.

25 [5.] 7. The court shall not seek an advisory verdict from

1 the jury in cases of prior offenders, persistent offenders,  
2 dangerous offenders, persistent sexual offenders or predatory  
3 sexual offenders; if an advisory verdict is rendered, the court  
4 shall not deem it advisory, but shall consider it as mere  
5 surplusage.

6 558.011. 1. The authorized terms of imprisonment,  
7 including both prison and conditional release terms, are:

8 (1) For a class A felony, a term of years not less than ten  
9 years and not to exceed thirty years, or life imprisonment;

10 (2) For a class B felony, a term of years not less than  
11 five years and not to exceed fifteen years;

12 (3) For a class C felony, a term of years not to exceed  
13 seven years;

14 (4) For a class D felony, a term of years not to exceed  
15 [~~five~~] four years;

16 (5) For a class A misdemeanor, a term not to exceed one  
17 year;

18 (6) For a class B misdemeanor, a term not to exceed six  
19 months;

20 (7) For a class C misdemeanor, a term not to exceed fifteen  
21 days.

22 2. In cases of class C and D felonies, the court shall have  
23 discretion to imprison for a special term not to exceed one year  
24 in the county jail or other authorized penal institution, and the  
25 place of confinement shall be fixed by the court. If the court

1 imposes a sentence of imprisonment for a term longer than one  
2 year upon a person convicted of a class C or D felony, it shall  
3 commit the person to the custody of the department of corrections  
4 for a term of years not less than two years and not exceeding the  
5 maximum authorized terms provided in subdivisions (3) and (4) of  
6 subsection 1 of this section.

7 3. (1) When a regular sentence of imprisonment for a  
8 felony is imposed, the court shall commit the [defendant] person  
9 to the custody of the department of corrections for the term  
10 imposed under section 557.036, RSMo, or until released under  
11 procedures established elsewhere by law.

12 (2) A sentence of imprisonment for a misdemeanor shall be  
13 for a definite term and the court shall commit the [defendant]  
14 person to the county jail or other authorized penal institution  
15 for the term of his or her sentence or until released under  
16 procedure established elsewhere by law.

17 4. (1) A sentence of imprisonment for a term of years for  
18 felonies other than dangerous felonies as defined in section  
19 556.061, RSMo, and other than sentences of imprisonment which  
20 involve the individual's fourth or subsequent remand to the  
21 department of corrections shall consist of a prison term and a  
22 conditional release term. The conditional release term of any  
23 term imposed under section 557.036, RSMo, shall be:

24 (a) One-third for terms of nine years or less;

25 (b) Three years for terms between nine and fifteen years;

1           (c) Five years for terms more than fifteen years; and the  
2 prison term shall be the remainder of such term. The prison term  
3 may be extended by the board of probation and parole pursuant to  
4 subsection 5 of this section.

5           (2) "Conditional release" means the conditional discharge  
6 of an offender by the board of probation and parole, subject to  
7 conditions of release that the board deems reasonable to assist  
8 the offender to lead a law-abiding life, and subject to the  
9 supervision under the state board of probation and parole. The  
10 conditions of release shall include avoidance by the offender of  
11 any other crime, federal or state, and other conditions that the  
12 board in its discretion deems reasonably necessary to assist the  
13 releasee in avoiding further violation of the law.

14           5. The date of conditional release from the prison term may  
15 be extended up to a maximum of the entire sentence of  
16 imprisonment by the board of probation and parole. The director  
17 of any division of the department of corrections except the board  
18 of probation and parole may file with the board of probation and  
19 parole a petition to extend the conditional release date when an  
20 offender fails to follow the rules and regulations of the  
21 division or commits an act in violation of such rules. Within  
22 ten working days of receipt of the petition to extend the  
23 conditional release date, the board of probation and parole shall  
24 convene a hearing on the petition. The offender shall be present  
25 and may call witnesses in his or her behalf and cross-examine

1 witnesses appearing against [him] the offender. The hearing  
2 shall be conducted as provided in section 217.670, RSMo. If the  
3 violation occurs in close proximity to the conditional release  
4 date, the conditional release may be held for a maximum of  
5 fifteen working days to permit necessary time for the division  
6 director to file a petition for an extension with the board and  
7 for the board to conduct a hearing, provided some affirmative  
8 manifestation of an intent to extend the conditional release has  
9 occurred prior to the conditional release date. If at the end of  
10 a fifteen-working-day period a board decision has not been  
11 reached, the offender shall be released conditionally. The  
12 decision of the board shall be final.

13 558.016. 1. The court may sentence a person who has  
14 pleaded guilty to or has been found guilty of an offense to a  
15 term of imprisonment as authorized by section 558.011 or to a  
16 term of imprisonment authorized by a statute governing the  
17 offense, if it finds the defendant is a prior offender or a  
18 persistent misdemeanor offender, or to an extended term of  
19 imprisonment if it finds the defendant is a persistent offender  
20 or a dangerous offender.

21 2. A "prior offender" is one who has pleaded guilty to or  
22 has been found guilty of one felony.

23 3. A "persistent offender" is one who has pleaded guilty to  
24 or has been found guilty of two or more felonies committed at  
25 different times.

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

2           (1) Is being sentenced for a felony during the commission  
3 of which he knowingly murdered or endangered or threatened the  
4 life of another person or knowingly inflicted or attempted or  
5 threatened to inflict serious physical injury on another person;  
6 and

7           (2) Has pleaded guilty to or has been found guilty of a  
8 class A or B felony or a dangerous felony.

9           5. A "persistent misdemeanor offender" is one who has  
10 pleaded guilty to or has been found guilty of two or more class A  
11 or B misdemeanors, committed at different times, which are  
12 defined as offenses under chapters 195, 565, 566, 567, 568, 569,  
13 570, 571, 572, 573, 574, 575, and 576, RSMo.

14           6. The pleas or findings of guilty shall be prior to the  
15 date of commission of the present offense.

16           7. The total authorized maximum terms of imprisonment for a  
17 persistent offender or a dangerous offender are:

18           (1) For a class A felony, any sentence authorized for a  
19 class A felony;

20           (2) For a class B felony, [a term of years not to exceed  
21 thirty years] any sentence authorized for a class A felony;

22           (3) For a class C felony, [a term of years not to exceed  
23 twenty years] any sentence authorized for a class B felony;

24           (4) For a class D felony, [a term of years not to exceed  
25 ten years] any sentence authorized for a class C felony.

1           8. An offender convicted of a nonviolent class C or class D  
2 felony with no prior prison commitments, after serving one  
3 hundred twenty days of his or her sentence, may, in writing,  
4 petition the court to serve the remainder of his or her sentence  
5 on probation, parole, or other court-approved alternative  
6 sentence. No hearing shall be conducted unless the court deems  
7 it necessary. Upon the offender petitioning the court, the  
8 department of corrections shall submit a report to the sentencing  
9 court which evaluates the conduct of the offender while in  
10 custody, alternative custodial methods available to the offender,  
11 and shall recommend whether the offender be released or remain in  
12 custody. If the report issued by the department is favorable and  
13 recommends probation, parole, or other alternative sentence, the  
14 court shall follow the recommendations of the department if the  
15 court deems it appropriate. Any placement of an offender  
16 pursuant to section 559.115, RSMo, shall be excluded from the  
17 provisions of this subsection.

18           558.019. 1. This section shall not be construed to affect  
19 the powers of the governor under article IV, section 7, of the  
20 Missouri Constitution. This statute shall not affect those  
21 provisions of section 565.020, RSMo, section 558.018 or section  
22 571.015, RSMo, which set minimum terms of sentences, or the  
23 provisions of section 559.115, RSMo, relating to probation.

24           2. The provisions of subsections 2 to 5 of this section  
25 shall be applicable to all classes of felonies except those set

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

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

21           (2) If the [defendant] offender has two previous prison  
22      commitments to the department of corrections for felonies  
23      unrelated to the present offense, the minimum prison term which  
24      the [defendant] offender must serve shall be fifty percent of his  
25      or her sentence or until the [defendant] offender attains seventy

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

3 (3) If the [defendant] offender has three or more previous  
4 prison commitments to the department of corrections for felonies  
5 unrelated to the present offense, the minimum prison term which  
6 the [defendant] offender must serve shall be eighty percent of  
7 his or her sentence or until the [defendant] offender attains  
8 seventy years of age, and has served at least forty percent of  
9 the sentence imposed, whichever occurs first.

10 3. Other provisions of the law to the contrary  
11 notwithstanding, any [defendant] offender who has pleaded guilty  
12 to or has been found guilty of a dangerous felony as defined in  
13 section 556.061, RSMo, and is committed to the department of  
14 corrections shall be required to serve a minimum prison term of  
15 eighty-five percent of the sentence imposed by the court or until  
16 the [defendant] offender attains seventy years of age, and has  
17 served at least forty percent of the sentence imposed, whichever  
18 occurs first.

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

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

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

1 be seventy-five years.

2 5. For purposes of this section, the term "minimum prison  
3 term" shall mean time required to be served by the [defendant]  
4 offender before he or she is eligible for parole, conditional  
5 release or other early release by the department of corrections.  
6 Except that the board of probation and parole, in the case of  
7 consecutive sentences imposed at the same time pursuant to a  
8 course of conduct constituting a common scheme or plan, shall be  
9 authorized to convert consecutive sentences to concurrent  
10 sentences, when the board finds, after hearing with notice to the  
11 prosecuting or circuit attorney, that the sum of the terms  
12 results in an unreasonably excessive total term, taking into  
13 consideration all factors related to the crime or crimes  
14 committed and the sentences received by others similarly  
15 situated.

16 6. (1) A sentencing advisory commission is hereby created  
17 to consist of eleven members. One member shall be appointed by  
18 the speaker of the house. One member shall be appointed by the  
19 president pro tem of the senate. One member shall be the  
20 director of the department of corrections. Six members shall be  
21 appointed by and serve at the pleasure of the governor from among  
22 the following: the public defender commission; private citizens;  
23 a private member of the Missouri Bar; the board of probation and  
24 parole; and a prosecutor. Two members shall be appointed by the  
25 supreme court, one from a metropolitan area and one from a rural

1 area. All members shall be appointed to a four-year term. All  
2 members of the sentencing commission appointed prior to August  
3 28, 1994, shall continue to serve on the sentencing advisory  
4 commission at the pleasure of the governor.

5 (2) The commission shall study sentencing practices in the  
6 circuit courts throughout the state for the purpose of  
7 determining whether and to what extent disparities exist among  
8 the various circuit courts with respect to the length of  
9 sentences imposed and the use of probation for [defendants]  
10 offenders convicted of the same or similar crimes and with  
11 similar criminal histories. The commission shall also study and  
12 examine whether and to what extent sentencing disparity among  
13 economic and social classes exists in relation to the sentence of  
14 death and if so, the reasons therefor sentences are comparable to  
15 other states, if the length of the sentence is appropriate, and  
16 the rate of rehabilitation based on sentence. It shall compile  
17 statistics, examine cases, draw conclusions, and perform other  
18 duties relevant to the research and investigation of disparities  
19 in death penalty sentencing among economic and social classes.

20 (3) The commission shall establish a system of recommended  
21 sentences, within the statutory minimum and maximum sentences  
22 provided by law for each felony committed under the laws of this  
23 state. This system of recommended sentences shall be distributed  
24 to all sentencing courts within the state of Missouri. The  
25 recommended sentence for each crime shall take into account, but

1 not be limited to, the following factors:

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

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

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

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

8 (4) The commission shall study alternative sentences,  
9 prison work programs, work release, home-based incarceration,  
10 probation and parole options, and any other programs and report  
11 the feasibility of these options in Missouri.

12 (5) The commission shall publish and distribute its [system  
13 of recommended sentences] recommendations on or before July 1,  
14 [1995] 2004. The commission shall study the implementation and  
15 use of the [system of recommended sentences] recommendations  
16 until July 1, [1998] 2005, and return a [final] report to the  
17 governor, the speaker of the house of representatives, and the  
18 president pro tem of the senate. Following the July 1, [1998]  
19 2005, report, the commission [may] shall revise the recommended  
20 sentences every [three] two years.

21 [(5)] (6) The governor shall select a chairperson who shall  
22 call meetings of the commission as required or permitted pursuant  
23 to the purpose of the sentencing commission.

24 [(6)] (7) The members of the commission shall not receive  
25 compensation for their duties on the commission, but shall be

1 reimbursed for actual and necessary expenses incurred in the  
2 performance of these duties and for which they are not reimbursed  
3 by reason of their other paid positions.

4 ~~[(7)]~~ (8) The circuit and associate circuit courts of this  
5 state, the office of the state courts administrator, the  
6 department of public safety, and the department of corrections  
7 shall cooperate with the commission by providing information or  
8 access to information needed by the commission. The office of  
9 the state courts administrator will provide needed staffing  
10 resources.

11 7. Courts shall retain discretion to lower or exceed the  
12 sentence recommended by the commission as otherwise allowable by  
13 law, and to order restorative justice methods, when applicable.

14 8. If the imposition or execution of a sentence is  
15 suspended, the court may order any or all of the following  
16 restorative justice methods, or any other method that the court  
17 finds just or appropriate:

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

20 (2) Offender treatment programs;

21 (3) Mandatory community service;

22 (4) Work release programs in local facilities; and

23 (5) Community based residential and nonresidential  
24 programs.

25 9. The provisions of this section shall apply only to

1 offenses occurring on or after August 28, [1994] 2003.

2 559.026. Except in infraction cases, when probation is  
3 granted, the court, in addition to conditions imposed [under]  
4 pursuant to section 559.021, may require as a condition of  
5 probation that the [defendant] offender submit to a period of  
6 detention up to forty-eight hours after the determination by a  
7 probation or parole officer that the offender violated a  
8 condition of continued probation or parole in an appropriate  
9 institution at whatever time or intervals within the period of  
10 probation, consecutive or nonconsecutive, the court shall  
11 designate, or the board of probation and parole shall direct.  
12 Any person placed on probation in a county of the first class or  
13 second class or in any city with a population of five hundred  
14 thousand or more and detained as herein provided shall be subject  
15 to all provisions of section 221.170, RSMo, even though he was  
16 not convicted and sentenced to a jail or workhouse.

17 (1) In misdemeanor cases, the period of detention under  
18 this section shall not exceed the shorter of fifteen days or the  
19 maximum term of imprisonment authorized for the misdemeanor by  
20 chapter 558, RSMo.

21 (2) In felony cases, the period of detention under this  
22 section shall not exceed one hundred twenty days.

23 (3) If probation is revoked and a term of imprisonment is  
24 served by reason thereof, the time spent in a jail, half-way  
25 house, honor center, workhouse or other institution as a

1 detention condition of probation shall be credited against the  
2 prison or jail term served for the offense in connection with  
3 which the detention condition was imposed.

4 559.115. 1. Neither probation nor parole shall be granted  
5 by the circuit court between the time the transcript on appeal  
6 from the [defendant's] offender's conviction has been filed in  
7 appellate court and the disposition of the appeal by such court.

8 2. Unless otherwise prohibited by subsection 5 of this  
9 section, a circuit court only upon its own motion and not that of  
10 the state or the [defendant] offender shall have the power to  
11 grant probation to a [defendant] offender anytime up to one  
12 hundred twenty days after such [defendant] offender has been  
13 delivered to [the custody of] the department of corrections but  
14 not thereafter. The court may request information and a  
15 recommendation from the department concerning the [defendant]  
16 offender and such [defendant's] offender's behavior during the  
17 period of incarceration. Except as provided in this section, the  
18 court may place the [defendant] offender on probation in a  
19 program created pursuant to section 217.777, RSMo, or may place  
20 the [defendant] offender on probation with any other conditions  
21 authorized by law.

22 3. The court may recommend placement of an offender in a  
23 department of corrections one hundred twenty day program. Upon  
24 the recommendation of the court, the department of corrections  
25 shall determine the offender's eligibility for the program, the

1 nature, intensity, and duration of any offender's participation  
2 in a program and the availability of space for an offender in any  
3 program. When the court recommends and receives placement of an  
4 offender in a department of corrections one hundred twenty day  
5 program, the offender shall be released on probation if the  
6 department of corrections determines that the offender has  
7 successfully completed the program except as follows. Upon  
8 successful completion of a treatment program, the board of  
9 probation and parole shall advise the sentencing court of an  
10 offender's probationary release date thirty days prior to  
11 release. The court shall release the offender unless such  
12 release constitutes an abuse of discretion. If the court  
13 determined that there is an abuse of discretion, the court may  
14 order the execution of the offender's sentence only after  
15 conducting a hearing on the matter within ninety to one hundred  
16 twenty days of the offender's sentence. If the court does not  
17 respond when an offender successfully completes the program, the  
18 offender shall be released on probation. Upon successful  
19 completion of a shock incarceration program, the board of  
20 probation and parole shall advise the sentencing court of an  
21 offender's probationary release date thirty days prior to  
22 release. The court shall follow the recommendation of the  
23 department unless the court determines that probation is not  
24 appropriate. If the court determines that probation is not  
25 appropriate, the court may order the execution of the offender's

1 sentence only after conducting a hearing on the matter within  
2 ninety to one hundred twenty days of the offender's sentence. If  
3 the department determines that an offender is not successful in a  
4 program, then after one hundred days of incarceration the circuit  
5 court shall receive from the department of corrections a report  
6 on the offender's participation in the program and department  
7 recommendations for terms and conditions of an offender's  
8 probation. The court shall then release the offender on  
9 probation or order the offender to remain in the department to  
10 serve the sentence imposed.

11 4. If the department of correction's one hundred twenty day  
12 program is full, the court may place the offender in a private  
13 program approved by the department of corrections or the court,  
14 the expenses of such program to be paid by the offender, or in an  
15 available program offered by another organization. If the  
16 offender is convicted of a class C or class D nonviolent felony,  
17 the court may order probation while awaiting appointment to  
18 treatment.

19 [3.] 5. Except when the [defendant] offender has been found  
20 to be a predatory sexual offender pursuant to section 558.018,  
21 RSMo, the court shall request that the [defendant] offender be  
22 [place] placed in the sexual offender assessment unit of the  
23 department of corrections if the defendant has pleaded guilty to  
24 or has been found guilty of sexual abuse when classified as a  
25 class B felony.

1           [4.] 6. Unless the offender is being granted probation  
2 pursuant to successful completion of a one hundred twenty day  
3 program the circuit court shall notify the state in writing when  
4 the court intends to grant probation to the [defendant] offender  
5 pursuant to the provisions of this section. The state may, in  
6 writing, request a hearing within ten days of receipt of the  
7 court's notification that the court intends to grant probation.  
8 Upon the state's request for a hearing, the court shall grant a  
9 hearing as soon as reasonably possible. If the state does not  
10 respond to the court's notice in writing within ten days, the  
11 court may proceed upon its own motion to grant probation.

12           7. An offender's first incarceration for one hundred twenty  
13 days for participation in a department of corrections program  
14 prior to release on probation shall not be considered a previous  
15 prison commitment for the purpose of determining a minimum prison  
16 term under the provisions of section 558.019.

17           [5.] 8. Notwithstanding any other provision of law,  
18 probation may not be granted pursuant to this section to  
19 [defendants] offenders who have been convicted of murder in the  
20 second degree pursuant to section 565.021, RSMo; forcible rape  
21 pursuant to section 566.030, RSMo; forcible sodomy pursuant to  
22 section 566.060, RSMo; statutory rape in the first degree  
23 pursuant to section 566.032, RSMo; statutory sodomy in the first  
24 degree pursuant to section 566.062, RSMo; child molestation in  
25 the first degree pursuant to section 566.067, RSMo, when

1 classified as a class B felony; abuse of a child pursuant to  
2 section 568.060, RSMo, when classified as a class A felony; a  
3 [defendant] offender who has been found to be a predatory sexual  
4 offender pursuant to section 558.018, RSMo; or any offense in  
5 which there exists a statutory prohibition against either  
6 probation or parole.

7 565.081. 1. A person commits the crime of assault of a law  
8 enforcement officer or emergency personnel in the first degree if  
9 [he] such person attempts to kill or knowingly causes or attempts  
10 to cause serious physical injury to a law enforcement officer or  
11 emergency personnel.

12 2. As used in this section, "emergency personnel" means any  
13 paid or volunteer firefighter, emergency room or trauma center  
14 personnel, or emergency medical technician as defined in  
15 subdivisions (15), (16), and (17) of section 190.100, RSMo.

16 [2.] 3. Assault of a law enforcement officer or emergency  
17 personnel in the first degree is a class A felony.

18 565.082. 1. A person commits the crime of assault of a law  
19 enforcement officer or emergency personnel in the second degree  
20 if [he] such person:

21 (1) [Attempts to cause or] Knowingly causes or attempts to  
22 cause physical injury to a law enforcement officer or emergency  
23 personnel by means of a deadly weapon or dangerous instrument;

24 (2) Recklessly causes serious physical injury to a law  
25 enforcement officer[;] or emergency personnel; or

1 (3) While in an intoxicated condition or under the  
2 influence of controlled substances or drugs, operates a motor  
3 vehicle in this state and when so operating, acts with criminal  
4 negligence to cause physical injury to a law enforcement officer  
5 or emergency personnel.

6 2. As used in this section, "emergency personnel" means any  
7 paid or volunteer firefighter, emergency room or trauma center  
8 personnel, or emergency medical technician as defined in  
9 subdivisions (15), (16), and (17) of section 190.100, RSMo.

10 [2.] 3. Assault of a law enforcement officer or emergency  
11 personnel in the second degree is a class B felony.

12 565.083. 1. A person commits the crime of assault of a law  
13 enforcement officer or emergency personnel in the third degree  
14 if:

15 (1) [He] Such person attempts to cause or recklessly causes  
16 physical injury to a law enforcement officer or emergency  
17 personnel;

18 (2) With criminal negligence [he] such person causes  
19 physical injury to a law enforcement officer or emergency  
20 personnel by means of a deadly weapon;

21 (3) [He] Such person purposely places a law enforcement  
22 officer or emergency personnel in apprehension of immediate  
23 physical injury;

24 (4) [He recklessly engages in conduct which] With criminal  
25 negligence such person creates a grave risk of death or serious

1 physical injury to a law enforcement officer or emergency  
2 personnel; or

3 (5) [He] Such person knowingly causes or attempts to cause  
4 physical contact with a law enforcement officer or emergency  
5 personnel without the consent of the law enforcement officer or  
6 emergency personnel.

7 2. As used in this section, "emergency personnel" means any  
8 paid or volunteer firefighter, emergency room or trauma center  
9 personnel, or emergency medical technician as defined in  
10 subdivisions (15), (16), and (17) of section 190.100, RSMo.

11 [2.] 3. Assault of a law enforcement officer or emergency  
12 personnel in the third degree is a class A misdemeanor.

13 565.350. 1. Any pharmacist licensed pursuant to chapter  
14 338, RSMo, commits the crime of tampering with a prescription or  
15 a prescription drug order as defined in section 338.095, RSMo, if  
16 such person knowingly:

17 (1) Causes the intentional adulteration of the  
18 concentration or chemical structure of a prescribed drug or drug  
19 therapy without the knowledge and consent of the prescribing  
20 practitioner;

21 (2) Misrepresents a misbranded, altered, or diluted  
22 prescription drug or drug therapy with the purpose of misleading  
23 the recipient or the administering person of the prescription  
24 drug or drug therapy; or

25 (3) Sells a misbranded, altered, or diluted prescription

1 drug therapy with the intention of misleading the purchaser.

2 2. Tampering with a prescription drug order is a class A  
3 felony.

4 568.045. 1. A person commits the crime of endangering the  
5 welfare of a child in the first degree if:

6 (1) The person knowingly acts in a manner that creates a  
7 substantial risk to the life, body, or health of a child less  
8 than seventeen years old; or

9 (2) The person knowingly engages in sexual conduct with a  
10 person under the age of seventeen years over whom the person is a  
11 parent, guardian, or otherwise charged with the care and custody;

12 (3) The person knowingly encourages, aids or causes a child  
13 less than seventeen years of age to engage in any conduct which  
14 violates the provisions of chapter 195, RSMo;

15 (4) Such person enlists the aid, either through payment or  
16 coercion, of a person less than seventeen years of age to  
17 unlawfully manufacture, compound, produce, prepare, sell,  
18 transport, test or analyze amphetamine or methamphetamine or any  
19 of their analogues, or to obtain any material used to  
20 manufacture, compound, produce, prepare, test or analyze  
21 amphetamine or methamphetamine or any of their analogues; or

22 (5) Such person, in the presence of a person less than  
23 seventeen years of age, unlawfully manufactures, compounds,  
24 produces, prepares, sells, transports, tests or analyzes  
25 amphetamine or methamphetamine or any of their analogues.

1           2. Endangering the welfare of a child in the first degree  
2 is a class [D] C felony unless the offense is committed as part  
3 of a ritual or ceremony, or except on a second or subsequent  
4 offense, in which case the crime is a class [C] B felony.

5           570.030. 1. A person commits the crime of stealing if he  
6 or she appropriates property or services of another with the  
7 purpose to deprive him or her thereof, either without his or her  
8 consent or by means of deceit or coercion.

9           2. Evidence of the following is admissible in any criminal  
10 prosecution pursuant to this section on the issue of the  
11 requisite knowledge or belief of the alleged stealer:

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

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

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

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

22           (5) That he or she, with intent to cheat or defraud a  
23 retailer, possesses, uses, utters, transfers, makes, alters,  
24 counterfeits, or reproduces a retail sales receipt, price tag, or  
25 universal price code label, or possesses with intent to cheat or

1 defraud, the device that manufactures fraudulent receipts or  
2 universal price code labels.

3 3. Notwithstanding any other provision of law, any offense  
4 in which the value of property or services is an element is a  
5 class C felony if:

6 (1) The value of the property or services appropriated is  
7 five hundred dollars or more but less than twenty-five thousand  
8 dollars; or

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

11 (3) The property appropriated consists of:

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

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

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

15 (d) Any firearms; or

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

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

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

25 (h) Any book of registration or list of voters required by

1 chapter 115, RSMo; or

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

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

6 (k) Any controlled substance as defined by section 195.010,  
7 RSMo; or

8 (l) Anhydrous ammonia; or

9 (m) Ammonium nitrate.

10 4. If an actor appropriates any material with a value less  
11 than five hundred dollars in violation of this section with the  
12 intent to use such material to manufacture, compound, produce,  
13 prepare, test or analyze amphetamine or methamphetamine or any of  
14 their analogues, then such violation is a class [D] C felony.

15 The theft of any amount of anhydrous ammonia or liquid nitrogen,  
16 or any attempt to steal any amount of anhydrous ammonia or liquid  
17 nitrogen, is a class [C] B felony. The theft of any amount of  
18 anhydrous ammonia by appropriation of a tank truck, tank trailer,  
19 rail tank car, bulk storage tank, field (nurse) tank or field  
20 applicator is a class A felony.

21 5. The theft of any item of property or services pursuant  
22 to subsection 3 of this section which exceeds five hundred  
23 dollars may be considered a separate felony and may be charged in  
24 separate counts.

25 6. Any person with a prior conviction of paragraph (i) of

1 subdivision (3) of subsection 3 of this section and who violates  
2 the provisions of paragraph (i) of subdivision (3) of subsection  
3 3 of this section when the value of the animal or animals stolen  
4 exceeds three thousand dollars is guilty of a class B felony.

5 7. Any offense in which the value of property or services  
6 is an element is a class B felony if the value of the property or  
7 services equals or exceeds twenty-five thousand dollars.

8 8. Any violation of this section for which no other penalty  
9 is specified in this section is a class A misdemeanor.

10 570.040. 1. Every person who has previously pled guilty or  
11 been found guilty on two separate occasions of a stealing-related  
12 offense where such offenses occurred within ten years of the date  
13 of occurrence of the present offense and where the person  
14 received and served a sentence of ten days or more on such  
15 previous offense and who subsequently pleads guilty or is found  
16 guilty of a stealing-related offense is guilty of a class ~~C~~ D  
17 felony and shall be punished accordingly.

18 2. As used in this section, the term "stealing-related  
19 offense" shall include federal and state violations of criminal  
20 statutes against stealing or buying or receiving stolen property  
21 and shall also include municipal ordinances against same if the  
22 defendant was either represented by counsel or knowingly waived  
23 counsel in writing and the judge accepting the plea or making the  
24 findings was a licensed attorney at the time of the court  
25 proceedings.

1           3. Evidence of prior guilty pleas or findings of guilt  
2 shall be heard by the court, out of the hearing of the jury,  
3 prior to the submission of the case to the jury, and the court  
4 shall determine the existence of the prior guilty pleas or  
5 findings of guilt.

6           571.030. 1. A person commits the crime of unlawful use of  
7 weapons if he or she knowingly:

8           (1) Carries concealed upon or about his or her person a  
9 knife, a firearm, a blackjack or any other weapon readily capable  
10 of lethal use; or

11           (2) Sets a spring gun; or

12           (3) Discharges or shoots a firearm into a dwelling house, a  
13 railroad train, boat, aircraft, or motor vehicle as defined in  
14 section 302.010, RSMo, or any building or structure used for the  
15 assembling of people; or

16           (4) Exhibits, in the presence of one or more persons, any  
17 weapon readily capable of lethal use in an angry or threatening  
18 manner; or

19           (5) Possesses or discharges a firearm or projectile weapon  
20 while intoxicated; or

21           (6) Discharges a firearm within one hundred yards of any  
22 occupied schoolhouse, courthouse, or church building; or

23           (7) Discharges or shoots a firearm at a mark, at any  
24 object, or at random, on, along or across a public highway or  
25 discharges or shoots a firearm into any outbuilding; or

1           (8) Carries a firearm or any other weapon readily capable  
2 of lethal use into any church or place where people have  
3 assembled for worship, or into any election precinct on any  
4 election day, or into any building owned or occupied by any  
5 agency of the federal government, state government, or political  
6 subdivision thereof, or into any public assemblage of persons met  
7 for any lawful purpose; or

8           (9) Discharges or shoots a firearm at or from a motor  
9 vehicle, as defined in section 301.010, RSMo, while within any  
10 city, town, or village, and discharges or shoots a firearm at any  
11 person, or at any other motor vehicle, or at any building or  
12 habitable structure, unless the person was lawfully acting in  
13 self-defense; or

14           (10) Carries a firearm, whether loaded or unloaded, or any  
15 other weapon readily capable of lethal use into any school, onto  
16 any school bus, or onto the premises of any function or activity  
17 sponsored or sanctioned by school officials or the district  
18 school board.

19           2. Subdivisions (1), (3), (4), (6), (7), (8) , (9) and (10)  
20 of subsection 1 of this section shall not apply to or affect any  
21 of the following:

22           (1) All state, county and municipal law enforcement  
23 officers who have completed the training required by Police  
24 Officer Standards and Training Commission pursuant to sections  
25 590.030 to 590.050, RSMo, and possessing the duty and power of

1 arrest for violation of the general criminal laws of the state or  
2 for violation of ordinances of counties or municipalities of the  
3 state, whether on duty or off duty, and whether in or outside of  
4 the law enforcement agency's jurisdiction, or any person summoned  
5 by such officers to assist in making arrests or preserving the  
6 peace while actually engaged in assisting such officer;

7 (2) Wardens, superintendents and keepers of prisons,  
8 penitentiaries, jails and other institutions for the detention of  
9 persons accused or convicted of crime;

10 (3) Members of the armed forces or national guard while  
11 performing their official duty;

12 (4) Those persons vested by article V, section 1 of the  
13 Constitution of Missouri with the judicial power of the state and  
14 those persons vested by article III of the Constitution of the  
15 United States with the judicial power of the United States, the  
16 members of the federal judiciary;

17 (5) Any person whose bona fide duty is to execute process,  
18 civil or criminal;

19 (6) Any federal probation officer;

20 (7) Any state probation or parole officer, including  
21 supervisors and members of the board of probation and parole; and

22 (8) Any corporate security advisor meeting the definition  
23 and fulfilling the requirements of the regulations established by  
24 the board of police commissioners under section 84.340, RSMo.

25 3. Subdivisions (1), (5), (8) and (10) of subsection 1 of

1 this section do not apply when the actor is transporting such  
2 weapons in a nonfunctioning state or in an unloaded state when  
3 ammunition is not readily accessible or when such weapons are not  
4 readily accessible. Subdivision (1) of subsection 1 of this  
5 section does not apply when the actor is also in possession of an  
6 exposed firearm or projectile weapon for the lawful pursuit of  
7 game, or is in his dwelling unit or upon business premises over  
8 which the actor has possession, authority or control, or is  
9 traveling in a continuous journey peaceably through this state.  
10 Subdivision (10) of subsection 1 of this section does not apply  
11 if the firearm is otherwise lawfully possessed by a person while  
12 traversing school premises for the purposes of transporting a  
13 student to or from school, or possessed by an adult for the  
14 purposes of facilitation of a school-sanctioned firearm- related  
15 event.

16 4. Nothing in this section shall make it unlawful for a  
17 student to actually participate in school-sanctioned gun safety  
18 courses, student military or ROTC courses, or other  
19 school-sponsored firearm-related events, provided the student  
20 does not carry a firearm or other weapon readily capable of  
21 lethal use into any school, onto any school bus, or onto the  
22 premises of any function or activity sponsored or sanctioned by  
23 school officials or the district school board.

24 5. Unlawful use of weapons is a class D felony unless  
25 committed pursuant to subdivision (5), (6), (7) or (8) of

1 subsection 1 of this section, in which cases it is a class B  
2 misdemeanor, or subdivision (10) of subsection 1 of this section,  
3 in which case it is a class A misdemeanor if the firearm is  
4 unloaded and a class D felony if the firearm is loaded, or  
5 subdivision (9) of subsection 1 of this section, in which case it  
6 is a class B felony, except that if the violation of subdivision  
7 (9) of subsection 1 of this section results in injury or death to  
8 another person, it is a class A felony.

9 6. Violations of subdivision (9) of subsection 1 of this  
10 section shall be punished as follows:

11 (1) For the first violation a person shall be sentenced to  
12 the maximum authorized term of imprisonment for a class B felony;

13 (2) For any violation by a prior offender as defined in  
14 section 558.016, RSMo, a person shall be sentenced to the maximum  
15 authorized term of imprisonment for a class B felony without the  
16 possibility of parole, probation or conditional release for a  
17 term of ten years;

18 (3) For any violation by a persistent offender as defined  
19 in section 558.016, RSMo, a person shall be sentenced to the  
20 maximum authorized term of imprisonment for a class B felony  
21 without the possibility of parole, probation, or conditional  
22 release;

23 (4) For any violation which results in injury or death to  
24 another person, a person shall be sentenced to an authorized  
25 disposition for a class A felony.

1           7. Any person knowingly aiding or abetting any other person  
2 in the violation of subdivision (9) of subsection 1 of this  
3 section shall be subject to the same penalty as that prescribed  
4 by this section for violations by other persons.

5           589.400. 1. Sections 589.400 to 589.425 shall apply to:

6           (1) Any person who, since July 1, 1979, has been or is  
7 hereafter convicted of, been found guilty of, or pled guilty to  
8 committing, or attempting to commit, a felony offense of chapter  
9 566, RSMo, or any offense of chapter 566, RSMo, where the victim  
10 is a minor; or

11           (2) Any person who, since July 1, 1979, has been or is  
12 hereafter convicted of, been found guilty of, or pled guilty to  
13 committing, or attempting to commit one or more of the following  
14 offenses: kidnapping, pursuant to section 565.110, RSMo;  
15 felonious restraint; promoting prostitution in the first degree;  
16 promoting prostitution in the second degree; promoting  
17 prostitution in the third degree; incest; abuse of a child,  
18 pursuant to section 568.060, RSMo; use of a child in a sexual  
19 performance; or promoting sexual performance by a child; and  
20 committed or attempted to commit the offense against a victim who  
21 is a minor, defined for the purposes of sections 589.400 to  
22 589.425 as a person under eighteen years of age; or

23           (3) Any person who, since July 1, 1979, has been committed  
24 to the department of mental health as a criminal sexual  
25 psychopath; or

1           (4) Any person who, since July 1, 1979, has been found not  
2 guilty as a result of mental disease or defect of any offense  
3 listed in subdivision (1) or (2) of this subsection; or

4           (5) Any person who is a resident of this state who has,  
5 since July 1, 1979, or is hereafter convicted of, been found  
6 guilty of, or pled guilty to or nolo contendere in any other  
7 state or under federal jurisdiction to committing, or attempting  
8 to commit, an offense which, if committed in this state, would be  
9 a violation of chapter 566, RSMo, or a felony violation of any  
10 offense listed in subdivision (2) of this subsection or has been  
11 or is required to register in another state or has been or is  
12 required to register under federal or military law; or

13           (6) Any person who has been or is required to register in  
14 another state or has been or is required to register under  
15 federal or military law and who works or attends school or  
16 training on a full-time or on a part-time basis in Missouri.  
17 "Part-time" in this subdivision means for more than fourteen days  
18 in any twelve-month period.

19           2. Any person to whom sections 589.400 to 589.425 apply  
20 shall, within ten days of conviction, release from incarceration,  
21 or placement upon probation, register with the chief law  
22 enforcement official of the county in which such person resides  
23 unless such person has already registered in that county for the  
24 same offense. Any person to whom sections 589.400 to 589.425  
25 apply if not currently registered in their county of residence

1 shall register with the chief law enforcement official of such  
2 county within ten days of August 28, [2002] 2003. The chief law  
3 enforcement official shall forward a copy of the registration  
4 form required by section 589.407 to a city, town [or], village,  
5 or campus law enforcement agency located within the county of the  
6 chief law enforcement official, if so requested. Such request  
7 may ask the chief law enforcement official to forward copies of  
8 all registration forms filed with such official.

9 The chief law enforcement official may forward a copy of such  
10 registration form to any city, town [or], village, or campus law  
11 enforcement agency, if so requested.

12 3. The registration requirements of sections 589.400  
13 through 589.425 are lifetime registration requirements unless all  
14 offenses requiring registration are reversed, vacated or set  
15 aside or unless the registrant is pardoned of the offenses  
16 requiring registration.

17 589.407. Any registration pursuant to sections 589.400 to  
18 589.425 shall consist of completion of an offender registration  
19 form developed by the Missouri state highway patrol. Such form  
20 shall include, but is not limited to the following:

21 (1) A statement in writing signed by the person, giving the  
22 name, address, Social Security number and phone number of the  
23 person, the place of employment of such person, enrollment within  
24 any institutions of higher education, the crime which requires  
25 registration, whether the person was sentenced as a persistent or

1 predatory offender pursuant to section 558.018, RSMo, the date ,  
2 place, and a brief description of such crime, the date and place  
3 of the conviction or plea regarding such crime, the age and  
4 gender of the victim at the time of the offense and whether the  
5 person successfully completed the Missouri sexual offender  
6 program pursuant to section 589.040, if applicable; and

7 (2) The fingerprints and a photograph of the person.

8 589.414. 1. If any person required by sections 589.400 to  
9 589.425 to register changes residence or address within the same  
10 county as such person's previous address, the person shall inform  
11 the chief law enforcement official in writing within ten days of  
12 such new address and phone number, if the phone number is also  
13 changed.

14 2. If any person required by sections 589.400 to 589.425 to  
15 register changes such person's residence or address to a  
16 different county, the person shall appear in person and shall  
17 inform both the chief law enforcement official with whom the  
18 person last registered and the chief law enforcement official of  
19 the county having jurisdiction over the new residence or address  
20 in writing within ten days, of such new address and phone number,  
21 if the phone number is also changed. If any person required by  
22 sections 589.400 to 589.425 to register changes their state of  
23 residence, the person shall appear in person and shall inform  
24 both the chief law enforcement official with whom the person was  
25 last registered and the chief law enforcement official of the

1 area in the new state having jurisdiction over the new residence  
2 or address within ten days of such new address. Whenever a  
3 registrant changes residence, the chief law enforcement official  
4 of the county where the person was previously registered shall  
5 promptly inform the Missouri state highway patrol of the change.  
6 When the registrant is changing the residence to a new state, the  
7 Missouri state highway patrol shall promptly inform the  
8 responsible official in the new state of residence.

9 3. Any person required by sections 589.400 to 589.425 to  
10 register who changes his or her enrollment or employment status  
11 with any institution of higher education within this state, by  
12 either beginning or ending such enrollment or employment, shall  
13 inform the chief law enforcement officer of such change within  
14 seven days after such change is made.

15 [3.] 4. Any person required by sections 589.400 to 589.425  
16 to register who officially changes such person's name shall  
17 inform the chief law enforcement officer of such name change  
18 within seven days after such change is made.

19 [4.] 5. In addition to the requirements of subsections 1  
20 and 2 of this section, the following offenders shall report in  
21 person to the county law enforcement agency every ninety days to  
22 verify the information contained in their statement made pursuant  
23 to section 589.407:

24 (1) Any offender registered as a predatory or persistent  
25 sexual offender under the definitions found in section 558.018,

1 RSMo;

2 (2) Any offender who is registered for a crime where the  
3 victim was less than eighteen years of age at the time of the  
4 offense; and

5 (3) Any offender who has pled guilty or been found guilty  
6 pursuant to section 589.425 of failing to register or submitting  
7 false information when registering.

8 [5.] 6. In addition to the requirements of subsections 1  
9 and 2 of this section, all registrants shall report annually in  
10 person in the month of their birth to the county law enforcement  
11 agency to verify the information contained in their statement  
12 made pursuant to section 589.407.

13 [6.] 7. In addition to the requirements of subsections 1  
14 and 2 of this section, all Missouri registrants who work or  
15 attend school or training on a full-time or part-time basis in  
16 any other state shall be required to report in person to the  
17 chief law enforcement officer in the area of the state where they  
18 work or attend school or training and register in that state.  
19 Part-time in this subsection means for more than fourteen days in  
20 any twelve-month period.

21 595.209. 1. The following rights shall automatically be  
22 afforded to victims of dangerous felonies, as defined in section  
23 556.061, RSMo, victims of murder in the first degree, as defined  
24 in section 565.020, RSMo, victims of voluntary manslaughter, as  
25 defined in section 565.023, RSMo, and victims of an attempt to

1 commit one of the preceding crimes, as defined in section  
2 564.011, RSMo; and, upon written request, the following rights  
3 shall be afforded to victims of all other crimes and witnesses of  
4 crimes:

5 (1) For victims, the right to be present at all criminal  
6 justice proceedings at which the defendant has such right,  
7 including juvenile proceedings where the offense would have been  
8 a felony if committed by an adult, even if the victim is called  
9 to testify or may be called to testify as a witness in the case;

10 (2) For victims, the right to information about the crime,  
11 as provided for in subdivision (5) of this subsection;

12 (3) For victims and witnesses, to be informed, in a timely  
13 manner, by the prosecutor's office of the filing of charges,  
14 preliminary hearing dates, trial dates, continuances and the  
15 final disposition of the case. Final disposition information  
16 shall be provided within five days;

17 (4) For victims, the right to confer with and to be  
18 informed by the prosecutor regarding bail hearings, guilty pleas,  
19 pleas under chapter 552, RSMo, or its successors, hearings,  
20 sentencing and probation revocation hearings and the right to be  
21 heard at such hearings, including juvenile proceedings, unless in  
22 the determination of the court the interests of justice require  
23 otherwise;

24 (5) The right to be informed by local law enforcement  
25 agencies, the appropriate juvenile authorities or the custodial

1 authority of the following:

2 (a) The status of any case concerning a crime against the  
3 victim, including juvenile offenses;

4 (b) The right to be informed by local law enforcement  
5 agencies or the appropriate juvenile authorities, of the  
6 availability of victim compensation assistance, assistance in  
7 obtaining documentation of the victim's losses, including, but  
8 not limited to and subject to existing law concerning protected  
9 information or closed records, access to copies of complete,  
10 unaltered, unedited investigation reports of motor vehicle,  
11 pedestrian, and other similar accidents upon request to the  
12 appropriate law enforcement agency by the victim or the victim's  
13 representative, and emergency crisis intervention services  
14 available in the community;

15 (c) Any release of such person on bond or for any other  
16 reason;

17 (d) Within twenty-four hours, any escape by such person  
18 from a municipal detention facility, county jail, a correctional  
19 facility operated by the department of corrections, mental health  
20 facility, or the division of youth services or any agency  
21 thereof, and any subsequent recapture of such person;

22 (6) For victims, the right to be informed by appropriate  
23 juvenile authorities of probation revocation hearings initiated  
24 by the juvenile authority and the right to be heard at such  
25 hearings or to offer a written statement, video or audio tape in

1 lieu of a personal appearance, the right to be informed by the  
2 board of probation and parole of probation revocation hearings  
3 initiated by the board and of parole hearings, the right to be  
4 present at each and every phase of parole hearings and the right  
5 to be heard at probation revocation and parole hearings or to  
6 offer a written statement, video or audio tape in lieu of a  
7 personal appearance, and the right to be informed by the  
8 custodial mental health facility or agency thereof of any  
9 hearings for the release of a person committed pursuant to the  
10 provisions of chapter 552, RSMo, the right to be present at such  
11 hearings, the right to be heard at such hearings or to offer a  
12 written statement, video or audio tape in lieu of personal  
13 appearance;

14 (7) For victims and witnesses, upon their written request,  
15 the right to be informed by the appropriate custodial authority,  
16 including any municipal detention facility, juvenile detention  
17 facility, county jail, correctional facility operated by the  
18 department of corrections, mental health facility, division of  
19 youth services or agency thereof if the offense would have been a  
20 felony if committed by an adult, postconviction or commitment  
21 pursuant to the provisions of chapter 552, RSMo, of the  
22 following:

23 (a) The projected date of such person's release from  
24 confinement;

25 (b) Any release of such person on bond;

1 (c) Any release of such person on furlough, work release,  
2 trial release, electronic monitoring program, or to a community  
3 correctional facility or program or release for any other reason,  
4 in advance of such release;

5 (d) Any scheduled parole or release hearings regarding such  
6 person and any changes in the scheduling of such hearings. No  
7 such hearing shall be conducted without thirty days' advance  
8 notice;

9 (e) Within twenty-four hours, any escape by such person  
10 from a municipal detention facility, county jail, a correctional  
11 facility operated by the department of corrections, mental health  
12 facility, or the division of youth services or any agency  
13 thereof, and any subsequent recapture of such person;

14 (f) Any decision by a parole board, juvenile releasing  
15 authority or circuit court presiding over releases pursuant to  
16 the provisions of chapter 552, RSMo, to release such person or  
17 any decision by the governor to commute the sentence of such  
18 person or pardon such person;

19 (g) Notification within thirty days of the death of such  
20 person;

21 (8) For witnesses who have been summoned by the prosecuting  
22 attorney and for victims, to be notified by the prosecuting  
23 attorney in a timely manner when a court proceeding will not go  
24 on as scheduled;

25 (9) For victims and witnesses, the right to reasonable

1 protection from the defendant or any person acting on behalf of  
2 the defendant from harm and threats of harm arising out of their  
3 cooperation with law enforcement and prosecution efforts;

4 (10) For victims and witnesses, on charged cases or  
5 submitted cases where no charge decision has yet been made, to be  
6 informed by the prosecuting attorney of the status of the case  
7 and of the availability of victim compensation assistance and of  
8 financial assistance and emergency and crisis intervention  
9 services available within the community and information relative  
10 to applying for such assistance or services, and of any final  
11 decision by the prosecuting attorney not to file charges;

12 (11) For victims, to be informed by the prosecuting  
13 attorney of the right to restitution which shall be enforceable  
14 in the same manner as any other cause of action as otherwise  
15 provided by law;

16 (12) For victims and witnesses, to be informed by the court  
17 and the prosecuting attorney of procedures to be followed in  
18 order to apply for and receive any witness fee to which they are  
19 entitled;

20 (13) When a victim's property is no longer needed for  
21 evidentiary reasons or needs to be retained pending an appeal,  
22 the prosecuting attorney or any law enforcement agency having  
23 possession of the property shall, upon request of the victim,  
24 return such property to the victim within five working days  
25 unless the property is contraband or subject to forfeiture

1 proceedings, or provide written explanation of the reason why  
2 such property shall not be returned;

3 (14) An employer may not discharge or discipline any  
4 witness, victim or member of a victim's immediate family for  
5 honoring a subpoena to testify in a criminal proceeding or for  
6 participating in the preparation of a criminal proceeding;

7 (15) For victims, to be provided with creditor intercession  
8 services by the prosecuting attorney if the victim is unable, as  
9 a result of the crime, temporarily to meet financial obligations;

10 (16) For victims and witnesses, the right to speedy  
11 disposition of their cases, and for victims, the right to speedy  
12 appellate review of their cases, provided that nothing in this  
13 subdivision shall prevent the defendant from having sufficient  
14 time to prepare such defendant's defense. The attorney general  
15 shall provide victims, upon their written request, case status  
16 information throughout the appellate process of their cases. The  
17 provisions of this subdivision shall apply only to proceedings  
18 involving the particular case to which the person is a victim or  
19 witness;

20 (17) For victims and witnesses, to be provided by the  
21 court, a secure waiting area during court proceedings and to  
22 receive notification of the date, time and location of any  
23 hearing conducted by the court for reconsideration of any  
24 sentence imposed, modification of such sentence or recall and  
25 release of any defendant from incarceration.

1           2. The provisions of subsection 1 of this section shall not  
2 be construed to imply any victim who is incarcerated by the  
3 department of corrections or any local law enforcement agency has  
4 a right to be released to attend any hearing or that the  
5 department of corrections or the local law enforcement agency has  
6 any duty to transport such incarcerated victim to any hearing.

7           3. Those persons entitled to notice of events pursuant to  
8 the provisions of subsection 1 of this section shall provide the  
9 appropriate person or agency with their current addresses and  
10 telephone numbers or the addresses or telephone numbers at which  
11 they wish notification to be given.

12           4. Notification by the appropriate person or agency by  
13 certified mail to the most current address provided by the victim  
14 shall constitute compliance with the victim notification  
15 requirement of this section.

16           5. Victims' rights as established in section 32 of article  
17 I of the Missouri Constitution or the laws of this state  
18 pertaining to the rights of victims of crime shall be granted and  
19 enforced regardless of the desires of a defendant and no  
20 privileges of confidentiality shall exist in favor of the  
21 defendant to exclude victims or prevent their full participation  
22 in each and every phase of parole hearings or probation  
23 revocation hearings. The rights of the victims granted in this  
24 section are absolute and the policy of this state is that the  
25 victim's rights are paramount to the defendant's rights. The

1 victim has an absolute right to be present at any hearing in  
2 which the defendant is present before a probation and parole  
3 hearing officer.

4 Section B. Because of the need to relieve the overcrowding  
5 in the prisons of this state, section A of this act is deemed  
6 necessary for the immediate preservation of the public health,  
7 welfare, peace and safety, and is hereby declared to be an  
8 emergency act within the meaning of the constitution, and section  
9 A of this act shall be in full force and effect upon its passage  
10 and approval.