

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE SUBSTITUTE

FOR

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FOR

HOUSE BILLS NOS. 835, 90, 707, 373, 641, 510, 516 & 572

AN ACT

To repeal sections 50.550, 57.020, 57.030, 150.465, 195.010, 195.235, 195.246, 210.025, 210.140, 214.131, 217.690, 302.321, 304.012, 537.523, 542.261, 542.276, 544.170, 547.170, 556.036, 556.061, 558.019, 559.100, 565.050, 565.060, 565.070, 565.084, 565.225, 565.253, 566.083, 566.090, 566.093, 566.140, 566.141, 569.070, 570.010, 570.020, 570.030, 570.080, 570.090, 570.120, 570.130, 570.135, 571.030, 574.085, 577.020, 595.030, 595.035, 595.209, 610.122 and 632.480, RSMo 2000, and to enact in lieu thereof seventy-six new sections relating to crimes and punishment, with penalty provisions.

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

Section A. Sections 50.550, 57.020, 57.030, 150.465, 195.010, 195.235, 195.246, 210.025, 210.140, 214.131, 217.690, 302.321, 304.012, 537.523, 542.261, 542.276, 544.170, 547.170, 556.036, 556.061, 558.019, 559.100, 565.050, 565.060, 565.070, 565.084, 565.225, 565.253, 566.083, 566.090, 566.093, 566.140, 566.141, 569.070, 570.010, 570.020, 570.030, 570.080, 570.090, 570.120, 570.130, 570.135, 571.030, 574.085, 577.020, 595.030, 595.035, 595.209, 610.122 and 632.480, RSMo 2000, are repealed and seventy-six new sections enacted in lieu thereof, to be known

as sections 50.550, 50.555, 57.020, 57.030, 150.465, 195.010, 195.235, 195.246, 195.417, 195.418, 210.025, 210.140, 214.131, 217.690, 262.710, 302.286, 302.321, 304.012, 491.707, 537.297, 537.523, 542.261, 542.276, 544.170, 547.035, 547.170, 556.036, 556.061, 558.019, 559.100, 565.050, 565.060, 565.070, 565.084, 565.200, 565.225, 565.252, 565.253, 566.083, 566.090, 566.093, 566.140, 566.141, 569.070, 569.071, 570.010, 570.020, 570.030, 570.080, 570.090, 570.120, 570.130, 570.135, 571.030, 571.099, 574.085, 575.145, 577.020, 578.154, 578.600, 578.605, 578.610, 589.320, 590.132, 595.030, 595.035, 595.209, 610.122, 610.230, 610.232, 610.234, 610.236, 610.238, 610.240, 632.480 and 1, to read as follows:

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

2. The budget shall contain adequate provisions for the expenditures necessary for the care of insane pauper patients in state hospitals, for the cost of holding elections and for the costs of holding circuit court in the county that are chargeable against the county, for the repair and upkeep of bridges other than on state highways and not in any special road district, and for the salaries, office expenses and deputy and clerical hire of all county officers and agencies.

3. In addition, the budget shall set forth in detail the

anticipated income and other means of financing the proposed expenditures.

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

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

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

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

50.555. 1. A county commission may establish by resolution a fund, the proceeds of which may be expended only for the purposes provided in subsection 3 of this section. The fund shall be designated as a county crime reduction fund and shall be under the supervision of a board of trustees consisting of one

resident of the county appointed by the presiding commission of the county, one resident of the county appointed by the sheriff of the county, and one resident of the county appointed by the county prosecuting attorney.

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

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

(1) Narcotics investigation, prevention and intervention;

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

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

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

(5) Any law enforcement-related expenses reasonably related to investigation, preparation, trial and disposition of criminal cases before the courts of this state, including expenses of the prosecuting attorney approved by the board of trustees of the county crime fund.

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

5. County crime reduction funds shall be audited in the

same manner as all other county funds.

57.020. Every sheriff shall, [within fifteen days after] on or before the date he [receives the certificate of his election or appointment] or she is sworn into office, give bond to the state in a sum not less than five thousand dollars nor more than fifty thousand dollars, with sureties approved by the presiding judge of the circuit court, conditioned for the faithful discharge of his or her duties; which bond shall be filed in the office of the clerk of the circuit court of the county.

57.030. Should any sheriff be reelected, he shall give a new bond and security [within fifteen days from his election] on or before the date that he or she is sworn into office; and should he or she fail to do so, his or her former sureties shall not be held liable for any business done by him or her after [the fifteen days expire] he or she is sworn into office.

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

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

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

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

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

4. Itinerant vendors and peddlers shall make available within seventy-two hours upon request of any law enforcement

officer any proof of purchase from a producer, manufacturer, wholesaler or retailer of any new or unused property, as defined in section 570.010, RSMo.

5. Any forged proof of purchase produced pursuant to subsection 4 of this section shall be prosecuted pursuant to section 570.090, RSMo.

195.010. The following words and phrases as used in sections 195.005 to 195.425, unless the context otherwise requires, mean:

(1) "Addict", a person who habitually uses one or more controlled substances to such an extent as to create a tolerance for such drugs, and who does not have a medical need for such drugs, or who is so far addicted to the use of such drugs as to have lost the power of self-control with reference to his addiction;

(2) "Administer", to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(a) A practitioner (or, in his presence, by his authorized agent); or

(b) The patient or research subject at the direction and in the presence of the practitioner;

(3) "Agent", an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman while acting in the usual and lawful course of the carrier's or warehouseman's business;

(4) "Attorney for the state", any prosecuting attorney, circuit attorney, or attorney general authorized to investigate, commence and prosecute an action under sections 195.005 to 195.425;

(5) "Controlled substance", a drug, substance, or immediate precursor in Schedules I through V listed in sections 195.005 to 195.425;

(6) "Controlled substance analogue", a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(a) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(b) With respect to a particular individual, which that individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II. The term does not include a controlled substance; any substance for which there is an approved new drug application; any substance for which an exemption is in effect for investigational use, for a particular person, under Section 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to the substance is pursuant to the exemption; or any substance to the

extent not intended for human consumption before such an exemption takes effect with respect to the substance;

(7) "Counterfeit substance", a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(8) "Deliver" or "delivery", the actual, constructive, or attempted transfer from one person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance, whether or not there is an agency relationship, and includes a sale;

(9) "Dentist", a person authorized by law to practice dentistry in this state;

(10) "Depressant or stimulant substance":

(a) A drug containing any quantity of barbituric acid or any of the salts of barbituric acid or any derivative of barbituric acid which has been designated by the United States Secretary of Health and Human Services as habit forming under 21 U.S.C. 352(d);

(b) A drug containing any quantity of:

a. Amphetamine or any of its isomers;

b. Any salt of amphetamine or any salt of an isomer of amphetamine; or

c. Any substance the United States Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central

nervous system;

(c) Lysergic acid diethylamide; or

(d) Any drug containing any quantity of a substance that the United States Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect;

(11) "Dispense", to deliver a narcotic or controlled dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery.

"Dispenser" means a practitioner who dispenses;

(12) "Distribute", to deliver other than by administering or dispensing a controlled substance;

(13) "Distributor", a person who distributes;

(14) "Drug":

(a) Substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(c) Substances, other than food, intended to affect the structure or any function of the body of humans or animals; and

(d) Substances intended for use as a component of any article specified in this subdivision. It does not include

devices or their components, parts or accessories;

(15) "Drug-dependent person", a person who is using a controlled substance and who is in a state of psychic or physical dependence, or both, arising from the use of such substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence;

(16) "Drug enforcement agency", the Drug Enforcement Administration in the United States Department of Justice, or its successor agency;

(17) "Drug paraphernalia", all equipment, products, substances and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or an imitation controlled substance in violation of sections 195.005 to 195.425. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or an imitation controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances;

(f) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances or imitation controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances or imitation controlled substances;

(i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;

(k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances or imitation controlled substances into the human body;

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers;

(m) Substances used, intended for use, or designed for use in the manufacture of a controlled substance;

In determining whether an object, product, substance or material is drug paraphernalia, a court or other authority should

consider, in addition to all other logically relevant factors, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use;

(b) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance;

(c) The proximity of the object, in time and space, to a direct violation of sections 195.005 to 195.425;

(d) The proximity of the object to controlled substances or imitation controlled substances;

(e) The existence of any residue of controlled substances or imitation controlled substances on the object;

(f) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of sections 195.005 to 195.425; the innocence of an owner, or of anyone in control of the object, as to direct violation of sections 195.005 to 195.425 shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(g) Instructions, oral or written, provided with the object concerning its use;

(h) Descriptive materials accompanying the object which explain or depict its use;

(i) National or local advertising concerning its use;

(j) The manner in which the object is displayed for sale;

(k) Whether the owner, or anyone in control of the object,

is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(l) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

(m) The existence and scope of legitimate uses for the object in the community;

(n) Expert testimony concerning its use;

(o) The quantity, form or packaging of the product, substance or material in relation to the quantity, form or packaging associated with any legitimate use for the product, substance or material;

(18) "Federal narcotic laws", the laws of the United States relating to controlled substances;

(19) "Hospital", a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care, for not less than twenty-four hours in any week, of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions; or a place devoted primarily to provide, for not less than twenty-four consecutive hours in any week, medical or nursing care for three or more nonrelated individuals. The term "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in chapter 198, RSMo;

(20) "Immediate precursor", a substance which:

(a) The state department of health has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled

substance;

(b) Is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(c) The control of which is necessary to prevent, curtail or limit the manufacture of the controlled substance;

(21) "Imitation controlled substance", a substance that is not a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In determining whether the substance is an "imitation controlled substance" the court or authority concerned should consider, in addition to all other logically relevant factors, the following:

(a) Whether the substance was approved by the federal Food and Drug Administration for over-the-counter (nonprescription or nonlegend) sales and was sold in the federal Food and Drug Administration approved package, with the federal Food and Drug Administration approved labeling information;

(b) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(c) Whether the substance is packaged in a manner normally used for illicit controlled substances;

(d) Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud;

(e) The proximity of the substances to controlled substances;

(f) Whether the consideration tendered in exchange for the noncontrolled substance substantially exceeds the reasonable value of the substance considering the actual chemical composition of the substance and, where applicable, the price at which over-the-counter substances of like chemical composition sell. An imitation controlled substance does not include a placebo or registered investigational drug either of which was manufactured, distributed, possessed or delivered in the ordinary course of professional practice or research;

(22) "Laboratory", a laboratory approved by the department of health as proper to be entrusted with the custody of controlled substances but does not include a pharmacist who compounds controlled substances to be sold or dispensed on prescriptions;

(23) "Manufacture", the production, preparation, propagation, compounding or processing of drug paraphernalia or of a controlled substance, or an imitation controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include the preparation or compounding of a controlled substance or an imitation controlled substance or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance or an imitation controlled substance in the course of his professional practice,

or

(b) By a practitioner or his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

(24) "Marijuana", all parts of the plant genus Cannabis in any species or form thereof, including, but not limited to Cannabis Sativa L., Cannabis Indica, Cannabis Americana, Cannabis Ruderalis, and Cannabis Gigantea, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

(25) "Methamphetamine precursor drug", any drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers;

(26) "Narcotic drug", any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical analysis:

(a) Opium, opiate, and any derivative, of opium or opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the

isomers, esters, ethers, and salts is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium;

(b) Coca leaves, but not including extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(c) Cocaine or any salt, isomer, or salt of isomer thereof;

(d) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

(e) Any compound, mixture, or preparation containing any quantity of any substance referred to in paragraphs (a) to (d) of this subdivision;

[(26)] (27) "Official written order", an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the department of health;

[(27)] (28) "Opiate", any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes its racemic and levorotatory forms. It does not include, unless specifically controlled under section 195.017, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

[(28)] (29) "Opium poppy", the plant of the species

Papaver somniferum L., except its seeds;

(30) "Over-the-counter sale", a retail sale licensed pursuant to chapter 144, RSMo, of a drug other than a controlled substance;

[(29)] (31) "Person", an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity;

[(30)] (32) "Pharmacist", a licensed pharmacist as defined by the laws of this state, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in sections 195.005 to 195.425 shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this state;

[(31)] (33) "Poppy straw", all parts, except the seeds, of the opium poppy, after mowing;

[(32)] (34) "Possessed" or "possessing a controlled substance", a person, with the knowledge of the presence and nature of a substance, has actual or constructive possession of the substance. A person has actual possession if he has the substance on his person or within easy reach and convenient control. A person who, although not in actual possession, has the power and the intention at a given time to exercise dominion or control over the substance either directly or through another person or persons is in constructive possession of it.

Possession may also be sole or joint. If one person alone has

possession of a substance possession is sole. If two or more persons share possession of a substance, possession is joint;

[(33)] (35) "Practitioner", a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by this state to distribute, dispense, conduct research with respect to or administer or to use in teaching or chemical analysis, a controlled substance in the course of professional practice or research in this state, or a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research;

[(34)] (36) "Production", includes the manufacture, planting, cultivation, growing, or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance;

[(35)] (37) "Registry number", the number assigned to each person registered under the federal controlled substances laws;

[(36)] (38) "Sale", includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee;

[(37)] (39) "State" when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America;

[(38)] (40) "Ultimate user", a person who lawfully possesses a controlled substance or an imitation controlled

substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household;

[(39)] (41) "Wholesaler", a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not on prescriptions.

195.235. 1. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture, with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or an imitation controlled substance in violation of sections 195.005 to 195.425.

2. Possession of more than twenty-four grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs shall be prima facie evidence of intent to violate this section. This subsection shall not apply to any practitioner or to any product possessed in the course of a legitimate business.

3. A person who violates this section is guilty of a class D felony.

195.246. 1. It is unlawful for any person to possess [ephedrine, its salts, optical isomers and salts of optical isomers or pseudoephedrine, its salts, optical isomers and salts

of optical isomers] any methamphetamine precursor drug with the intent to manufacture amphetamine, methamphetamine or any of [its] their analogs.

2. Possession of more than twenty-four grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs shall be prima facie evidence of intent to violate this section. This subsection shall not apply to any practitioner or to any product possessed in the course of a legitimate business.

3. A person who violates this section is guilty of a class D felony."; and

195.417. 1. No person shall deliver in any single over-the-counter sale more than three packages of any methamphetamine precursor drug or any combination of methamphetamine precursor drugs.

2. This section shall not apply to any product labeled pursuant to federal regulation for use only in children under twelve years of age, or to any products that the state department of health, upon application of a manufacturer, exempts by rule from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors.

3. Any person who knowingly or recklessly violates this section is guilty of a class A misdemeanor.

195.418. 1. The retail sale of methamphetamine precursor drugs shall be limited to:

(1) Sales in packages containing not more than a total of three grams of one or more methamphetamine precursor drugs,

calculated in terms of ephedrine base, pseudoephedrine base and phenylpropanolamine base; and

(2) For nonliquid products, sales in blister packs, each blister containing not more than two dosage units, or where the use of blister packs is technically infeasible, sales in unit dose packets or pouches.

2. Any person holding a retail sales license pursuant to chapter 144, RSMo, who knowingly violates subsection 1 of this section is guilty of a class A misdemeanor.

3. Any person who is considered the general owner or operator of the outlet where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale who violates subsection 1 of this section shall not be penalized pursuant to this section if such person documents that an employee training program was in place to provide the employee with information on the state and federal regulations regarding ephedrine, pseudoephedrine, or phenylpropanolamine.

210.025. 1. To qualify for receipt of state or federal funds for providing child-care services in the home either by direct payment or through reimbursement to a child-care beneficiary, an applicant and any person over the age of eighteen who is living in the applicant's home shall be required to submit to a criminal background check pursuant to section 43.540, RSMo, and a check of the central registry for child abuse established in section 210.145. Effective January 1, 2001, the requirements of this subsection or subsection 2 of this section shall be satisfied through registration with the family care safety registry established in sections 210.900 to 210.936. Any costs

associated with such checks shall be paid by the applicant.

2. Upon receipt of an application for state or federal funds for providing child-care services in the home, the division of family services shall:

(1) Determine if a probable cause finding of child abuse or neglect involving the applicant or any person over the age of eighteen who is living in the applicant's home has been recorded pursuant to section 210.221 or 210.145;

(2) Determine if the applicant or any person over the age of eighteen who is living in the applicant's home has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.221 or 210.496; and

(3) Request a criminal background check of the applicant and any person over the age of eighteen who is living in the applicant's home pursuant to section 43.540, RSMo.

3. Except as otherwise provided in subsection 4 of this section, upon completion of the background checks in subsection 2 of this section, an applicant shall be denied state or federal funds for providing child care if such applicant or any person over the age of eighteen who is living in the applicant's home:

(1) Has had a probable cause finding of child abuse or neglect pursuant to section 210.145;

(2) Has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.496;

(3) Has pled guilty or nolo contendere to or been found guilty of any felony for an offense against the person as defined by chapter 565, RSMo, any misdemeanor offense pursuant to chapter 565, RSMo, when the victim is a child, or any other offense

against the person involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for an offense against the family as defined in chapter 568, RSMo, with the exception of the sale of fireworks, as defined in section 320.110, RSMo, to a child under the age of eighteen; of any misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge or any offenses or reports which will disqualify an applicant from receiving state or federal funds; of any offense involving stalking of a person that is considered a felony in the jurisdiction where such offense is charged; of any offense of prostitution, robbery or arson whether a misdemeanor or felony; or of any offense involving a firearm whether a misdemeanor or felony.

4. An applicant shall be given an opportunity by the division to offer any extenuating or mitigating circumstances regarding the findings, refusals or violations against such applicant or any person over the age of eighteen who is living in the applicant's home listed in subsection 2 of this section. Such extenuating and mitigating circumstances may be considered by the division in its determination of whether to permit such applicant to receive state or federal funds for providing child care in the home.

5. An applicant who has been denied state or federal funds for providing child care in the home may appeal such denial decision in accordance with the provisions of section 208.080,

RSMo.

6. If an applicant is denied state or federal funds for providing child care in the home based on the background check results for any person over the age of eighteen who is living in the applicant's home, the applicant shall not apply for such funds until such person is no longer living in the applicant's home.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

210.140. Any legally recognized privileged communication, except that between attorney and client or involving communications made to a minister or clergyperson, shall not apply to situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as

required or permitted by sections 210.110 to 210.165, or to give or accept evidence in any judicial proceeding relating to child abuse or neglect.

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

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

2. Before ordering the parole of any offender, the board shall have the offender appear before a hearing panel and shall conduct a personal interview with [him] said offender, unless waived by the offender. A parole shall be ordered only for the

best interest of society, not as an award of clemency; it shall not be considered a reduction of sentence or a pardon. An offender shall be placed on parole only when the board believes that [he] said offender is able and willing to fulfill the obligations of a law-abiding citizen. Every offender while on parole shall remain in the legal custody of the department but shall be subject to the orders of the board.

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

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

5. Any offender under a sentence for first degree murder who has been denied release on parole after a parole hearing shall not be eligible for another parole hearing until at least three years from the month of the parole denial; however, this

subsection shall not prevent a release pursuant to subsection 4 of section 558.011, RSMo.

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

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

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

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

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

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

7. The board shall notify any person of the results of a parole eligibility hearing if the person indicates to the board a desire to be notified.

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

offender's incarceration.

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

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

262.710. Agricultural land shall be exempt from any state law, rule or regulation, and any ordinance of any county of the second, third or fourth classification that prohibits the open burning of hay bales or brush on such land.

302.286. 1. No person shall drive a motor vehicle so as to cause it to leave the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of such motor vehicle unless payment or authorized charge for motor fuel dispensed has been made. A person found guilty or pleading guilty to stealing pursuant to section 570.030, RSMo, wherein the court found evidence of the theft of motor fuel as described in subdivision (5) of subsection 2 of section 570.030, RSMo, shall have his or her driver's license suspended by the court, beginning on the date of the court's order of conviction.

2. The person shall submit all of his or her operator's and chauffeur's licenses to the court upon conviction and the court shall forward all such driver's licenses and the order of suspension of driving privileges to the department of revenue for administration of such order.

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

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

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

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

4. At the expiration of the suspension period, and upon payment of a reinstatement fee of twenty-five dollars, the director shall terminate the suspension and shall return the person's driver's license. The reinstatement fee required pursuant to this subsection shall be in addition to the fee required in section 302.304, and in addition to any other fees required by law, and shall be deposited in the state treasury to the credit of the state highway department fund, pursuant to section 302.228.

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

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

pursuant to section 577.010, RSMo, or a fourth or subsequent conviction for any other offense] the minimum sentence required by this section.

304.012. 1. Every person operating a motor vehicle on the roads and highways of this state shall drive the vehicle in a careful and prudent manner and at a rate of speed so as not to endanger the property of another or the life or limb of any person and shall exercise the highest degree of care.

2. [Any person who violates the provisions of this section is guilty of a class B misdemeanor, unless an accident is involved then it shall be a class A misdemeanor.] Every person operating a motor vehicle on the roads and highways of this state shall operate the vehicle in a careful and prudent manner and at a rate of speed so as not to cause serious physical injury, as defined in section 556.061, RSMo, of any person, and shall exercise the highest degree of care.

3. Any person who violates the provisions of subsection 1 of this section shall be guilty of a class B misdemeanor.

4. Any person who violates the provisions of subsection 2 of this section shall be guilty of a class A misdemeanor.

491.707. In all prosecutions brought pursuant to chapter 566, RSMo, sections 565.050, 565.060 and 565.070, RSMo, sections 568.045, 568.050, 568.060, 568.080 and 568.090, RSMo, and sections 573.025 and 573.040, RSMo, the defendant may be physically excluded from the room in which any and all discovery deposition proceedings are conducted at which the child victim testifies. For purposes of this section, a "child victim" means any victim less than sixteen years of age.

537.297. 1. The following words as used in this section shall have the following meanings:

(1) "Owner", all of the following persons:

(a) Any person who lawfully owns anhydrous ammonia;

(b) Any person who lawfully owns a container, equipment or storage facility containing anhydrous ammonia;

(c) Any person responsible for the installation or operation of such containers, equipment or storage facilities;

(d) Any person lawfully selling anhydrous ammonia;

(e) Any person lawfully purchasing anhydrous ammonia for agricultural purposes;

(f) Any person who operates or uses anhydrous ammonia containers, equipment or storage facilities when lawfully applying anhydrous ammonia for agricultural purposes;

(2) "Tamperer", a person who commits or assists in the commission of tampering;

(3) "Tampering", transferring or attempting to transfer anhydrous ammonia from its present container, equipment or storage facility to another container, equipment or storage facility, without prior authorization from the owners.

2. A tamperer assumes the risk of any personal injury, death and other economic and noneconomic loss arising from his or her participation in the act of tampering. A tamperer or any person related to a tamperer shall not commence a direct or derivative action against any owner as it relates to the act of tampering. Owners are immune from suit by a tamperer or any person related to a tamperer and shall not be held liable for any negligent act or omission which may cause personal injury, death

or other economic or noneconomic loss to a tamperer as it relates to the act of tampering.

3. The immunity from liability and suit authorized by this section is expressly waived for owners whose acts or omissions constitute willful or wanton negligence.

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

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

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

- (1) Both special and general damages; and
- (2) Reasonable attorney fees and costs.

542.261. As used in sections 542.261 to 542.296 and section 542.301, the term "peace officer" means a police officer, member of the highway patrol to the extent otherwise permitted by law to conduct searches, sheriff or deputy sheriff, and the term "technological crime" shall be defined as it is in section 578.600, RSMo.

542.276. 1. Any peace officer or prosecuting attorney may make application under section 542.271 for the issuance of a search warrant. In any investigation of a technological crime, the attorney general may also make application under section 542.271 for the issuance of a search warrant.

2. The application shall:

(1) Be in writing;

(2) State the time and date of the making of the application;

(3) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(4) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he or she is to search;

(5) State facts sufficient to show probable cause for the issuance of a search warrant;

(6) Be verified by the oath or affirmation of the applicant;

(7) Be filed in the proper court;

(8) Be signed by the prosecuting attorney of the county where the search is to take place, or [his] by the prosecuting attorney's designated assistant, or, in the case of an application to search for and seize evidence related to a technological crime, be signed by the attorney general or the attorney general's designated assistant, or the prosecuting attorney or the prosecuting attorney's designated assistant.

3. The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a search warrant and in filling out any deficiencies in the description of the person, place, or thing to be searched or of the property, article, material, substance, or person to be seized. Oral testimony shall not be considered.

4. The judge shall hold a nonadversary hearing to determine whether sufficient facts have been stated to justify the issuance of a search warrant. If it appears from the application and any supporting affidavit that there is probable cause to believe that property, article, material, substance, or person subject to seizure is on the person or at the place or in the thing described, a search warrant shall immediately be issued. The warrant shall be issued in the form of an original and two copies.

5. The application and any supporting affidavit and a copy of the warrant shall be retained in the records of the court from which the warrant was issued.

6. The search warrant shall:

(1) Be in writing and in the name of the state of Missouri;

(2) Be directed to any peace officer in the state;

(3) State the time and date the warrant is issued;

(4) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(5) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he or she is to search;

(6) Command that the described person, place, or thing be searched and that any of the described property, article, material, substance, or person found thereon or therein be seized or photographed or copied and be returned, or the photograph or copy be brought, within ten days after filing of the application, to the judge who issued the warrant, to be dealt with according to law;

(7) Be signed by the judge, with his or her title of office indicated.

7. A search warrant issued under this section may be executed only by a peace officer. The warrant shall be executed by conducting the search and seizure commanded.

8. A search warrant shall be executed as soon as practicable and shall expire if it is not executed and the return made within ten days after the date of the making of the application.

9. After execution of the search warrant, the warrant with a return thereon, signed by the officer making the search, shall

be delivered to the judge who issued the warrant. The return shall show the date and manner of execution, what was seized, and the name of the possessor and of the owner, when he or she is not the same person, if known. The return shall be accompanied by a copy of the itemized receipt required by subsection [6] 5 of section 542.291. The judge or clerk shall, upon request, deliver a copy of such receipt to the person from whose possession the property was taken and to the applicant for the warrant.

10. A search warrant shall be deemed invalid:

(1) If it was not issued by a judge; or

(2) If it was issued without a written application having been filed and verified; or

(3) If it was issued without probable cause; or

(4) If it was not issued in the proper county; or

(5) If it does not describe the person, place, or thing to be searched or the property, article, material, substance, or person to be seized with sufficient certainty; or

(6) If it is not signed by the judge who issued it; or

(7) If it was not executed within the time prescribed by subsection 8 of this section.

544.170. 1. Except as provided in subsection 2 of this section, all persons arrested and confined in any jail[, calaboose] or other place of confinement by any peace officer, without warrant or other process, for any alleged breach of the peace or other criminal offense, or on suspicion thereof, shall be discharged from said custody within twenty hours from the time of such arrest, unless they shall be charged with a criminal offense by the oath of some credible person, and be held by

warrant to answer to such offense[; and every such person shall, while so confined, be permitted at all reasonable hours during the day to consult with counsel or other persons in his behalf; and any person or officer who shall violate the provisions of this section, by refusing to release any person who shall be entitled to such release, or by refusing to permit him to see and consult with counsel or other persons, or who shall transfer any such prisoner to the custody or control of another, or to another place, or prefer against such person a false charge, with intent to avoid the provisions of this section, shall be deemed guilty of a misdemeanor].

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

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

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

misdemeanor.

547.035. 1. A person in the custody of the department of corrections claiming that forensic DNA testing will demonstrate the person's innocence of the crime for which the person is in custody may file a post-conviction motion in the sentencing court seeking such testing. The procedure to be followed for such motions is governed by the rules of civil procedure insofar as applicable.

2. The motion must allege facts under oath demonstrating that:

(1) There is evidence upon which DNA testing can be conducted; and

(2) The evidence was secured in relation to the crime; and

(3) The evidence was not previously tested by the movant because:

(a) The technology for the testing was not reasonably available to the movant at the time of the trial;

(b) Neither the movant nor his or her trial counsel was aware of the existence of the evidence at the time of trial; or

(c) The evidence was otherwise unavailable to both the movant and movant's trial counsel at the time of trial; and

(4) Identity was an issue in the trial; and

(5) The evidence to be tested has been subject to a chain of custody sufficient to establish that it has not been substituted, tampered with, replaced or altered in any material aspect; and

(6) A reasonable probability exists that the movant would not have been convicted if exculpatory results had been obtained

through the requested DNA testing.

3. Movant shall file the motion and two copies thereof with the clerk of the sentencing court. The clerk shall file the motion in the original criminal case and shall immediately deliver a copy of the motion to the prosecutor.

4. The court shall issue to the prosecutor an order to show cause why the motion should not be granted unless:

(1) It appears from the motion that the movant is not entitled to relief; or

(2) The court finds that the files and records of the case conclusively show that the movant is not entitled to relief.

5. Upon the issuance of the order to show cause, the clerk shall notify the court reporter to prepare and file the transcript of the trial or the movant's guilty plea and sentencing hearing if the transcript has not been prepared or filed.

6. If the court finds that the motion and the files and records of the case conclusively show that the movant is not entitled to relief, a hearing shall not be held. If a hearing is ordered, counsel shall be appointed to represent the movant if the movant is indigent. The hearing shall be on the record. Movant need not be present at the hearing. The court may order that testimony of the movant shall be received by deposition. The movant shall have the burden of proving the allegations of the motion by a preponderance of the evidence.

7. The court shall order appropriate testing if the court finds:

(1) A reasonable probability exists that the movant would

not have been convicted if exculpatory results had been obtained through the requested DNA testing; and

(2) That movant is entitled to relief.

Such testing shall be conducted by a facility mutually agreed upon by the movant and by the state and approved by the court. If the parties are unable to agree, the court shall designate the testing facility. The court shall impose reasonable conditions on the testing to protect the state's interests in the integrity of the evidence and the testing process.

8. The court shall issue findings of fact and conclusions of law whether or not a hearing is held.

547.170. In all cases where an appeal or writ of error is prosecuted from a judgment in a criminal cause, except where the defendant is under sentence of death or imprisonment in the penitentiary for life, [or] a sentence of imprisonment for a violation of sections 195.222, RSMo, 565.021, RSMo, 565.050, RSMo, [or] subsections 1 and 2 of section 566.030, RSMo, or section 566.060, RSMo, any court or officer authorized to order a stay of proceedings under the preceding provisions may allow a writ of habeas corpus, to bring up the defendant, and may thereupon let [him] the defendant to bail upon a recognizance, with sufficient sureties, to be approved by such court or judge.

556.036. 1. A prosecution for murder, a prosecution pursuant to section 566.030 or 566.060, RSMo, or any class A felony may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

- (1) For any felony, three years;
- (2) For any misdemeanor, one year;
- (3) For any infraction, six months.

3. If the period prescribed in subsection 2 has expired, a prosecution may nevertheless be commenced for:

(1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation by more than three years. As used in this subdivision, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having jurisdiction pursuant to section 407.553, RSMo, for purposes of offenses committed pursuant to sections 407.511 to 407.556, RSMo; and

(2) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years; and

(3) Any offense based upon an intentional and willful fraudulent claim of child support arrearage to a public servant in the performance of his or her duties within one year after discovery of the offense, but in no case shall this provision extend the period of limitation by more than three years; and

(4) Any violation of sections 569.040 to 569.055, RSMo,

within five years of the violation.

4. An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

5. A prosecution is commenced either when an indictment is found or an information filed.

6. The period of limitation does not run:

(1) During any time when the accused is absent from the state, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(2) During any time when the accused is concealing himself or herself from justice either within or without this state; or

(3) During any time when a prosecution against the accused for the offense is pending in this state; or

(4) During any time when the accused is found to lack mental fitness to proceed pursuant to section 552.020, RSMo.

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

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

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

(3) "Commercial film and photographic print processor", any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term commercial film and photographic

print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency;

(4) "Confinement":

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

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

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

c. A public servant having the legal power and duty to confine the person authorizes [his] such person's release without guard and without condition that [he] such person return to confinement;

(b) A person is not in confinement if:

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

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

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

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

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

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

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

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

(8) "Dangerous felony" means the felonies of arson in the first degree, assault in the first degree, forcible rape, forcible sodomy, kidnapping, murder in the second degree [and], robbery in the first degree, statutory rape in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense and abuse of a child as set forth in subdivision (2) of subsection 3 of section 568.060, RSMo;

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

(10) "Deadly weapon" means any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing

death or serious physical injury, may be discharged, or a switchblade knife, dagger, billy, blackjack or metal knuckles;

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

(12) "Forcible compulsion" means either:

(a) Physical force that overcomes reasonable resistance; or

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

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

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

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

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

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

(18) "Misdemeanor" has the meaning specified in section

556.016;

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

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

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

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

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

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

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

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

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

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

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

(30) "Sexual contact" means any touching of the genitals or anus of any person, or the breast of any female person, or any such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person;

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

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

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

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

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

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

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

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

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

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

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

be seventy-five years.

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

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

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

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

- (a) The nature and severity of each offense;
- (b) The record of prior offenses by the offender;
- (c) The data gathered by the commission showing the duration and nature of sentences imposed for each crime; and
- (d) The resources of the department of corrections and other authorities to carry out the punishments that are imposed.

(4) The commission shall publish and distribute its system of recommended sentences on or before July 1, 1995. The

commission shall study the implementation and use of the system of recommended sentences until July 1, 1998, and return a final report to the governor, the speaker of the house of representatives, and the president pro tem of the senate. Following the July 1, 1998, report, the commission may revise the recommended sentences every three years.

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

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

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

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

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

(2) Offender treatment programs;

(3) Mandatory community services;

(4) Work release programs in local facilities;
(5) Community-based residential or nonresidential programs;
(6) Any other method that the court finds just or
appropriate.

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

9. County crime reduction funds shall be audited in the
same manner as all other county funds.

10. The provisions of this section shall apply only to
offenses occurring on or after August 28, 1994.

559.100. 1. The circuit courts of this state shall have power, herein provided, to place on probation or to parole persons convicted of any offense over which they have jurisdiction, except as otherwise provided in sections 195.275 to 195.296, RSMo, section 558.018, RSMo, section 565.020, RSMo, section 571.015, RSMo, and section 559.115.

2. The circuit court shall have the power to revoke the probation or parole previously granted and commit the person to the department of corrections. The circuit court shall determine any conditions of probation or parole for the defendant that it

deems necessary to ensure the successful completion of the probation or parole term, including the extension of any term of supervision for any person while on probation or parole. The circuit court may require that the defendant pay restitution for his crime. Court-ordered restitution shall be paid by the defendant at all times while under court, state or county supervision, except during periods of incarceration, and such orders of restitution shall be enforced as provided in subdivision (18) of subsection 1 of section 595.209, RSMo. The probation or parole may be revoked for failure to pay restitution or for failure to conform his behavior to the conditions imposed by the circuit court. The circuit court may, in its discretion, credit any period of probation or parole as time served on a sentence.

565.050. 1. A person commits the crime of assault in the first degree if [he] the person attempts to kill or knowingly causes or attempts to cause serious physical injury to another person.

2. Assault in the first degree is a class B felony unless in the course thereof the actor inflicts serious physical injury on the victim in which case it is a class A felony.

3. No person who pleads guilty to or is found guilty of assault in the first degree shall receive a suspended imposition of sentence, probation or a fine in lieu of a term of imprisonment if the assault was on a mass transit worker or passenger while on or waiting to board a bus or light rail system.

565.060. 1. A person commits the crime of assault in the

second degree if [he] the person:

(1) Attempts to kill or knowingly causes or attempts to cause serious physical injury to another person under the influence of sudden passion arising out of adequate cause; or

(2) Attempts to cause or knowingly causes physical injury to another person by means of a deadly weapon or dangerous instrument; or

(3) Recklessly causes serious physical injury to another person; or

(4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle in this state and, when so operating, acts with criminal negligence to cause physical injury to any other person than himself or herself; or

(5) Recklessly causes physical injury to another person by means of discharge of a firearm.

2. The defendant shall have the burden of injecting the issue of influence of sudden passion arising from adequate cause [under] pursuant to subdivision (1) of subsection 1 of this section.

3. Assault in the second degree is a class C felony.

4. No person who pleads guilty to or is found guilty of assault in the second degree shall receive a suspended imposition of sentence, probation or a fine in lieu of a term of imprisonment if the assault was on a mass transit worker or passenger while on or waiting to board a bus or light rail system.

565.070. 1. A person commits the crime of assault in the

third degree if:

(1) The person attempts to cause or recklessly causes physical injury to another person; or

(2) With criminal negligence the person causes physical injury to another person by means of a deadly weapon; or

(3) The person purposely places another person in apprehension of immediate physical injury; or

(4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or

(5) The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or

(6) The person knowingly causes physical contact with an incapacitated person, as defined in section 475.010, RSMo, which a reasonable person, who is not incapacitated, would consider offensive or provocative.

2. Except as provided in subsections 3 and 4 of this section, assault in the third degree is a class A misdemeanor.

3. A person who violates the provisions of subdivision (3) or (5) of subsection 1 of this section is guilty of a class C misdemeanor.

4. A person who has pled guilty to or been found guilty of the crime of assault in the third degree more than two times against any family or household member as defined in section 455.010, RSMo, is guilty of a class D felony for the third or any subsequent commission of the crime of assault in the third degree when a class A misdemeanor. The offenses described in this

subsection may be against the same family or household member or against different family or household members.

5. No person who pleads guilty to or is found guilty of assault in the third degree shall receive a suspended imposition of sentence, probation or a fine in lieu of a term of imprisonment if the assault was on a mass transit worker or passenger while on or waiting to board a bus or light rail system.

565.084. 1. A person commits the crime of tampering with a judicial officer if, with the purpose to harass, intimidate or influence a judicial officer in the performance of such officer's official duties, [he] the actor:

(1) Threatens or causes harm to such judicial officer or members of such judicial officer's family;

(2) Uses force, threats, or deception against or toward such judicial officer or members of such judicial officer's family;

(3) Offers, conveys or agrees to convey any benefit direct or indirect upon such judicial officer or such judicial officer's family;

(4) Engages in conduct reasonably calculated to harass or alarm such judicial officer or such judicial officer's family, including stalking pursuant to section 565.225.

2. A judicial officer for purposes of this section shall be a judge, arbitrator, special master, juvenile court commissioner, state probation or parole officer, juvenile court officer or referee.

3. A judicial officer's family for purposes of this section

shall be:

- (1) [His] the officer's spouse; or
- (2) [His or his] The officer's or the officer's spouse's ancestor or descendant by blood or adoption; or
- (3) [His] The officer's stepchild, while the marriage creating that relationship exists.

4. Tampering with a judicial officer is a class C felony.

565.200. 1. Any owner or employee of a skilled nursing facility, as defined in section 198.006, RSMo, or an Alzheimer's special unit or program, as defined in section 198.505, RSMo, who:

(1) Has sexual contact, as defined in section 566.010, RSMo, with a resident is guilty of a class B misdemeanor. Any person who commits a second or subsequent violation of this subdivision is guilty of a class A misdemeanor; or

(2) Has sexual intercourse or deviant sexual intercourse, as defined in section 566.010, RSMo, with a resident is guilty of a class D felony. Any person who commits a second or subsequent violation of this subdivision is guilty of a class C felony.

2. The provisions of this section shall not apply to an owner or employee of a skilled nursing facility or Alzheimer's special unit or program who engages in sexual conduct, as defined in section 566.010, RSMo, with a resident to whom the owner or employee is married.

565.225. 1. As used in this section, the following terms shall mean:

(1) "Course of conduct", a pattern of conduct composed of a series of acts, which may include electronic or other

communications, over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct". Such constitutionally protected activity includes picketing or other organized protests;

(2) "Credible threat", a threat made with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause physical injury to, a person and may include a threat communicated to the targeted person in writing, including electronic communications, by telephone, or by the posting of a site or message that is accessible via computer and is reasonably likely to cause the targeted person to reasonably fear for his or her safety if made aware of the content of the site or message;

(3) "Harasses", to engage in a course of conduct directed at a specific person that serves no legitimate purpose, that would cause a reasonable person to suffer substantial emotional distress, and that actually causes substantial emotional distress to that person.

2. Any person who purposely and repeatedly harasses or follows with the intent of harassing another person commits the crime of stalking.

3. Any person who purposely and repeatedly harasses or follows with the intent of harassing or harasses another person, and makes a credible threat with the intent to place that person in reasonable fear of death or serious physical injury, commits the crime of aggravated stalking.

4. The crime of stalking shall be a class A misdemeanor for the first offense. A second or subsequent offense within five years of a previous finding or plea of guilt against any victim shall be a class D felony.

5. The crime of aggravated stalking shall be a class D felony for the first offense. A second or subsequent offense within five years of a previous finding or plea of guilt against any victim shall be a class C felony.

6. Any law enforcement officer may arrest, without a warrant, any person he or she has probable cause to believe has violated the provisions of this section.

565.252. 1. A person commits the crime of invasion of privacy in the first degree if such person knowingly photographs or films another person, without the person's knowledge and consent, while the person being photographed or filmed is in a state of full or partial nudity and is in a place where one would have a reasonable expectation of privacy, and the person subsequently distributes the photograph or film to another or transmits the image contained in the photograph or film in a manner that allows access to that image via a computer.

2. Invasion of privacy in the first degree is a class C felony.

565.253. 1. A person commits the crime of invasion of privacy in the second degree if [he] such person knowingly views, photographs or films another person, without that person's knowledge and consent, while the person being viewed, photographed or filmed is in a state of full or partial nudity and is in a place where [he] one would have a reasonable

expectation of privacy.

2. Invasion of privacy in the second degree is a class A misdemeanor; unless more than one person is viewed, photographed or filmed in full or partial nudity in violation of sections 565.250 to 565.257 during the same course of conduct, in which case invasion of privacy is a class D felony; and unless committed by a prior invasion of privacy offender, in which case invasion of privacy is a class C felony. Prior pleas or findings of guilt shall be pled and proven in the same manner required by the provisions of section 558.021, RSMo.

566.083. 1. A person commits the crime of sexual misconduct involving a child if the person:

(1) Knowingly exposes the person's genitals to a child less than fourteen years of age in a manner that would cause a reasonable adult to believe that the conduct is likely to cause affront or alarm to a child less than fourteen years of age;

(2) Knowingly exposes the person's genitals to a child less than fourteen years of age for the purpose of arousing or gratifying the sexual desire of any person, including the child; or

(3) Coerces a child less than fourteen years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person, including the child.

2. As used in this section, the term "sexual act" means any of the following, whether performed or engaged in either with any other person or alone: sexual or anal intercourse, masturbation, bestiality, sadism, masochism, fetishism, fellatio, cunnilingus, any other sexual activity or nudity, if such nudity is to be

depicted for the purpose of sexual stimulation or gratification of any individual who may view such depiction.

3. Violation of this section is a class D felony[; except that the] unless the actor has previously pleaded guilty to or been convicted of an offense pursuant to this chapter or the actor has previously pleaded guilty to or been convicted of an offense in another state or jurisdiction which would constitute an offense pursuant to this chapter if it had been committed in this state in which case it is a class C felony. A second or any subsequent violation of [this section is] this chapter makes this offense a class C felony.

566.090. 1. A person commits the crime of sexual misconduct in the first degree if he has deviate sexual intercourse with another person of the same sex or he purposely subjects another person to sexual contact or engages in conduct which would constitute sexual contact except that the touching occurs through the clothing without that person's consent.

2. Sexual misconduct in the first degree is a class A misdemeanor unless the actor has previously pleaded guilty to or been convicted of an offense [under] pursuant to this chapter or the actor has previously pleaded guilty to or been convicted of an offense against the laws of another state or jurisdiction which would constitute an offense pursuant to this chapter if it had been committed in this state, or unless in the course thereof the actor displays a deadly weapon in a threatening manner or the offense is committed as a part of a ritual or ceremony, in which case it is a class D felony.

566.093. 1. A person commits the crime of sexual

misconduct in the second degree if [he] such person:

(1) Exposes his or her genitals under circumstances in which [he] such person knows that his or her conduct is likely to cause affront or alarm; or

(2) Has sexual contact in the presence of a third person or persons under circumstances in which [he] such person knows that such conduct is likely to cause affront or alarm.

2. Sexual misconduct in the second degree is a class B misdemeanor unless the actor has previously pleaded guilty to or been convicted of an offense [under] pursuant to this chapter or has pleaded guilty to or been convicted of an offense in another state or jurisdiction which would constitute an offense pursuant to this chapter if it had been committed in this state, in which case it is a class A misdemeanor.

566.140. Any person who has pleaded guilty to or been found guilty of violating the provisions of this chapter, and is granted a suspended imposition or execution of sentence or placed under the supervision of the board of probation and parole shall be required to participate in and successfully complete a program of treatment, education and rehabilitation designed for perpetrators of sexual offenses. Persons required to attend a program pursuant to this section may be charged a reasonable fee to cover the costs of such program.

566.141. Any person who is convicted of or pleads guilty or nolo contendere to any sexual offense involving a child shall be required as a condition of probation or parole to be involved in and successfully complete an appropriate treatment program.

569.070. 1. A person commits the crime of causing

catastrophe in the first degree if [he] such person knowingly causes a catastrophe by explosion, fire, flood, collapse of a building, release of poison, radioactive material, bacteria, virus or other dangerous and difficult to confine force or substance.

2. "Catastrophe" as used in this section and section 569.071 means death or serious physical injury to ten or more people or substantial damage to five or more buildings or inhabitable structures or substantial damage to a private or public utility, vital public facility or public service which seriously impairs its usefulness or operation.

3. Causing catastrophe in the first degree is a class A felony.

569.071. 1. A person commits the crime of causing catastrophe in the second degree if such person knowingly causes a catastrophe by:

(1) Modifying, destroying, damaging or disabling any computer network or program; or

(2) Initiating a computer virus.

2. Causing catastrophe in the second degree is a class B felony.

570.010. As used in this chapter:

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

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

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

(a) To commit any crime; or

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

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

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

or

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

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

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

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

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

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

(6) "Debit device" means a card, code, number or other device, other than a check, draft or similar paper instrument, by

the use of which a person may initiate an electronic fund transfer, including but not limited to devices that enable electronic transfers of benefits to public assistance recipients;

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

(8) "Deprive" means:

(a) To withhold property from the owner permanently; or
(b) To restore property only upon payment of reward or other compensation; or

(c) To use or dispose of property in a manner that makes recovery of the property by the owner unlikely;

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

(10) "New and unused property" means tangible personal property that has never been used since its production or manufacture and is in its original unopened package or container

if such property was packaged;

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

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

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

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

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

570.020. For the purposes of this chapter, the value of property shall be ascertained as follows:

(1) Except as otherwise specified in this section, "value" means the market value of the property at the time and place of

the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the crime. If the victim is a merchant, as defined in section 400.2-104, RSMo, and the property is a type that the merchant sells in the ordinary course of business, then the property shall be valued at the price that such merchant would normally sell such property;

(2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities, shall be evaluated as follows:

(a) The value of an instrument constituting evidence of debt, such as a check, draft or promissory note, shall be deemed the amount due or collectible thereon or thereby, such figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(b) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument;

(3) When the value of property cannot be satisfactorily ascertained pursuant to the standards set forth in subdivisions (1) and (2) of this section, its value shall be deemed to be an amount less than one hundred fifty dollars.

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

consent or by means of deceit or coercion.

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

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

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

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

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

(5) That he or she drove a motor vehicle so as to cause it to leave the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of such motor vehicle without paying for or making an authorized charge for such motor fuel;

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

3. Stealing is a class D felony if the value of the property or services appropriated is more than five hundred dollars but not more than one thousand dollars. Stealing is a

class C felony if:

(1) The value of the property or services appropriated is [seven hundred fifty] more than one thousand dollars [or more];

or

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

(3) The property appropriated consists of:

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

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

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

(d) Any firearms; or

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

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

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

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

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

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

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

4. If an actor appropriates any material with a value [less than one hundred fifty] of five hundred dollars or less in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class [D] C felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class B felony.

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

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

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

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

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

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

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

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

3. Receiving stolen property is a class A misdemeanor unless the property involved has a value of [one hundred fifty dollars or more,] more than five hundred dollars but not more than one thousand dollars, in which case receiving stolen property is a class D felony. If the property involved has a value of more than one thousand dollars, or the person receiving the property is a dealer in goods of the type in question, [in which cases] receiving stolen property is a class C felony.

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

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

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

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

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

2. Forgery is a class C felony.

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

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

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

2. As used in subdivision (2) of subsection 1 of this section, actual notice in writing means notice of the nonpayment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which

are the subject matter of the prosecution if the summons or warrant contains information of the ten-day period during which the instrument may be paid and that payment of the instrument within such ten-day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

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

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

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

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

5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes any action [under] pursuant to the provisions of this section shall collect from the issuer in such action an administrative handling cost. The cost shall be [five dollars for checks of less than ten dollars, ten dollars for checks of ten dollars but less than one hundred dollars, and twenty-five dollars for checks of one hundred dollars or more] twenty-five dollars for any bad check. For checks of one hundred dollars or more, an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for administrative handling costs not to exceed fifty dollars total. Notwithstanding the provisions of sections 50.525 to

50.745, RSMo, the costs provided for in this subsection shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. The funds shall be expended, upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that [previously] authorized in this section. Any revenues that are not required for the purposes of this section may be placed in the general revenue fund of the county or city not within a county.

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

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

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

6. [Notwithstanding any other provisions of law to the contrary, in addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may, in his discretion, collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check shall be turned over to the party to whom the bad check

was issued. If the prosecuting attorney or circuit attorney does not collect the service charge and the face amount of the check, the party to whom the check was issued may collect from the issuer a reasonable service charge along with the face amount of the check.] Notwithstanding any other provision of law to the contrary:

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

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

7. In all cases where a prosecutor receives notice from the original holder that a person has violated this section with respect to a payroll check or order, the prosecutor, if [he] such prosecutor determines there is a violation of this section, shall file an information or seek an indictment within sixty days of such notice and may file an information or seek an indictment thereafter if the prosecutor has failed through neglect or

mistake to do so within sixty days of such notice and if [he] such prosecutor determines there is sufficient evidence shall further prosecute such cases.

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

570.130. 1. A person commits the crime of fraudulent use of a credit device or debit device if the person uses a credit device or debit device for the purpose of obtaining services or property, knowing that:

- (1) The device is stolen, fictitious or forged; or
- (2) The device has been revoked or canceled; or
- (3) For any other reason his use of the device is unauthorized; or
- (4) Uses a credit device or debit device for the purpose of paying property taxes and knowingly cancels or charges such payment with a credit card company or financial institution without just cause. It shall be a prima facia evidence of violation of this section if a person cancels or charges back such payment after obtaining a property tax receipt to obtain license tags from the Missouri department of revenue.

2. Fraudulent use of a credit device or debit device is a class A misdemeanor unless the value of the property tax, property or services obtained or sought to be obtained within any thirty-day period is one hundred fifty dollars or more, in which

case fraudulent use of a credit device or debit device is a class D felony.

570.135. 1. No person shall knowingly make or cause to be made, directly or indirectly, a false statement regarding another person for the purpose of fraudulently procuring the issuance of a credit card or debit card.

2. No person shall willfully obtain personal identifying information of another person without the authorization of that person and use that information fraudulently to obtain, or attempt to obtain, credit, goods or services in the name of the other person without the consent of that person.

3. Any person who violates the provisions of subsection 1 or 2 of this section is guilty of a [class A misdemeanor] D felony, unless ten thousand dollars or more in goods or services are procured as a result of such violation in which case it is a class C felony. Any second or subsequent violation of subsection 1 or 2 of this section is a class C felony.

4. As used in this section, "personal identifying information" means the name, address, telephone number, driver's license number, Social Security number, [place of employment,] employee identification number, [mother's maiden name,] demand deposit account number, savings account number or credit card number of a person.

5. Notwithstanding subsections 1 to 4 of this section, no corporation, proprietorship, partnership, limited liability company, limited liability partnership or other business entity shall be liable under this section for accepting applications for credit cards or debit cards or for the credit cards or debit

cards in any credit or debit transaction, absent clear and convincing evidence that such business entity conspired with or was a part of the fraudulent procuring of the issuance of a credit card or debit card.

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

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

(2) Sets a spring gun; or

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

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

(5) Exhibits, in the presence of one or more persons, while on any school bus, or on the premises of any school or on the premises of any function or activity sponsored or sanctioned by the district school board, a firearm readily capable of lethal use in an angry or threatening manner; or

[(5)] (6) Possesses or discharges a firearm or projectile weapon while intoxicated; or

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

[(7)] (8) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or

discharges or shoots a firearm into any outbuilding; or

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

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

[(10)] (11) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board; or

(12) Carries a firearm, readily capable of lethal use, into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by the district school board with the intent to use it.

2. Subdivisions (1), (3), (4), [(6),] (7), (8), (9) [and], (10), (11) and (12) of subsection 1 of this section shall not apply to or affect any of the following:

(1) All state, county and municipal law enforcement officers possessing the duty and power of arrest for violation of

the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

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

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

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

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

(6) Any federal probation officer;

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

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

(9) Any current prosecuting attorney, or former peace or reserve officer who is certified by the department of public safety.

3. Subdivisions (1), [(5), (8) and (10)] (6), (9), (11) and

(12) of subsection 1 of this section do not apply when the [actor] person is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Ordinances of political subdivisions notwithstanding, subdivision (1) of subsection 1 of this section does not apply to persons twenty-one years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed and is not carried on the person, nor when the [actor] person is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in [his] such person's dwelling unit or upon business premises over which the [actor] person has possession, authority or control, or is traveling in a continuous journey peaceably through this state. [Subdivision (10)] Subdivisions (11) and (12) of subsection 1 of this section [does] do not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event.

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

school officials or the district school board.

5. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision [(5),] (6), (7) [or], (8) or (9) of subsection 1 of this section, in which cases it is a class B misdemeanor, or subdivision [(10)] (11) of subsection 1 of this section, in which case it is a class A misdemeanor if the firearm is unloaded and a class D felony if the firearm is loaded, or subdivision [(9)] (10) of subsection 1 of this section, in which case it is a class B felony, except that if the violation of subdivision [(9)] (10) of subsection 1 of this section results in injury or death to another person, it is a class A felony, or subdivision (5) or (12) of subsection 1 of this section in which case it is a felony for which the authorized term of imprisonment is a term of years not less than five and not to exceed seven years.

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

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

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

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

release;

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

7. Any person knowingly aiding or abetting any other person in the violation of subdivision ~~[(9)]~~ (10) of subsection 1 of this section shall be subject to the same penalty as that prescribed by this section for violations by other persons.

571.099. 1. The state of Missouri shall review each person's case as described in this section for the possibility of prosecution pursuant to federal law. The prosecutor and law enforcement agencies shall cooperate with federal authorities if the prosecution pursuant to federal law is reasonably likely to result in more restrictive bail, stricter enforcement or greater penalties being assessed. This program shall be referred to as Project Exile and shall apply to any person being prosecuted for:

(1) Violating subdivision (11) of subsection 1 of section 571.030;

(2) Violating subdivision (12) of subsection 1 of section 571.030;

(3) Violating any provision of this chapter and has pled guilty to or been convicted of any felony;

(4) Violating any provision of this chapter and is not legally in the United States;

(5) Possession of a firearm in violation of this chapter and has been found not guilty of any crime by reason of mental disease or defect pursuant to chapter 552, RSMo;

(6) Possession of a firearm in violation of this chapter

and has an outstanding arrest warrant, has escaped from any correctional institution or jail or is addicted to any controlled substance;

(7) Possession of a firearm in violation of this chapter and is currently under indictment for any other criminal offense;

(8) Possession of a firearm in violation of this chapter and has pled guilty to or been convicted of any domestic violence misdemeanor;

(9) Violating section 571.020;

(10) Violating section 571.015;

(11) Committing any act of domestic violence by, with or through the use, assistance or aid of a firearm.

2. The attorney general shall be notified of and keep a record of investigations and prosecutions implemented pursuant to this section.

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

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

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

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

(4) The grounds adjacent to, and owned or rented by, any institution, facility, building, structure or place described in

subdivision (1), (2), or (3) of this subsection;

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

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

2. Institutional vandalism is punishable as follows:

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

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

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

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

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

575.145. It shall be the duty of the operator or driver of any vehicle or the rider of any animal traveling on the highways of this state to stop on signal of any sheriff or deputy sheriff and to obey any other reasonable signal or direction of such sheriff or deputy sheriff given in directing the movement of traffic on the highways. Any person who willfully fails or refuses to obey such signals or directions or who willfully resists or opposes a sheriff or deputy sheriff in the proper discharge of his or her duties shall be guilty of a class A misdemeanor and on conviction thereof shall be punished as provided by law for such offenses.

577.020. 1. Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent to, subject to the provisions of sections 577.020 to 577.041, a chemical test or tests of the person's breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of the person's blood pursuant to the following circumstances:

(1) If the person is arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(2) If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person was

driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(3) If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person has committed a violation of the traffic laws of the state, or any political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that such person has a blood alcohol content of two-hundredths of one percent or greater; or

(4) If the person is under the age of twenty-one, has been stopped at a sobriety checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that such person has a blood alcohol content of two-hundredths of one percent or greater[.]; or

(5) If the person, while operating a motor vehicle, has been involved in a motor vehicle collision which resulted in a fatality or a serious physical injury as defined in section 565.002, RSMo.

The test shall be administered at the direction of the law enforcement officer whenever the person has been arrested or stopped for any reason.

2. The implied consent to submit to the chemical tests listed in subsection 1 of this section shall be limited to not more than two such tests arising from the same arrest, incident or charge.

3. Chemical analysis of the person's breath, blood, saliva, or urine to be considered valid pursuant to the provisions of

sections 577.020 to 577.041 shall be performed according to methods approved by the state department of health by licensed medical personnel or by a person possessing a valid permit issued by the state department of health for this purpose.

4. The state department of health shall approve satisfactory techniques, devices, equipment, or methods to be considered valid pursuant to the provisions of sections 577.020 to 577.041 and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the state department of health.

5. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer.

6. Upon the request of the person who is tested, full information concerning the test shall be made available to [him] such person.

7. Any person given a chemical test of the person's breath pursuant to subsection 1 of this section or a field sobriety test may be videotaped during any such test at the direction of the law enforcement officer. Any such video recording made during the chemical test pursuant to this subsection or a field sobriety test shall be admissible as evidence at either any trial of such

person for either a violation of any state law or county or municipal ordinance, or any license revocation or suspension proceeding pursuant to the provisions of chapter 302, RSMo.

578.154. 1. A person commits the crime of possession of anhydrous ammonia in a nonapproved container if he or she possesses any quantity of anhydrous ammonia in any container other than a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator.

2. A violation of this section is a class D felony.

578.600. As used in sections 578.600 to 578.610, "technological crime" means any crime that involves, or the commission of which has been furthered by, any component, device, equipment, system or network that, alone or in conjunction with any other component, device, equipment, system or network, is designed or has the capability to:

(a) Be programmed; or

(b) Generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound in a technological format, including, without limitation, a format that involves analog, digital, electronic, electromagnetic, or magnetic or optical technology.

578.605. 1. The attorney general shall have the authority to conduct investigations of technological crimes. The attorney general may use all such powers provided by law in order to conduct such investigations; except that technological crime shall not include any services, goods or memberships given to a contributor by an entity, organized pursuant to chapter 501 (c)

of the United States Internal Revenue Code, while such entity is engaged in fund raising to support the charitable purpose for which the entity was established as defined in chapter 407, RSMo.

2. Upon completing an investigation of a technological crime where the peace officer, prosecuting attorney or attorney general does not have concurrent original jurisdiction to commence a criminal action to prosecute the offense, the attorney general shall provide the information obtained during the investigation to the appropriate prosecuting attorney.

3. Within thirty days after the prosecuting attorney's receipt of information pursuant to subsection 2 of this section, the prosecuting attorney shall notify the attorney general whether or not the prosecuting attorney intends to commence a prosecution.

578.610. In the course of a criminal investigation of a technological crime, the attorney general may request the circuit judge of any county in which the suspected offense could be prosecuted to issue a subpoena to any witness who may have information for the purpose of oral examination under oath and to require the production of books, papers, records or other material of any evidentiary nature at such time and place as is required under the subpoena.

589.320. 1. The department of public safety shall establish a law enforcement grants program, to be known as "The Drug Detection Program", which shall, subject to appropriations, make funds available to municipal or county law enforcement agencies for the purpose of purchasing drug dogs to aid in the detection of illegal drugs.

2. Appropriations for such grants shall be made to the department of public safety who shall administer such grants for transmission to municipal or county law enforcement agencies to which grants are made.

3. An application for a grant hereunder may be made to and processed by the department of public safety. The department of public safety shall make the necessary rules and regulations for the consideration and processing of all grant requests.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

590.132. No person shall be commissioned or employed as a peace officer unless he or she is a resident of Missouri.

595.030. 1. No compensation shall be paid unless the claimant has incurred an out-of-pocket loss of at least fifty dollars or has lost two continuous weeks of earnings or support from gainful employment. "Out-of-pocket loss" shall mean unreimbursed or unreimbursable expenses or indebtedness reasonably incurred for medical care or other services, including psychiatric, psychological or counseling expenses, necessary as a

result of the crime upon which the claim is based, except that the amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not exceed two thousand five hundred dollars. [Fifty dollars shall be deducted from any award granted under sections 595.010 to 595.075, except that an award to a person sixty-five years of age or older is not subject to any deduction.]

2. No compensation shall be paid unless the division of workers' compensation finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, unless the division of workers' compensation finds that the report to the police was delayed for good cause. If the victim is under eighteen years of age such report may be made by the victim's parent, guardian or custodian; by a physician, a nurse, or hospital emergency room personnel; by the division of family services personnel; or by any other member of the victim's family.

3. No compensation shall be paid for medical care if the service provider is not a medical provider as that term is defined in section 595.027, and the individual providing the medical care is not licensed by the state of Missouri or the state in which the medical care is provided.

4. No compensation shall be paid for psychiatric treatment or other counseling services, including psychotherapy, unless the

service provider is a:

(1) Physician licensed pursuant to chapter 334, RSMo, or licensed to practice medicine in the state in which the service is provided;

(2) Psychologist licensed pursuant to chapter 337, RSMo, or licensed to practice psychology in the state in which the service is provided;

(3) Clinical social worker licensed pursuant to chapter 337, RSMo; or

(4) Professional counselor licensed pursuant to chapter 337, RSMo.

5. Any compensation paid [under] pursuant to sections 595.010 to 595.075 for death or personal injury shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or support from gainful employment, not to exceed two hundred dollars per week, resulting from such injury or death. In the event of death of the victim, an award may be made for reasonable and necessary expenses actually incurred for preparation and burial not to exceed five thousand dollars.

6. Any compensation for loss of earnings or support from gainful employment shall be in an amount equal to the actual loss sustained not to exceed two hundred dollars per week; provided, however, that no award [under] pursuant to sections 595.010 to 595.075 shall exceed [fifteen] twenty-five thousand dollars. If two or more persons are entitled to compensation as a result of the death of a person which is the direct result of a crime or in the case of a sexual assault, the compensation shall be apportioned by the division of workers' compensation among the

claimants in proportion to their loss.

7. The method and timing of the payment of any compensation [under] pursuant to sections 595.010 to 595.075 shall be determined by the division.

595.035. 1. For the purpose of determining the amount of compensation payable pursuant to sections 595.010 to 595.075, the division of workers' compensation shall, insofar as practicable, formulate standards for the uniform application of sections 595.010 to 595.075, taking into consideration the provisions of sections 595.010 to 595.075, the rates and amounts of compensation payable for injuries and death [under] pursuant to other laws of this state and of the United States, excluding pain and suffering, and the availability of funds appropriated for the purpose of sections 595.010 to 595.075. All decisions of the division of workers' compensation on claims heard [under] pursuant to sections 595.010 to 595.075 shall be in writing, setting forth the name of the claimant, the amount of compensation and the reasons for the decision. The division of workers' compensation shall immediately notify the claimant in writing of the decision and shall forward to the state treasurer a certified copy of the decision and a warrant for the amount of the claim. The state treasurer, upon certification by the commissioner of administration, shall, if there are sufficient funds in the crime victims' compensation fund, pay to or on behalf of the claimant the amount determined by the division.

2. The crime victims' compensation fund is not a state health program and is not intended to be used as a primary payor to other health care assistance programs, but is a public, quasi-

charitable fund whose fundamental purpose is to assist victims of violent crimes through a period of financial hardship, as a payor of last resort. Accordingly, any compensation paid pursuant to sections 595.010 to 595.075 shall be reduced by the amount of any payments, benefits or awards received or to be received as a result of the injury or death:

(1) From or on behalf of the offender;

(2) Under private or public insurance programs, including champus, Medicare, Medicaid and other state or federal programs, but not including any life insurance proceeds; or

(3) From any other public or private funds, including an award payable [under] pursuant to the workers' compensation laws of this state.

3. In determining the amount of compensation payable, the division of workers' compensation shall determine whether, because of the victim's consent, provocation, incitement or negligence, the victim contributed to the infliction of the victim's injury or death, and shall reduce the amount of the compensation or deny the claim altogether, in accordance with such determination; provided, however, that the division of workers' compensation may disregard the responsibility of the victim for his or her own injury where such responsibility was attributable to efforts by the victim to aid a victim, or to prevent a crime or an attempted crime from occurring in his or her presence, or to apprehend a person who had committed a crime in his or her presence or had in fact committed a felony.

4. In determining the amount of compensation payable pursuant to sections 595.010 to 595.070, monthly Social Security

disability or retirement benefits received by the victim shall not be considered by the division as a factor for reduction of benefits.

5. The division shall not be liable for payment of compensation for any out-of-pocket expenses incurred more than three years following the date of the occurrence of the crime upon which the claim is based.

595.209. 1. The following rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061, RSMo, victims of murder in the first degree, as defined in section 565.020, RSMo, victims of voluntary manslaughter, as defined in section 565.023, RSMo, and victims of an attempt to commit one of the preceding crimes, as defined in section 564.011, RSMo; and, upon written request, the following rights shall be afforded to victims of all other crimes and witnesses of crimes:

(1) For victims, the right to be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult;

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

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

(4) For victims, the right to confer with and to be

informed by the prosecutor regarding bail hearings, guilty pleas, pleas under chapter 552, RSMo, or its successors, hearings, sentencing and probation revocation hearings and the right to be heard at such hearings, including juvenile proceedings, unless in the determination of the court the interests of justice require otherwise;

(5) The right to be informed by local law enforcement agencies, the appropriate juvenile authorities or the custodial authority of the following:

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

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

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

(d) Within twenty-four hours, any escape by such person from a municipal detention facility, county jail, a correctional facility operated by the department of corrections, mental health facility, or the division of youth services or any agency

thereof, and any subsequent recapture of such person;

(6) For victims, the right to be informed by appropriate juvenile authorities of probation revocation hearings initiated by the juvenile authority and the right to be heard at such hearings or to offer a written statement, video or audio tape in lieu of a personal appearance, the right to be informed by the board of probation and parole of probation revocation hearings initiated by the board and of parole hearings, the right to be present at each and every phase of parole hearings and the right to be heard at probation revocation and parole hearings or to offer a written statement, video or audio tape in lieu of a personal appearance, and the right to be informed by the custodial mental health facility or agency thereof of any hearings for the release of a person committed pursuant to the provisions of chapter 552, RSMo, the right to be present at such hearings, the right to be heard at such hearings or to offer a written statement, video or audio tape in lieu of personal appearance;

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

(a) The projected date of such person's release from

confinement;

(b) Any release of such person on bond;

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

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

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

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

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

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

(9) For victims and witnesses, the right to reasonable protection from the defendant or any person acting on behalf of

the defendant from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

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

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

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

(13) When a victim's property is no longer needed for evidentiary reasons or needs to be retained pending an appeal, the prosecuting attorney or any law enforcement agency having possession of the property shall, upon request of the victim, return such property to the victim within five working days unless the property is contraband or subject to forfeiture proceedings, or provide written explanation of the reason why such property shall not be returned;

(14) An employer may not discharge or discipline any witness, victim or member of a victim's immediate family for

honoring a subpoena to testify in a criminal proceeding or for participating in the preparation of a criminal proceeding;

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

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

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

(18) A court order of restitution shall have the same full force and effect as a civil judgment and may be enforced and subject to execution, levy or any other remedy available to enforce a civil judgment.

2. The provisions of subsection 1 of this section shall not be construed to imply any victim who is incarcerated by the department of corrections or any local law enforcement agency has

a right to be released to attend any hearing or that the department of corrections or the local law enforcement agency has any duty to transport such incarcerated victim to any hearing.

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

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

5. Victims' rights as established in section 32 of article I of the Missouri Constitution or the laws of this state pertaining to the rights of victims of crime shall be granted and enforced regardless of the desires of a defendant and no privileges of confidentiality shall exist in favor of the defendant to exclude victims or prevent their full participation in each and every phase of parole hearings or probation revocation hearings. The rights of the victims granted in this section are absolute and the policy of this state is that the victim's rights are paramount to the defendant's rights. The victim has an absolute right to be present at any hearing in which the defendant is present before a probation and parole hearing officer.

610.122. Notwithstanding other provisions of law to the contrary, any record of arrest recorded pursuant to section 43.503, RSMo, may be expunged if the court determines that:

(1) The arrest was based on false information and the following conditions exist:

[(1)] (a) There is no probable cause, at the time of the action to expunge, to believe the individual committed the offense;

[(2)] (b) No charges will be pursued as a result of the arrest;

[(3)] (c) The subject of the arrest has no prior or subsequent misdemeanor or felony convictions or suspended impositions of sentence and there are no pending criminal investigations regarding the arrest;

[(4)] (d) The subject of the arrest did not receive a suspended imposition of sentence for the offense for which the arrest was made or for any offense related to the arrest; and

[(5)] (e) No civil action is pending relating to the arrest or the records sought to be expunged[.]; or

(2) No criminal charges have been filed against the subject of the arrest within ten years from the date of such arrest.

610.230. Sections 610.230 to 610.240 may be cited as the "Missouri Rehabilitation and Sealed Records Act".

610.232. For the purposes of sections 610.230 to 610.240, the following terms mean:

(1) "Sex-related offense", any crime defined in chapter 566, RSMo, section 568.020, subdivision (2) of subsection 1 of section 568.045, subdivision (2) of subsection 1 of section 568.060, and sections 568.080 and 568.090, RSMo; and

(2) "Violent felony", any crime punishable as a class A felony, any crime punishable as a class B felony of an

intentional act or any crime in which a deadly weapon, as defined in section 556.061, RSMo, was used or displayed.

610.234. A person who has pled guilty to or found guilty of no more than one felony or two misdemeanors may petition the circuit court to have such person's record, including juvenile records, sealed, if the person:

(1) Has not pled guilty to or been found guilty of a misdemeanor for at least ten consecutive years or pled guilty to or been found guilty of a felony for at least fifteen consecutive years, after being discharged from probation or released from incarceration;

(2) Is not currently on probation or parole;

(3) Has not pled guilty to or been found guilty of a violent felony;

(4) Has not pled guilty to or been found guilty of a sex-related offense;

(5) Has not pled guilty to or been found guilty of any offense of distributing a controlled substance as described in chapter 195, RSMo, and punishable as a class A or B felony;

(6) Has not previously petitioned to have such person's records sealed pursuant to the provisions of sections 610.230 to 610.240;

(7) Has not been convicted, as that term is defined in section 302.700, RSMo, for the operation of a commercial motor vehicle, as defined in section 302.700, RSMo, with a blood alcohol content of at least four-hundredths of one percent; and

(8) Is at least twenty-five years of age.

610.236. If the court finds that a person has met the

requirements of section 610.234, the court may in the court's discretion after considering the totality of the circumstances set aside all verdicts or findings of guilty and allow the petitioner to withdraw all pleas of guilty and may dismiss with prejudice all cases against the petitioner, and may order all criminal and juvenile records of the petitioner to be sealed. Notwithstanding any other provision of law to the contrary, such petitioners waive all rights of being employed by any Missouri-licensed gambling operation. If the petitioner is arrested for committing any crime, other than minor traffic offenses, during the pendency of the action, the court shall stay such action until the resolution of any indictment or information filed pursuant to such arrest.

610.238. 1. A person who knowingly fails to seal, or releases information which has been ordered sealed pursuant to section 610.236, is guilty of a class B misdemeanor.

2. A person who, knowing the records have been ordered sealed, uses the information for financial gain is guilty of a class D felony.

610.240. 1. The sealing of any record shall not reflect on the validity of the arrest or conviction and shall not be construed to indicate a lack of probable cause for the arrest.

2. The petitioner shall not bring any action subsequent to the sealing against any law enforcement officer or law enforcement agency relating to the arrest or conviction described in the sealed records.

3. Notwithstanding the provisions of sections 610.230 to 610.240, all law enforcement agencies shall have access to

records sealed pursuant to sections 610.230 to 610.240.

4. For the purposes of section 610.120 the term "closed" shall include sealed.

632.480. As used in sections 632.480 to 632.513, the following terms mean:

(1) "Agency with jurisdiction", the department of corrections or the department of mental health;

(2) "Mental abnormality", a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to commit sexually violent offenses in a degree constituting such person a menace to the health and safety of others;

(3) "Predatory", acts directed towards strangers or individuals with whom relationships have been established or promoted [for the primary purpose of victimization];

(4) "Sexually violent offense", the felonies of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes, or child molestation in the first or second degree, sexual abuse, sexual assault, deviate sexual assault, or the act of abuse of a child as defined in subdivision (1) of subsection 1 of section 568.060, RSMo, which involves sexual contact, and as defined in subdivision (2) of subsection 1 of section 568.060, RSMo;

(5) "Sexually violent predator", any person who suffers from a mental abnormality which makes the person more likely than not to engage in predatory acts of sexual violence if not confined in a secure facility and who:

(a) Has pled guilty or been found guilty, or been found not guilty by reason of mental disease or defect pursuant to section 552.030, RSMo, of a sexually violent offense; or

(b) Has been committed as a criminal sexual psychopath pursuant to section 632.475 and statutes in effect before August 13, 1980.

Section 1. In the event that any person, or entity, which has entered into a contract with the state or any political subdivision has been found, or has admitted to be, in violation of any state statute or regulation, including any felony or misdemeanor, which relates to the performance of its contract, then that person or entity will be prohibited for three years from entering into any contracts with the state or any political subdivision.