

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1515
96TH GENERAL ASSEMBLY

5415L.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 210.1014, 306.130, 488.5050, 513.653, 565.182, 570.145, 574.085, 575.060, 575.070, 575.080, 650.055, 650.100, and 650.120, RSMo, and to enact in lieu thereof sixteen new sections relating to crimes and criminal procedure, with penalty provisions.

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

Section A. Sections 210.1014, 306.130, 488.5050, 513.653, 565.182, 570.145, 574.085, 575.060, 575.070, 575.080, 650.055, 650.100, and 650.120, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 210.1014, 306.130, 488.5050, 513.653, 565.182, 570.145, 574.035, 574.085, 575.045, 575.060, 575.070, 575.080, 610.205, 650.055, 650.100, and 650.120, to read as follows:

210.1014. 1. There is hereby created the "Amber Alert System Oversight Committee", whose primary duty shall be to develop criteria and procedures for the Amber alert system and shall be housed within the department of public safety. The committee shall regularly review the function of the Amber alert system and revise its criteria and procedures in cooperation with the department of public safety to provide for efficient and effective public notification. As soon as practicable, the committee shall adopt criteria and procedures to expand the Amber alert system to provide urgent public alerts related to homeland security, criminal acts, health emergencies, and other imminent dangers to the public health and welfare.

2. **The committee shall, prior to January 1, 2013, adopt the criteria and procedures necessary to expand the Amber alert system to provide peace officer safety alerts for the location and identification of any person who has assaulted or otherwise injured a licensed peace officer and who has fled the scene.**

3. The Amber alert system oversight committee shall consist of ten members of which seven members shall be appointed by the governor with the advice and consent of the senate.

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

15 Such members shall represent the following entities: two representatives of the Missouri Sheriffs'
16 Association; two representatives of the Missouri Police Chiefs Association; one representative
17 of small market radio broadcasters; one representative of large market radio broadcasters; one
18 representative of television broadcasters. The director of the department of public safety shall
19 also be a member of the committee and shall serve as chair of the committee. Additional
20 members shall include one representative of the highway patrol and one representative of the
21 department of health and senior services.

22 [3.] 4. Members of the oversight committee shall serve a term of four years, except that
23 members first appointed to the committee shall have staggered terms of two, three, and four years
24 and shall serve until their successor is duly appointed and qualified.

25 [4.] 5. Members of the oversight committee shall serve without compensation, except
26 that members shall be reimbursed for their actual and necessary expenses required for the
27 discharge of their duties.

28 [5.] 6. The Amber alert system oversight committee shall promulgate rules for the
29 implementation of the Amber alert system. Any rule or portion of a rule, as that term is defined
30 in section 536.010, that is created under the authority delegated in this section shall become
31 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
32 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
33 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
34 date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
35 rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid
36 and void.

306.130. 1. The **Missouri state highway patrol**, water patrol division, shall authorize
2 the holding of regattas, motorboat or other watercraft races, marine parades, tournaments,
3 parasail operations or exhibitions on any waters of this state when it has determined that said
4 event will not create conditions of excessive danger for the participants, observers or operators
5 of other watercraft nor unduly disrupt navigation. It shall adopt and may, from time to time,
6 amend regulations concerning the safety of motorboats and other watercraft and persons thereon,
7 either observers or participants. Whenever a regatta, motorboat or other watercraft race, marine
8 parade, tournament, parasail operation or exhibition is proposed to be held, the person in charge
9 thereof shall, at least fifteen days prior thereto, file an application with the **Missouri state** water
10 patrol division for permission to hold the regatta, motorboat or other watercraft race, marine
11 parade, tournament, parasail operation or exhibition, and it shall not be conducted without
12 authorization of the **Missouri state** water patrol division in writing.

13 2. **A person who holds a permit issued by the Missouri state water patrol division**
14 **to host a regatta, motorboat or other watercraft race, marine parade, tournament, parasail**

15 **operation or exhibition on any waters of the state shall not knowingly violate any term of**
16 **the permit.**

17 **3.** The provisions of this section shall not exempt any person from compliance with
18 applicable federal law or regulation, but nothing contained herein shall be construed to require
19 the securing of a state permit pursuant to this section if a permit therefor has been obtained from
20 an authorized agency of the United States.

488.5050. 1. In addition to any other surcharges authorized by statute, the clerk of each
2 court of this state shall collect the surcharges provided for in subsection 2 of this section.

3 2. A surcharge of thirty dollars shall be assessed as costs in each circuit court proceeding
4 filed within this state in all criminal cases in which the defendant pleads guilty [or nolo
5 contendere to] , **is found guilty** or is convicted of a felony, except when the defendant pleads
6 guilty or is found guilty of a class B felony, class A felony, or an unclassified felony, under
7 chapter 195, in which case, the surcharge shall be sixty dollars. A surcharge of fifteen dollars
8 shall be assessed as costs in each court proceeding filed within this state in all **other** criminal
9 cases, except for traffic violations cases in which the defendant pleads guilty [or nolo contendere
10 to] , **is found guilty** or is convicted of a misdemeanor.

11 3. Notwithstanding any other provisions of law, the moneys collected by clerks of the
12 courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed
13 in accordance with sections 488.010 to 488.020, and shall be payable to the state treasurer.

14 4. [If in the immediate previous fiscal year, the state's general revenue did not increase
15 by two percent or more, the state treasurer shall deposit such moneys or other gifts, grants, or
16 moneys received on a monthly basis into the state general revenue fund. Otherwise the state
17 treasurer shall deposit such moneys in accordance with the provisions of subsection 5 of this
18 section.

19 5.] The state treasurer shall deposit such moneys or other gifts, grants, or moneys
20 received on a monthly basis into the "DNA Profiling Analysis Fund", which is hereby created
21 in the state treasury. The fund shall be administered by the department of public safety. The
22 moneys deposited into the DNA profiling analysis fund shall be used only [for DNA profiling
23 analysis of convicted offender samples performed] **by the highway patrol crime lab** to fulfill
24 the purposes of the DNA profiling system pursuant to section 650.052. Notwithstanding the
25 provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the
26 biennium shall not revert to the credit of the general revenue fund.

27 [6. The provisions of subsections 1 and 2 of this section shall expire on August 28,
28 2013.]

513.653. 1. Law enforcement agencies involved in using the federal forfeiture system
2 under federal law shall [be required at the end of their respective fiscal year to acquire an

3 independent audit of the federal seizures and the proceeds received therefrom and provide this
4 audit to their respective governing body and to the department of public safety. A copy of such
5 audit shall be provided to the state auditor's office. This audit shall be paid for out of the
6 proceeds of such federal forfeitures] **file a report regarding federal seizures and the proceeds**
7 **therefrom. Such report shall be filed annually by January thirty-first for the previous**
8 **calendar year with the department of public safety and the state auditor's office. The**
9 **report for the calendar year shall include the type and value of items seized and turned**
10 **over to the federal forfeiture system, the beginning balance as of January first of federal**
11 **forfeiture funds or assets previously received and not expended or used, the proceeds**
12 **received from the federal government (the equitable sharing amount), the expenditures**
13 **resulting from the proceeds received, and the ending balance as of December thirty-first**
14 **of federal forfeiture funds or assets on hand.** The department of public safety shall not issue
15 funds to any law enforcement agency that fails to comply with the provisions of this section.

16 2. Intentional or knowing failure to comply with the [audit] **reporting** requirement
17 contained in this section shall be a class A misdemeanor, punishable by a fine of up to one
18 thousand dollars.

565.182. 1. A person commits the crime of elder abuse in the second degree if he:

2 (1) Knowingly causes, attempts to cause physical injury to any person sixty years of age
3 or older or an eligible adult, as defined in section 660.250, by means of a deadly weapon or
4 dangerous instrument; or

5 (2) Recklessly [and] **or** purposely causes serious physical injury, as defined in section
6 565.002, to a person sixty years of age or older or an eligible adult as defined in section 660.250.

7 2. Elder abuse in the second degree is a class B felony.

570.145. 1. A person commits the crime of financial exploitation of an elderly or
2 disabled person if such person knowingly [and] by deception, intimidation, **undue influence**,
3 or force obtains control over the elderly or disabled person's property with the intent to
4 permanently deprive the elderly or disabled person of the use, benefit or possession of his or her
5 property thereby benefitting such person or detrimentally affecting the elderly or disabled person.
6 Financial exploitation of an elderly or disabled person is a class A misdemeanor if the value of
7 the property is less than fifty dollars, a class D felony if the value of the property is fifty dollars
8 but less than five hundred dollars, a class C felony if the value of the property is five hundred
9 dollars but less than one thousand dollars, a class B felony if the value of the property is one
10 thousand dollars but less than fifty thousand dollars, and a class A felony if the value of the
11 property is fifty thousand dollars or more.

12 2. For purposes of this section, the following terms mean:

13 (1) "Deception", a misrepresentation or concealment of material fact relating to the terms
14 of a contract or agreement entered into with the elderly or disabled person or to the existing or
15 preexisting condition of any of the property involved in such contract or agreement, or the use
16 or employment of any misrepresentation, false pretense or false promise in order to induce,
17 encourage or solicit the elderly or disabled person to enter into a contract or agreement.

18 Deception includes:

19 (a) Creating or confirming another person's impression which is false and which the
20 offender does not believe to be true; or

21 (b) Failure to correct a false impression which the offender previously has created or
22 confirmed; or

23 (c) Preventing another person from acquiring information pertinent to the disposition of
24 the property involved; or

25 (d) Selling or otherwise transferring or encumbering property, failing to disclose a lien,
26 adverse claim or other legal impediment to the enjoyment of the property, whether such
27 impediment is or is not valid, or is or is not a matter of official record; or

28 (e) Promising performance which the offender does not intend to perform or knows will
29 not be performed. Failure to perform standing alone is not sufficient evidence to prove that the
30 offender did not intend to perform;

31 (2) "Disabled person", a person with a mental, physical, or developmental disability that
32 substantially impairs the person's ability to provide adequately for the person's care or protection;

33 (3) "Elderly person", a person sixty years of age or older;

34 (4) "Intimidation", a threat of physical or emotional harm to an elderly or disabled
35 person, or the communication to an elderly or disabled person that he or she will be deprived of
36 food and nutrition, shelter, prescribed medication, or medical care and treatment;

37 **(5) "Undue influence", use of influence by an individual who exercises authority**
38 **over an elderly person or disabled person in order to take unfair advantage of such**
39 **person's vulnerable state of mind, neediness, pain, or agony. Undue influence includes, but**
40 **is not limited to, the improper or fraudulent use of a power of attorney, guardianship,**
41 **conservatorship, or other fiduciary authority.**

42 3. Nothing in this section shall be construed to limit the remedies available to the victim
43 pursuant to any state law relating to domestic violence.

44 4. Nothing in this section shall be construed to impose criminal liability on a person who
45 has made a good faith effort to assist the elderly or disabled person in the management of his or
46 her property, but through no fault of his or her own has been unable to provide such assistance.

47 5. Nothing in this section shall limit the ability to engage in bona fide estate planning,
48 to transfer property and to otherwise seek to reduce estate and inheritance taxes; provided that

49 such actions do not adversely impact the standard of living to which the elderly or disabled
50 person has become accustomed at the time of such actions.

51 6. It shall not be a defense to financial exploitation of an elderly or disabled person that
52 the accused reasonably believed that the victim was not an elderly or disabled person.

53 7. (1) **It shall be a violation of section 570.145 for any person receiving or in the**
54 **possession of funds of a MO HealthNet-eligible elderly or disabled person residing in a**
55 **facility licensed under chapter 198 to fail to remit to the facility in which the MO**
56 **HealthNet-eligible person resides all money owing the facility resident from any source,**
57 **including but not limited to Social Security, railroad retirement, or payments from any**
58 **other source disclosed as resident income contained in the records of the family support**
59 **division of the department of social services, or its successor agency. The family support**
60 **division or its successor agency is authorized to release information from its records**
61 **containing the resident's income or assets to any prosecuting or circuit attorney in the state**
62 **of Missouri for purposes of investigating or prosecuting any suspected violation of this**
63 **section.**

64 (2) **The prosecuting or circuit attorney of any county containing a facility licensed**
65 **under chapter 198 who successfully prosecutes a violation of the provisions of subsection**
66 **1 of this section may request the circuit court of the county in which the offender pleads**
67 **guilty to or is found guilty of a violation, as a condition of sentence or probation, to order**
68 **restitution of all amounts unlawfully withheld from a facility in his or her county. Any**
69 **order of restitution entered by the court or by agreement shall provide that ten percent of**
70 **any restitution installment or payment paid by or on behalf of the defendant or defendants**
71 **shall be paid to the prosecuting or circuit attorney of the county successfully prosecuting**
72 **the violation to compensate for the costs of prosecution with the remaining amount to be**
73 **paid to the facility.**

574.035. 1. This section shall be known and may be cited as the "House of Worship
2 Protection Act".

3 2. For purposes of this section, "house of worship" means any church, synagogue,
4 other building or structure, or public or private place used for religious worship, religious
5 instruction, or other religious purpose.

6 3. A person commits the crime of disrupting a house of worship if such person:

7 (1) **Intentionally and unreasonably disturbs, interrupts, or disquiets any house of**
8 **worship by using profane discourse, rude or indecent behavior, or making noise either**
9 **within the house of worship or so near it as to disturb the order and solemnity of the**
10 **worship services; or**

11 **(2) Intentionally injures, intimidates, or interferes with or attempts to injure,**
12 **intimidate, or interfere with any person lawfully exercising the right of religious freedom**
13 **in or outside of a house of worship or seeking access to a house of worship, whether by**
14 **force, threat, or physical obstruction.**

15 **4. Disrupting a house of worship is a class B misdemeanor. Any second offense is**
16 **a class A misdemeanor. Any third or subsequent offense is a class D felony.**

17 **5. In addition to any criminal penalty for violating the provisions of this section,**
18 **any person aggrieved by conduct prohibited under this section may commence a civil**
19 **action for appropriate relief, including but not limited to temporary, preliminary, or**
20 **permanent injunctive relief, and compensatory and punitive damages, as well as costs and**
21 **reasonable attorney's fees.**

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

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

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

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

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

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

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

15 2. Institutional vandalism is punishable as follows:

16 (1) Institutional vandalism is a class A misdemeanor, except as provided in subdivisions
17 (2) and (3) of this subsection;

18 (2) Institutional vandalism is a class D felony if the offender commits any act described
19 in subsection 1 of this section which causes damage to, or loss of, the property of another in an
20 amount in excess of one thousand dollars;

21 (3) Institutional vandalism is a class C felony if the offender commits any act described
22 in subsection 1 of this section which causes damage to, or loss of, the property of another in an
23 amount in excess of five thousand dollars.

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

27 **4. In addition to any criminal penalty for violating the provisions of this section,**
28 **any person aggrieved by conduct prohibited under this section may commence a civil**
29 **action for appropriate relief, including but not limited to temporary, preliminary, or**
30 **permanent injunctive relief, and compensatory and punitive damages, as well as costs and**
31 **reasonable attorney's fees.**

575.045. 1. A person commits the crime of false identification to a law enforcement
2 **officer if such person falsely represents or identifies himself or herself as another person**
3 **or as a fictitious person to a law enforcement officer upon a lawful stop or a lawful**
4 **detention, or an arrest of the person, either for the purpose of evading the process of the**
5 **court, or for the purpose of evading the proper identification of the person by the law**
6 **enforcement officer if:**

7 **(1) The false information is given while the law enforcement officer is engaged in**
8 **the performance of his or her duties as a law enforcement officer; and**

9 **(2) The person providing the false information knows or should have known that**
10 **the person receiving the information is a law enforcement officer.**

11 **2. It is a defense to a prosecution under subsection 1 of this section that the actor**
12 **retracted the false statement or report before the law enforcement officer or any other**
13 **person took substantial action in reliance thereon.**

14 **3. The defendant shall have the burden of injecting the issue of retraction under**
15 **subsection 2 of this section.**

16 **4. False identification to a law enforcement officer is a class B misdemeanor.**

575.060. 1. A person commits the crime of making a false declaration if, with the
2 **purpose to mislead a public servant in the performance of his or her duty, [he] such person:**

3 **(1) Submits any written false statement, which he or she does not believe to be true**

4 **(a) In an application for any pecuniary benefit or other consideration; or**

5 **(b) On a form bearing notice, authorized by law, that false statements made therein are**
6 **punishable; or**

7 **(2) Submits or invites reliance on:**

8 **(a) Any writing which he or she knows to be forged, altered or otherwise lacking in**
9 **authenticity; or**

10 **(b) Any sample, specimen, map, boundary mark, or other object which he or she knows**
11 **to be false; or**

12 **(3) Provides any verbal false statement regarding their identity, which he or she**
13 **believes or knows not to be true.**

14 2. The falsity of the statement or the item under subsection 1 of this section must be as
15 to a fact which is material to the purposes for which the statement is made or the item submitted;
16 and the provisions of subsections 2 and 3 of section 575.040 shall apply to prosecutions under
17 subsection 1 of this section.

18 3. It is a defense to a prosecution under subsection 1 of this section that the actor
19 retracted the false statement or item but this defense shall not apply if the retraction was made
20 after:

21 (1) The falsity of the statement or item was exposed; or

22 (2) The public servant took substantial action in reliance on the statement or item.

23 4. The defendant shall have the burden of injecting the issue of retraction under
24 subsection 3 of this section.

25 5. For the purpose of this section, "written" shall include filings submitted in an
26 electronic or other format or medium approved or prescribed by the secretary of state.

27 6. Making a false declaration is a class B misdemeanor.

 575.070. No person shall be convicted of a violation of sections 575.040, **575.045**,
2 575.050 or 575.060 based upon the making of a false statement except upon proof of the falsity
3 of the statement by:

4 (1) The direct evidence of two witnesses; or

5 (2) The direct evidence of one witness together with strongly corroborating
6 circumstances; or

7 (3) Demonstrative evidence which conclusively proves the falsity of the statement; or

8 (4) A directly contradictory statement by the defendant under oath together with

9 (a) The direct evidence of one witness; or

10 (b) Strongly corroborating circumstances; or

11 (5) A judicial admission by the defendant that he made the statement knowing it was
12 false. An admission, which is not a judicial admission, by the defendant that he made the
13 statement knowing it was false may constitute strongly corroborating circumstances.

 575.080. 1. A person commits the crime of making a false report if [he] **such person**
2 knowingly:

3 (1) Gives false information to any person for the purpose of implicating another person
4 in a crime; or

5 (2) Makes a false report to a law enforcement officer, **with an intent to deceive**, that a
6 crime has occurred or is about to occur; or

7 (3) Makes a false report or causes a false report to be made to a law enforcement officer,
8 security officer, fire department or other organization, official or volunteer, which deals with
9 emergencies involving danger to life or property that a fire or other incident calling for an
10 emergency response has occurred or is about to occur.

11 2. It is a defense to a prosecution under subsection 1 of this section that the actor
12 retracted the false statement or report before the law enforcement officer or any other person took
13 substantial action in reliance thereon.

14 3. The defendant shall have the burden of injecting the issue of retraction under
15 subsection 2 of this section.

16 4. Making a false report is a class B misdemeanor **unless committed under subdivision**
17 **(2) of subsection 1 of this section when the crime which was falsely reported was a felony,**
18 **in which case it is a class D felony.**

610.205. 1. After an investigation is inactive, crime scene or death scene
2 **photographs and video recordings, including photographs and video recordings created**
3 **or produced by a state or local agency or by a perpetrator or suspect at a crime scene,**
4 **which depict or describe a deceased person in a state of dismemberment, decapitation, or**
5 **similar mutilation including, without limitation, where the deceased person's genitalia are**
6 **exposed, shall be considered open records for inspection, but closed records for purposes**
7 **of copying under the provisions of this chapter; provided, however, that this section shall**
8 **not prohibit disclosure of such material to the deceased's next of kin or to an individual**
9 **who has secured a written release from the next of kin. It shall be the responsibility of the**
10 **next of kin to show proof of the familial relationship. For purposes of such access, the**
11 **deceased's next of kin shall be:**

12 (1) The spouse of the deceased if living;

13 (2) If there is no living spouse of the deceased, an adult child of the deceased; or

14 (3) If there is no living spouse or adult child, a parent of the deceased.

15 2. Subject to the provisions of subsection 3 of this section, in the case of closed
16 criminal investigations a circuit court judge may order the disclosure of such photographs
17 or video recordings upon findings in writing that disclosure is in the public interest and
18 outweighs any privacy interest that may be asserted by the deceased person's next of kin.
19 In making such determination, the court shall consider whether such disclosure is
20 necessary for public evaluation of governmental performance, the seriousness of the
21 intrusion into the family's right to privacy, and whether such disclosure is the least
22 intrusive means available considering the availability of similar information in other public
23 records. In any such action, the court shall review the photographs or video recordings in
24 question in camera with the custodian of the crime scene materials present and may

25 **condition any disclosure on such condition as the court may deem necessary to**
 26 **accommodate the interests of the parties.**

27 **3. Prior to releasing any crime scene material described in subsection 1 of this**
 28 **section, the custodian of such material shall give the deceased person's next of kin at least**
 29 **two weeks' notice. No court shall order a disclosure under subsection 2 of this section**
 30 **which would disregard or shorten the duration of such notice requirement.**

31 **4. The provisions of this section shall apply to all undisclosed material which is in**
 32 **the custody of a state or local agency on the effective date of this section and to any such**
 33 **material which comes into the custody of a state or local agency after such date.**

34 **5. The provisions of this section shall not apply to disclosure of crime scene material**
 35 **to counsel representing a convicted defendant in a habeas corpus action, on a motion for**
 36 **new trial, or in a federal habeas corpus action under 28 U.S.C. Section 2254 or 2255 for the**
 37 **purpose of preparing to file or litigating such proceedings. Counsel may disclose such**
 38 **materials to his or her client and any expert or investigator assisting counsel but shall not**
 39 **otherwise disseminate such materials, except to the extent they may be necessary exhibits**
 40 **in court proceedings. A request under this subsection shall clearly state that such request**
 41 **is being made for the purpose of preparing to file and litigate proceedings enumerated in**
 42 **this subsection.**

650.055. 1. Every individual, in a Missouri circuit court, who:

2 **(1) Pleads guilty to or is found guilty of a felony or any offense under chapter 566[,] ;**
 3 **or [who]**

4 **(2) Is seventeen years of age or older and [who is] arrested for burglary in the first degree**
 5 **under section 569.160, or burglary in the second degree under section 569.170, or a felony**
 6 **offense under [chapters] chapter 565, 566, 567, 568, or 573[,] ; or**

7 **(3) Has been determined to be a sexually violent predator pursuant to sections 632.480**
 8 **to 632.513[,] ; or**

9 **(4) Is an individual required to register as a sexual offender under sections 589.400 to**
 10 **589.425[,] ;**

11

12 **shall have a fingerprint and blood or scientifically accepted biological sample collected for**
 13 **purposes of DNA profiling analysis[:].**

14 **2. Any individual subject to DNA collection and profiling analysis under this**
 15 **section shall provide a DNA sample:**

16 **(1) Upon booking at a county jail or detention facility; or**

17 **(2) Upon entering or before release from the department of corrections reception and**
 18 **diagnostic centers; or**

19 (3) Upon entering or before release from a county jail or detention facility, state
20 correctional facility, or any other detention facility or institution, whether operated by a private,
21 local, or state agency, or any mental health facility if committed as a sexually violent predator
22 pursuant to sections 632.480 to 632.513; or

23 (4) When the state accepts a person from another state under any interstate compact, or
24 under any other reciprocal agreement with any county, state, or federal agency, or any other
25 provision of law, whether or not the person is confined or released, the acceptance is conditional
26 on the person providing a DNA sample if the person was convicted of, **found guilty of or**
27 **pleaded guilty to**[, or pleaded nolo contendere to an] **a felony** offense [in any other jurisdiction
28 which would be considered a qualifying offense as defined in this section if committed in this
29 state, or if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to any
30 equivalent offense] in any other jurisdiction; or

31 (5) If such individual is under the jurisdiction of the department of corrections. Such
32 jurisdiction includes persons currently incarcerated, persons on probation, as defined in section
33 217.650, and on parole, as also defined in section 217.650; **or**

34 (6) **At the time of registering as a sex offender under sections 589.400 to 589.425.**

35 [2.] **3.** The Missouri state highway patrol and department of corrections shall be
36 responsible for ensuring adherence to the law. Any person required to provide a DNA sample
37 pursuant to this section shall be required to provide such sample, without the right of refusal, at
38 a collection site designated by the Missouri state highway patrol and the department of
39 corrections. Authorized personnel collecting or assisting in the collection of samples shall not
40 be liable in any civil or criminal action when the act is performed in a reasonable manner. Such
41 force may be used as necessary to the effectual carrying out and application of such processes
42 and operations. The enforcement of these provisions by the authorities in charge of state
43 correctional institutions and others having custody or jurisdiction over [those who have been
44 arrested for, convicted of, pleaded guilty to, or pleaded nolo contendere to felony offenses]
45 **individuals included in subsection 1 of this section** which shall not be set aside or reversed is
46 hereby made mandatory. The board of probation or parole shall recommend that an individual
47 **on probation or parole** who refuses to provide a DNA sample have his or her probation or
48 parole revoked. In the event that a person's DNA sample is not adequate for any reason, the
49 person shall provide another sample for analysis.

50 [3.] **4.** The procedure and rules for the collection, analysis, storage, expungement, use
51 of DNA database records and privacy concerns shall not conflict with procedures and rules
52 applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA
53 databank system.

54 [4.] 5. Unauthorized [uses] use or dissemination of individually identifiable DNA
55 information in a database for purposes other than criminal justice or law enforcement is a class
56 A misdemeanor.

57 [5.] 6. Implementation of sections 650.050 to 650.100 shall be subject to future
58 appropriations to keep Missouri's DNA system compatible with the Federal Bureau of
59 Investigation's DNA databank system.

60 [6.] 7. All DNA records and biological materials retained in the DNA profiling system
61 are considered closed records pursuant to chapter 610. All records containing any information
62 held or maintained by any person or by any agency, department, or political subdivision of the
63 state concerning an individual's DNA profile shall be strictly confidential and shall not be
64 disclosed, except to:

65 (1) Peace officers, as defined in section 590.010, and other employees of law
66 enforcement agencies who need to obtain such records to perform their public duties;

67 (2) The attorney general or any assistant attorneys general acting on his or her behalf, as
68 defined in chapter 27;

69 (3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, and their
70 employees who need to obtain such records to perform their public duties;

71 (4) The individual whose DNA sample has been collected, or his or her attorney; or

72 (5) Associate circuit judges, circuit judges, judges of the courts of appeals, supreme court
73 judges, and their employees who need to obtain such records to perform their public duties.

74 [7.] 8. Any person who obtains records pursuant to the provisions of this section shall
75 use such records only for investigative and prosecutorial purposes, including but not limited to
76 use at any criminal trial, hearing, or proceeding; or for law enforcement identification purposes,
77 including identification of human remains. Such records shall be considered strictly confidential
78 and shall only be released as authorized by this section.

79 [8. Within ninety days of warrant refusal, the arresting agency shall notify the Missouri
80 state highway patrol crime laboratory which shall expunge all DNA records taken at the arrest
81 for which the warrant was refused in the database pertaining to the person and destroy the DNA
82 sample of the person, unless the Missouri state highway patrol determines that the person is
83 otherwise obligated to submit a DNA sample.]

84 9. An individual may request expungement of his or her DNA sample and DNA profile
85 through the court issuing the reversal or dismissal. A certified copy of the court order
86 establishing that such conviction has been reversed or guilty plea [or plea of nolo contendere]
87 has been set aside shall be sent to the Missouri state highway patrol crime laboratory. Upon
88 receipt of the court order, the laboratory will determine that the requesting individual has no

89 other qualifying offense as a result of any separate plea or conviction **and no other qualifying**
90 **arrest** prior to expungement.

91 (1) A person whose DNA record or DNA profile has been included in the state DNA
92 database in accordance with this section[, section 488.5050,] and sections 650.050, 650.052, and
93 650.100 may request expungement on the grounds that the conviction has been reversed, or the
94 guilty plea [or plea of nolo contendere] on which the authority for including that person's DNA
95 record or DNA profile was based has been set aside.

96 (2) Upon receipt of a written request for expungement, a certified copy of the final court
97 order reversing the conviction or setting aside the plea and any other information necessary to
98 ascertain the validity of the request, the Missouri state highway patrol crime laboratory shall
99 expunge all DNA records and identifiable information in the **state DNA** database pertaining to
100 the person and destroy the DNA sample of the person, unless the Missouri state highway patrol
101 determines that the person is otherwise obligated to submit a DNA sample. Within thirty days
102 after the receipt of the court order, the Missouri state highway patrol shall notify the individual
103 that it has expunged his or her DNA sample and DNA profile, or the basis for its determination
104 that the person is otherwise obligated to submit a DNA sample.

105 (3) The Missouri state highway patrol is not required to destroy any item of physical
106 evidence obtained from a DNA sample if evidence relating to another person would thereby be
107 destroyed.

108 (4) Any identification, warrant, arrest, or evidentiary use of a DNA match derived from
109 the database shall not be excluded or suppressed from evidence, nor shall any conviction be
110 invalidated or reversed or plea set aside due to the failure to expunge or a delay in expunging
111 DNA records.

112 **[9.] 10. When a DNA sample is taken of an arrestee for any offense listed under**
113 **subsection 1 of this section and the warrant is refused, the arresting agency shall notify the**
114 **Missouri state highway patrol crime laboratory within sixty days of warrant refusal and**
115 **the crime laboratory shall expunge all DNA records taken at the arrest for which the**
116 **warrant was refused in the database pertaining to the person and destroy the DNA sample**
117 **of the person, unless the Missouri state highway patrol crime laboratory determines that**
118 **the person is otherwise obligated to submit a DNA sample. Prior to expungement, the**
119 **Missouri state highway patrol crime laboratory shall determine whether the individual has**
120 **any other qualifying offenses or arrests that would require a DNA sample to be taken and**
121 **retained prior to expungement under this subsection. The Missouri state highway patrol**
122 **crime laboratory shall have ninety days from the date it receives notice to determine**
123 **whether the DNA sample shall be expunged.**

124 **11.** When a DNA sample is taken of an arrestee for any offense listed under subsection
125 1 of this section and charges are filed:

126 (1) If the charges are later withdrawn, the prosecutor shall notify the state highway patrol
127 crime laboratory that such charges have been withdrawn;

128 (2) If the case is dismissed, the court shall notify the state highway patrol crime
129 laboratory of such dismissal;

130 (3) If the court finds at the preliminary hearing that there is no probable cause that the
131 defendant committed the offense, the court shall notify the state highway patrol crime laboratory
132 of such finding;

133 (4) If the defendant is found not guilty, the court shall notify the state highway patrol
134 crime laboratory of such verdict. If the state highway patrol crime laboratory receives a notice
135 **of expungement** under this subsection [that the charges have been withdrawn, the case has been
136 dismissed, there is a finding that the necessary probable cause does not exist, or the defendant
137 is found not guilty] **or subsection 10 of this section**, such crime laboratory shall expunge the
138 DNA sample and DNA profile of the arrestee within [thirty] **ninety** days. Prior to such
139 expungement, the state highway patrol crime laboratory shall determine whether the individual
140 has any other qualifying offenses or arrests that would require a DNA sample to be taken and
141 retained prior to expungement under this subsection.

 650.100. As used in this chapter, the following words shall have the following meanings
2 unless a different meaning clearly appears from the context:

3 (1) "Central repository", [is] the location where all DNA samples collected from
4 individuals [defined in] **under** section 650.055 will be maintained and analyzed; where all
5 authorized DNA profiles uploaded to the state's database will be maintained; and from where all
6 authorized DNA profiles will be uploaded to the national DNA database;

7 (2) "CODIS", the Federal Bureau of Investigation's Combined DNA Index System that
8 allows the storage and exchange of DNA records submitted by federal, state, and local DNA
9 crime laboratories. The term "CODIS" includes the National DNA Index System administered
10 and operated by the Federal Bureau of Investigation;

11 (3) "Crime laboratory", a laboratory operated or supported financially by the state or any
12 unit of city, county, or other local Missouri government that employs at least one scientist, who
13 examines physical evidence in criminal matters and provides expert or opinion testimony with
14 respect to such physical evidence in a state court of law;

15 (4) "Department", the Missouri department of public safety;

16 (5) "DNA", deoxyribonucleic acid. DNA is located in the cells and provides an
17 individual's personal genetic blueprint. DNA encodes genetic information that is the basis of
18 human heredity and forensic identification;

19 (6) "DNA profile" refers to the collective results of all DNA identification analyses on
20 an individual's DNA sample;

21 (7) "DNA record", the DNA identification information stored in the state DNA database
22 or CODIS. The DNA record is the result obtained from the DNA analysis. The DNA record is
23 comprised of the characteristics of a DNA sample, which are of value in establishing the identity
24 of individuals, the DNA profile as well as data required to manage and operate the state's DNA
25 database, to include the specimen identification number;

26 (8) "DNA sample", a biological sample provided by any person with respect to offenses
27 covered by section 650.055 or submitted to the Missouri state highway patrol crime laboratory
28 pursuant to sections 650.050 to 650.100 for analysis or storage or both;

29 (9) **"Expungement", the destruction of an individual's DNA sample and the**
30 **removal of the DNA record from the state DNA database;**

31 (10) "Forensic DNA analysis", the identification and evaluation of biological evidence
32 in criminal matters using DNA technologies;

33 [(10)] (11) "Local funds", any funds not provided by the federal government.

650.120. 1. There is hereby created in the state treasury the "Cyber Crime Investigation
2 Fund". The treasurer shall be custodian of the fund and may approve disbursements from the
3 fund in accordance with sections 30.170 and 30.180. Beginning with the 2010 fiscal year and in
4 each subsequent fiscal year, the general assembly shall appropriate three million dollars to the
5 cyber crime investigation fund. The department of public safety shall be the administrator of the
6 fund. Moneys in the fund shall be used solely for the administration of the grant program
7 established under this section. Notwithstanding the provisions of section 33.080 to the contrary,
8 any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the
9 general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as
10 other funds are invested. Any interest and moneys earned on such investments shall be credited
11 to the fund.

12 2. The department of public safety shall create a program to distribute grants to
13 multijurisdictional Internet cyber crime law enforcement task forces, multijurisdictional
14 enforcement groups, as defined in section 195.503, that are investigating Internet sex crimes
15 against children, and other law enforcement agencies. The program shall be funded by the cyber
16 crime investigation fund created under subsection 1 of this section. Not more than three percent
17 of the money in the fund may be used by the department to pay the administrative costs of the
18 grant program. The grants shall be awarded and used to pay the salaries of detectives and
19 computer forensic personnel whose focus is investigating Internet sex crimes against children,
20 including but not limited to enticement of a child, possession or promotion of child pornography,
21 provide funding for the training of law enforcement personnel and prosecuting and circuit

22 attorneys as well as their assistant prosecuting and circuit attorneys, and purchase necessary
23 equipment, supplies, and services. The funding for such training may be used to cover the travel
24 expenses of those persons participating.

25 3. A panel is hereby established in the department of public safety to award grants under
26 this program and shall be comprised of the following members:

27 (1) The director of the department of public safety, or his or her designee;

28 (2) Two members [shall be] appointed by the director of the department of public safety
29 from a list of six nominees submitted by the Missouri Police Chiefs Association;

30 (3) Two members [shall be] appointed by the director of the department of public safety
31 from a list of six nominees submitted by the Missouri Sheriffs' Association;

32 (4) Two members of the state highway patrol [shall be] appointed by the director of the
33 department of public safety from a list of six nominees submitted by the Missouri State Troopers
34 Association;

35 (5) One member of the house of representatives [who shall be] appointed by the speaker
36 of the house of representatives; and

37 (6) One member of the senate [who shall be] appointed by the president pro tem. The
38 panel members who are appointed under subdivisions (2), (3), and (4) of this subsection shall
39 serve a four-year term ending four years from the date of expiration of the term for which his or
40 her predecessor was appointed. However, a person appointed to fill a vacancy prior to the
41 expiration of such a term shall be appointed for the remainder of the term. Such members shall
42 hold office for the term of his or her appointment and until a successor is appointed. The
43 members of the panel shall receive no additional compensation but shall be eligible for
44 reimbursement for mileage directly related to the performance of panel duties.

45 4. Local matching amounts, which may include new or existing funds or in-kind
46 resources including but not limited to equipment or personnel, are required for
47 multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement
48 agencies to receive grants awarded by the panel. Such amounts shall be determined by the state
49 appropriations process or by the panel.

50 5. When awarding grants, priority should be given to newly hired detectives and
51 computer forensic personnel.

52 6. The panel shall establish minimum training standards for detectives and computer
53 forensic personnel participating in the grant program established in subsection 2 of this section.

54 7. Multijurisdictional Internet cyber crime law enforcement task forces and other law
55 enforcement agencies participating in the grant program established in subsection 2 of this
56 section shall share information and cooperate with the highway patrol and with existing Internet
57 crimes against children task force programs.

58 8. The panel may make recommendations to the general assembly regarding the need for
59 additional resources or appropriations.

60 9. The power of arrest of any peace officer who is duly authorized as a member of a
61 multijurisdictional Internet cyber crime law enforcement task force shall only be exercised during
62 the time such peace officer is an active member of such task force and only within the scope of
63 the investigation on which the task force is working. Notwithstanding other provisions of law
64 to the contrary, such task force officer shall have the power of arrest, as limited in this
65 subsection, anywhere in the state and shall provide prior notification to the chief of police of a
66 municipality or the sheriff of the county in which the arrest is to take place. If exigent
67 circumstances exist, such arrest may be made and notification shall be made to the chief of police
68 or sheriff as appropriate and as soon as practical. The chief of police or sheriff may elect to work
69 with the multijurisdictional Internet cyber crime law enforcement task force at his or her option
70 when such task force is operating within the jurisdiction of such chief of police or sheriff.

71 10. [Under section 23.253 of the Missouri sunset act:

72 (1) The provisions of the new program authorized under this section shall sunset
73 automatically six years after June 5, 2006, unless reauthorized by an act of the general assembly;
74 and

75 (2) If such program is reauthorized, the program authorized under this section shall
76 sunset automatically twelve years after the effective date of the reauthorization of this section;
77 and

78 (3) This section shall terminate on September first of the calendar year immediately
79 following the calendar year in which the program authorized under this section is sunset] **This**
80 **section shall expire on August 28, 2022.**

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