

SECOND REGULAR SESSION

HOUSE BILL NO. 2225

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BEARDEN, CROWELL, CUNNINGHAM, BYRD, JETTON,
REID, BARTLE (Co-sponsors), ROARK, GASKILL, BURTON, SCOTT, NAEGER, LONG,
BARTELSMEYER, SURFACE, BEHNEN AND LUETKEMEYER.

Read 1st time March 15, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2591L.01I

AN ACT

To repeal sections 547.200, 565.001, 565.004, 565.005, 565.006, 565.030, 565.032, 565.035, 565.040, 575.020, 575.030, 575.100, 575.240, 575.250 and 575.270, RSMo, and to enact in lieu thereof twenty-two new sections relating to anti-terrorism and homeland security, with penalty provisions.

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

Section A. Sections 547.200, 565.001, 565.004, 565.005, 565.006, 565.030, 565.032, 565.035, 565.040, 575.020, 575.030, 575.100, 575.240, 575.250 and 575.270, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 173.065, 547.200, 565.001, 565.004, 565.005, 565.006, 565.030, 565.032, 565.035, 565.040, 574.125, 574.130, 574.135, 574.140, 574.145, 574.150, 575.020, 575.030, 575.100, 575.240, 575.250 and 575.270, to read as follows:

173.065. 1. As used in this section "institution of higher education" or "institution" shall mean any flight school or any institution of post-secondary education, including a university, college, vocational and technical school and other post-secondary institutions.

2. Any institution of higher education which has any student who is enrolled in or attending such institution on a foreign student visa, shall track the visa status of that student and shall report any change in that student's visa status, within twenty-four hours of becoming aware of it, to the department of immigration and naturalization services.

547.200. 1. An appeal may be taken by the state through the prosecuting or circuit attorney from any order or judgment the substantive effect of which results in:

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

3 (1) Quashing an arrest warrant;

4 (2) A determination by the court that the accused lacks the mental capacity or fitness to
5 proceed to trial, pursuant to section 552.020, RSMo;

6 (3) Suppressing evidence; or

7 (4) Suppressing a confession or admission.

8 2. The state, in any criminal prosecution, shall be allowed an appeal in the cases and
9 under the circumstances mentioned in section 547.210 and in all other criminal cases except in
10 those cases where the possible outcome of such an appeal would result in double jeopardy for
11 the defendant. The supreme court shall issue rules governing such appeals.

12 3. The appeal provided in subsection 1 of this section shall be an interlocutory appeal,
13 filed in the appropriate district of the Missouri court of appeals, unless the proceedings involve
14 a charge of capital murder [or], murder in the first degree, **or terrorism in the first degree when**
15 **the underlying felony is murder in the first degree**, pursuant to the provisions of section
16 565.001 or 565.003, RSMo, in which case notices of appeal shall be filed in the supreme court
17 of Missouri.

18 4. Notices of appeal involving appeals under subsection 1 of this section shall be filed
19 in the appropriate court within five days of the entry of the order of the trial court. In such
20 appeals, the time requirements of section 545.780, RSMo, shall be tolled until the decision is
21 rendered by the appropriate appellate court.

22 5. The supreme court shall issue appropriate rules to facilitate the disposition of such
23 appeals, balancing the right of the state to review the correctness of pretrial decisions of a trial
24 court against the rights of the defendant to a speedy trial, including measures to facilitate these
25 appeals by shortening of the time to file appellant's brief under supreme court rule 30.06(K) to
26 ten days, and eliminations of motions for rehearing or transfer under supreme court rules 30.26
27 and 30.27.

565.001. 1. The provisions of this chapter shall govern the construction and procedures
2 for charging, trial, punishment and appellate review of any offense defined in this chapter and
3 committed after July 1, 1984.

4 2. The provisions of this chapter shall not govern the construction or procedures for
5 charging, trial, punishment or appellate review of any offense committed before the effective
6 date of this chapter. Such an offense must be construed, punished, charged, tried and reviewed
7 on appeal according to applicable provisions of law existing prior to the effective date of this
8 chapter in the same manner as if this chapter had not been enacted, the provisions of section
9 1.160, RSMo, notwithstanding.

10 3. All provisions of "The Criminal Code" or other law consistent with the provisions of
11 this chapter shall apply to this chapter. In the event of a conflict, the provisions of this chapter

12 shall govern the interpretation of the provisions of this chapter.

13 4. Persons accused of committing a homicide offense **or a homicidal terrorist offense**
14 shall be prosecuted:

15 (1) In the county in which the offense is committed; or

16 (2) If the offense is committed partly in one county and partly in another, or if the
17 elements of the offense occur in more than one county, then in any of the counties where any
18 element of the offense occurred; or

19 (3) In the county in which the body of [the] **any** deceased victim is found; or

20 (4) If subdivisions (1), (2), and (3) of this subsection do not apply, then in the county in
21 which **any of** the [victim] **victims** lived.

22 **5. As used in this section "homicidal terrorist offense" means terrorism in the first**
23 **degree when the underlying felony offense is murder in the first degree.**

565.004. 1. Each homicide **or homicidal terrorist** offense which is lawfully joined in
2 the same indictment or information together with any homicide **or homicidal terrorist** offense,
3 or offense other than a homicide **or homicidal terrorist offense** shall be charged together with
4 such offense in separate counts. A count charging any [offense of] homicide **or a homicidal**
5 **terrorist offense**, may only be charged and tried together with one or more counts of any other
6 homicide **or homicidal terrorist offense**, or offense other than a homicide **or homicidal**
7 **terrorist offense**, as provided in subsection 2 of section 545.140, RSMo. Except as provided
8 in subsections 2, 3, and 4 of this section, no **offense of** murder in the first degree [offense], **or**
9 **terrorism in the first degree when the underlying felony is murder in the first degree**, may
10 be tried together with any offense other than murder in the first degree, **or terrorism in the first**
11 **degree when the underlying felony is murder in the first degree**. In the event of a joinder of
12 homicide offenses **or homicidal terrorist offenses or homicide and homicidal terrorist**
13 **offenses**, all offenses charged which are supported by the evidence in the case, together with all
14 proper lesser offenses under section 565.025, shall, when requested by one of the parties or the
15 court, be submitted to the jury or, in a jury-waived trial, considered by the judge.

16 2. A count charging any [offense of] homicide **or homicidal terrorist offense** of a
17 particular individual may be joined in an indictment or information and tried with one or more
18 counts charging alternatively any other homicide **or homicidal terrorist offense** or offense other
19 than a homicide **or homicidal terrorist offense** committed against that individual. The state
20 shall not be required to make an election as to the alternative count on which it will proceed.
21 This subsection in no way limits the right to try in the conjunctive, where they are properly
22 joined under subsection 1 of this section, either separate offenses other than murder in the first
23 degree, **or terrorism in the first degree when the underlying felony is murder in the first**
24 **degree**, or separate offenses of murder in the first degree **or terrorism in the first degree when**

25 **the underlying felony is murder in the first degree**, committed against different individuals.

26 3. When a defendant has been charged and proven before trial to be a prior offender
27 pursuant to chapter 558, RSMo, so that the judge shall assess punishment and not a jury for an
28 offense other than murder in the first degree, **or terrorism in the first degree when the**
29 **underlying felony is murder in the first degree**, that offense may be tried and submitted to the
30 trier together with any **charge of** murder in the first degree [charge], **or terrorism in the first**
31 **degree when the underlying felony is murder in the first degree**, with which it is lawfully
32 joined. In such case the judge will assess punishment on any offense joined with a **charge of**
33 murder in the first degree [charge], **or terrorism in the first degree when the underlying**
34 **felony is murder in the first degree**, according to law and, when the trier is a jury, it shall be
35 instructed upon punishment on the charge of murder in the first degree, **or terrorism in the first**
36 **degree when the underlying felony is murder in the first degree**, in accordance with section
37 565.030.

38 4. When the state waives the death penalty for a murder first degree offense, **or**
39 **terrorism in the first degree offense when the underlying felony is murder in the first**
40 **degree**, that offense may be tried and submitted to the trier together with any other charge with
41 which it is lawfully joined.

42 **5. As used in this section "homicidal terrorist offense" means terrorism in the first**
43 **degree when the underlying felony offense is murder in the first degree.**

565.005. 1. At a reasonable time before the commencement of the first stage of any trial
2 of murder in the first degree, **or terrorism in the first degree when the underlying felony is**
3 **murder in the first degree**, at which the death penalty is not waived, the state and defendant,
4 upon request and without order of the court, shall serve counsel of the opposing party with:

5 (1) A list of all aggravating or mitigating circumstances as provided in subsection 1 of
6 section 565.032, which the party intends to prove at the second stage of the trial;

7 (2) The names of all persons whom the party intends to call as witnesses at the second
8 stage of the trial;

9 (3) Copies or locations and custodian of any books, papers, documents, photographs or
10 objects which the party intends to offer at the second stage of the trial. If copies of such
11 materials are not supplied to opposing counsel, the party shall cause them to be made available
12 for inspection and copying without order of the court.

13 2. The disclosures required in subsection 1 of this section are supplemental to those
14 required by rules of the supreme court relating to a continuing duty to disclose information, the
15 use of matters disclosed, matters not subject to disclosure, protective orders, and sanctions for
16 failure to comply with an applicable discovery rule or order, all of which shall also apply to any
17 disclosure required by this section.

565.006. 1. At any time before the commencement of the trial of a homicide **or homicidal terrorist** offense, the defendant may, with the assent of the court, waive a trial by jury and agree to submit all issues in the case to the court, whose finding shall have the force and effect of a verdict of a jury. Such a waiver must include a waiver of a trial by jury of all issues and offenses charged in the case, including the punishment to be assessed and imposed if the defendant is found guilty.

2. No defendant who pleads guilty to a homicide **or homicidal terrorist** offense or who is found guilty of a homicide **or homicidal terrorist** offense after trial to the court without a jury shall be permitted a trial by jury on the issue of the punishment to be imposed, except by agreement of the state.

3. If a defendant is found guilty of murder in the first degree, **or terrorism in the first degree when the underlying felony is murder in the first degree**, after a jury trial in which the state has not waived the death penalty, the defendant may not waive a jury trial of the issue of the punishment to be imposed, except by agreement with the state and the court.

4. Any waiver of a jury trial and agreement permitted by this section shall be entered in the court record.

5. As used in this section "homicidal terrorist offense" means terrorism in the first degree when the underlying felony is murder in the first degree.

565.030. 1. Where murder in the first degree, **or terrorism in the first degree when the underlying felony is murder in the first degree**, is charged but not submitted or where the state waives the death penalty, the submission to the trier and all subsequent proceedings in the case shall proceed as in all other criminal cases with a single stage trial in which guilt and punishment are submitted together.

2. Where murder in the first degree, **or terrorism in the first degree when the underlying felony is murder in the first degree**, is submitted to the trier without a waiver of the death penalty, the trial shall proceed in two stages before the same trier. At the first stage the trier shall decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of punishment shall not be submitted to the trier at the first stage. If an offense is charged other than murder in the first degree, **or terrorism in the first degree when the underlying felony is murder in the first degree**, in a count together with a count of murder in the first degree, **or terrorism in the first degree when the underlying felony is murder in the first degree**, the trial judge shall assess punishment on any such offense according to law, after the defendant is found guilty of such offense and after he finds the defendant to be a prior offender pursuant to chapter 558, RSMo.

3. If murder in the first degree, **or terrorism in the first degree when the underlying felony is murder in the first degree**, is submitted and the death penalty was not waived but the

19 trier finds the defendant guilty of a lesser [homicide] **offense**, a second stage of the trial shall
20 proceed at which the only issue shall be the punishment to be assessed and declared. No further
21 evidence shall be received. If the trier is a jury it shall be instructed on the law. The attorneys
22 may then argue as in other criminal cases the issue of punishment, after which the trier shall
23 assess and declare the punishment as in all other criminal cases.

24 4. If the trier at the first stage of a trial where the death penalty was not waived finds the
25 defendant guilty of murder in the first degree **or terrorism in the first degree when the**
26 **underlying felony is murder in the first degree**, a second stage of the trial shall proceed at
27 which the only issue shall be the punishment to be assessed and declared. Evidence in
28 aggravation and mitigation of punishment, including but not limited to evidence supporting any
29 of the aggravating or mitigating circumstances listed in subsection 2 [or], 3, **or 4** of section
30 565.032, may be presented subject to the rules of evidence at criminal trials. Such evidence may
31 include, within the discretion of the court, evidence concerning [the] **any of the murder [victim]**
32 **victims** and the impact of the crime upon the [family] **families** of the [victim] **victims** and
33 others. Rebuttal and surrebuttal evidence may be presented. The state shall be the first to
34 proceed. If the trier is a jury it shall be instructed on the law. The attorneys may then argue the
35 issue of punishment to the jury, and the state shall have the right to open and close the argument.
36 The trier shall assess and declare the punishment at life imprisonment without eligibility for
37 probation, parole, or release except by act of the governor:

38 (1) If the trier finds by a preponderance of the evidence that the defendant is mentally
39 retarded; or

40 (2) If the trier does not find beyond a reasonable doubt at least one of the statutory
41 aggravating circumstances set out in subsection 2 **or 3** of section 565.032; or

42 (3) If the trier concludes that there is evidence in mitigation of punishment, including
43 but not limited to evidence supporting the statutory mitigating circumstances listed in subsection
44 [3] **4** of section 565.032, which is sufficient to outweigh the evidence in aggravation of
45 punishment found by the trier; or

46 (4) If the trier decides under all of the circumstances not to assess and declare the
47 punishment at death. If the trier is a jury it shall be so instructed.

48

49 If the trier assesses and declares the punishment at death it shall, in its findings or verdict, set out
50 in writing the aggravating circumstance or circumstances listed in subsection 2 **or 3** of section
51 565.032 which it found beyond a reasonable doubt. If the trier is a jury it shall be instructed
52 before the case is submitted that if it is unable to decide or agree upon the punishment the court
53 shall assess and declare the punishment at life imprisonment without eligibility for probation,
54 parole, or release except by act of the governor or death. The court shall follow the same

55 procedure as set out in this section whenever it is required to determine punishment for murder
56 in the first degree, **or terrorism in the first degree when the underlying felony is murder in**
57 **the first degree.**

58 5. Upon written agreement of the parties and with leave of the court, the issue of the
59 defendant's mental retardation may be taken up by the court and decided prior to trial without
60 prejudicing the defendant's right to have the issue submitted to the trier of fact as provided in
61 subsection 4 of this section.

62 6. As used in this section, the terms "mental retardation" or "mentally retarded" refer to
63 a condition involving substantial limitations in general functioning characterized by significantly
64 subaverage intellectual functioning with continual extensive related deficits and limitations in
65 two or more adaptive behaviors such as communication, self-care, home living, social skills,
66 community use, self-direction, health and safety, functional academics, leisure and work, which
67 conditions are manifested and documented before eighteen years of age.

68 7. The provisions of this section shall only govern offenses committed on or after August
69 28, 2001.

565.032. 1. In all cases of murder in the first degree, **or terrorism in the first degree**
2 **when the underlying felony is murder in the first degree**, for which the death penalty is
3 authorized, the judge in a jury-waived trial shall consider, or he **or she** shall include in his **or her**
4 instructions to the jury for it to consider:

5 (1) Whether a statutory aggravating circumstance or circumstances enumerated in
6 [subsection] **subsections 2 and 3** of this section [is] **are** established by the evidence beyond a
7 reasonable doubt; and

8 (2) If a statutory aggravating circumstance or circumstances is proven beyond a
9 reasonable doubt, whether the evidence as a whole justifies a sentence of death or a sentence of
10 life imprisonment without eligibility for probation, parole, or release except by act of the
11 governor. In determining the issues enumerated in subdivisions (1) and (2) of this subsection,
12 the trier shall consider all evidence which it finds to be in aggravation or mitigation of
13 punishment, including evidence received during the first stage of the trial and evidence
14 supporting any of the statutory aggravating or mitigating circumstances set out in subsections 2
15 [and], **3, and 4** of this section. If the trier is a jury, it shall not be instructed upon any specific
16 evidence which may be in aggravation or mitigation of punishment, but shall be instructed that
17 each juror shall consider any evidence which he **or she** considers to be aggravating or mitigating.

18 2. Statutory aggravating circumstances for a murder in the first degree offense shall be
19 limited to the following:

20 (1) The offense was committed by a person with a prior record of conviction for murder
21 in the first degree, or the offense was committed by a person who has one or more serious

22 assaultive criminal convictions;

23 (2) The murder in the first degree offense was committed while the offender was
24 engaged in the commission or attempted commission of another unlawful homicide;

25 (3) The offender by his **or her** act of murder in the first degree knowingly created a great
26 risk of death to more than one person by means of a weapon or device which would normally be
27 hazardous to the lives of more than one person;

28 (4) The offender committed the offense of murder in the first degree for himself **or**
29 **herself** or another, for the purpose of receiving money or any other thing of monetary value from
30 the victim of the murder or another;

31 (5) The murder in the first degree was committed against a judicial officer, former
32 judicial officer, prosecuting attorney or former prosecuting attorney, circuit attorney or former
33 circuit attorney, assistant prosecuting attorney or former assistant prosecuting attorney, assistant
34 circuit attorney or former assistant circuit attorney, peace officer or former peace officer, elected
35 official or former elected official during or because of the exercise of his **or her** official duty;

36 (6) The offender caused or directed another to commit murder in the first degree or
37 committed murder in the first degree as an agent or employee of another person;

38 (7) The murder in the first degree was outrageously or wantonly vile, horrible or
39 inhuman in that it involved torture, or depravity of mind;

40 (8) The murder in the first degree was committed against any peace officer, or fireman
41 while engaged in the performance of his **or her** official duty;

42 (9) The murder in the first degree was committed by a person in, or who has escaped
43 from, the lawful custody of a peace officer or place of lawful confinement;

44 (10) The murder in the first degree was committed for the purpose of avoiding,
45 interfering with, or preventing a lawful arrest or custody in a place of lawful confinement, of
46 himself **or herself** or another;

47 (11) The murder in the first degree was committed while the defendant was engaged in
48 the perpetration or was aiding or encouraging another person to perpetrate or attempt to
49 perpetrate a felony of any degree of rape, sodomy, burglary, robbery, kidnapping, or any felony
50 offense in chapter 195, RSMo;

51 (12) The murdered individual was a witness or potential witness in any past or pending
52 investigation or past or pending prosecution, and was killed as a result of his **or her** status as a
53 witness or potential witness;

54 (13) The murdered individual was an employee of an institution or facility of the
55 department of corrections of this state or local correction agency and was killed in the course of
56 performing his **or her** official duties, or the murdered individual was an inmate of such
57 institution or facility;

58 (14) The murdered individual was killed as a result of the hijacking of an airplane, train,
59 ship, bus or other public conveyance;

60 (15) The murder was committed for the purpose of concealing or attempting to conceal
61 any felony offense defined in chapter 195, RSMo;

62 (16) The murder was committed for the purpose of causing or attempting to cause a
63 person to refrain from initiating or aiding in the prosecution of a felony offense defined in
64 chapter 195, RSMo;

65 (17) The murder was committed during the commission of a crime which is part of a
66 pattern of criminal street gang activity as defined in section 578.421.

67 **3. Statutory aggravating circumstances for a terrorism in the first degree offense**
68 **where the underlying felony is murder in the first degree shall be limited to the following:**

69 (1) The offense was committed by a person with a prior record of conviction for
70 murder in the first degree, terrorism in the first degree, terrorism in the second degree,
71 soliciting or providing support for an act of terrorism, making a terroristic threat in the
72 first degree, making a terroristic threat in the second degree, or the offense was committed
73 by a person who has one or more serious assaultive criminal convictions;

74 (2) The offender by his or her terrorism knowingly created a great risk of death,
75 serious illness, or serious physical injury to more than one person by means of a weapon,
76 device, radioactive material, explosive nuclear device, or biological or chemical agent or
77 substance which would normally be hazardous to the lives of more than one person;

78 (3) The offender committed the offense of terrorism in the first degree for himself
79 or another, for the purpose of receiving money or any other thing of monetary value from
80 any of the victims of the terrorism or another;

81 (4) Any victim of the terrorism was a judicial officer, former judicial officer,
82 prosecuting attorney or former prosecuting attorney, circuit attorney or former circuit
83 attorney, assistant prosecuting attorney or former assistant prosecuting attorney, assistant
84 circuit attorney or former assistant circuit attorney, peace officer or former peace officer,
85 elected official or former elected official engaged in the exercise of his or her official duty;

86 (5) The offender caused or directed another to commit terrorism in the first degree
87 or committed terrorism in the first degree as an agent or employee of another person;

88 (6) The underlying felony of murder in the first degree for the terrorism offense
89 was outrageously or wantonly vile, horrible or inhuman in that it involved torture, or
90 depravity of mind;

91 (7) Any victim of the terrorism was a peace officer, or fireman engaged in the
92 performance of his or her official duty;

93 (8) Ten or more people died or suffered serious physical injury as a result of the

94 **terrorism;**

95 (9) **The terrorism caused substantial damage to five or more buildings or**
96 **inhabitable structures or substantial damage to a vital public facility which seriously**
97 **impairs its usefulness or operation.**

98 [3.] **4.** Statutory mitigating circumstances shall include the following:

99 (1) The defendant has no significant history of prior criminal activity;

100 (2) The murder in the first degree, **or terrorism in the first degree when the**
101 **underlying felony is murder in the first degree**, was committed while the defendant was under
102 the influence of extreme mental or emotional disturbance;

103 (3) [The victim was a participant] **Any of the victims were participants** in the
104 defendant's conduct or consented to the act;

105 (4) The defendant was an accomplice in the murder in the first degree, **or terrorism in**
106 **the first degree when the underlying felony is murder in the first degree**, committed by
107 another person and his **or her** participation was relatively minor;

108 (5) The defendant acted under extreme duress or under the substantial domination of
109 another person;

110 (6) The capacity of the defendant to appreciate the criminality of his conduct or to
111 conform his conduct to the requirements of law was substantially impaired;

112 (7) The age of the defendant at the time of the crime.

113 **5. As used in this section the term "serious illness" means any illness which**
114 **requires hospitalization, surgery, or any form of life support, or results in a protracted loss**
115 **or impairment of a limb or bodily function or death.**

565.035. 1. Whenever the death penalty is imposed in any case, and upon the judgment
2 becoming final in the trial court, the sentence shall be reviewed on the record by the supreme
3 court of Missouri. The circuit clerk of the court trying the case, within ten days after receiving
4 the transcript, shall transmit the entire record and transcript to the supreme court together with
5 a notice prepared by the circuit clerk and a report prepared by the trial judge. The notice shall
6 set forth the title and docket number of the case, the name of the defendant and the name and
7 address of his attorney, a narrative statement of the judgment, the offense, and the punishment
8 prescribed. The report by the judge shall be in the form of a standard questionnaire prepared and
9 supplied by the supreme court of Missouri.

10 2. The supreme court of Missouri shall consider the punishment as well as any errors
11 enumerated by way of appeal.

12 3. With regard to the sentence, the supreme court shall determine:

13 (1) Whether the sentence of death was imposed under the influence of passion, prejudice,
14 or any other arbitrary factor; and

15 (2) Whether the evidence supports the jury's or judge's finding of a statutory aggravating
16 circumstance as enumerated in subsection 2 or 3 of section 565.032 and any other circumstance
17 found;

18 (3) Whether the sentence of death is excessive or disproportionate to the penalty imposed
19 in similar cases, considering both the crime, the strength of the evidence and the defendant.

20 4. Both the defendant and the state shall have the right to submit briefs within the time
21 provided by the supreme court, and to present oral argument to the supreme court.

22 5. The supreme court shall include in its decision a reference to those similar cases which
23 it took into consideration. In addition to its authority regarding correction of errors, the supreme
24 court, with regard to review of death sentences, shall be authorized to:

25 (1) Affirm the sentence of death; or

26 (2) Set the sentence aside and resentence the defendant to life imprisonment without
27 eligibility for probation, parole, or release except by act of the governor; or

28 (3) Set the sentence aside and remand the case for retrial of the punishment hearing. A
29 new jury shall be selected or a jury may be waived by agreement of both parties and then the
30 punishment trial shall proceed in accordance with this chapter, with the exception that the
31 evidence of the guilty verdict shall be admissible in the new trial together with the official
32 transcript of any testimony and evidence properly admitted in each stage of the original trial
33 where relevant to determine punishment.

34 6. There shall be an assistant to the supreme court, who shall be an attorney appointed
35 by the supreme court and who shall serve at the pleasure of the court. The court shall accumulate
36 the records of all cases in which the sentence of death or life imprisonment without probation
37 or parole was imposed after May 26, 1977, or such earlier date as the court may deem
38 appropriate. The assistant shall provide the court with whatever extracted information the court
39 desires with respect thereto, including but not limited to a synopsis or brief of the facts in the
40 record concerning the crime and the defendant. The court shall be authorized to employ an
41 appropriate staff, within the limits of appropriations made for that purpose, and such methods
42 to compile such data as are deemed by the supreme court to be appropriate and relevant to the
43 statutory questions concerning the validity of the sentence. The office of the assistant to the
44 supreme court shall be attached to the office of the clerk of the supreme court for administrative
45 purposes.

46 7. In addition to the mandatory sentence review, there shall be a right of direct appeal
47 of the conviction to the supreme court of Missouri. This right of appeal may be waived by the
48 defendant. If an appeal is taken, the appeal and the sentence review shall be consolidated for
49 consideration. The court shall render its decision on legal errors enumerated, the factual
50 substantiation of the verdict, and the validity of the sentence.

565.040. 1. In the event that the death penalty provided in this chapter is held to be unconstitutional, any person convicted of murder in the first degree, **or terrorism in the first degree when the underlying felony is murder in the first degree**, shall be sentenced by the court to life imprisonment without eligibility for probation, parole, or release except by act of the governor, with the exception that when a specific aggravating circumstance found in a case is held to be unconstitutional or invalid for another reason, the supreme court of Missouri is further authorized to remand the case for resentencing or retrial of the punishment pursuant to subsection 5 of section [565.036] **565.035**.

2. In the event that any death sentence imposed pursuant to this chapter is held to be unconstitutional, the trial court which previously sentenced the defendant to death shall cause the defendant to be brought before the court and shall sentence the defendant to life imprisonment without eligibility for probation, parole, or release except by act of the governor, with the exception that when a specific aggravating circumstance found in a case is held to be inapplicable, unconstitutional or invalid for another reason, the supreme court of Missouri is further authorized to remand the case for retrial of the punishment pursuant to subsection 5 of section 565.035.

574.125. 1. Sections 574.125 to 574.150 shall be known and may be cited as the "Anti-Terrorism Act".

2. As used in sections 574.125 to 574.150, the following terms shall mean:

(1) "Act of terrorism", terrorism in the first degree or terrorism in the second degree;

(2) "Material, support or resources", currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials;

(3) "Specified felony offense", any of the following felony offenses and any attempt or conspiracy to commit any of the following felony offenses:

(a) Murder in the first degree;

(b) Murder in the second degree;

(c) Voluntary manslaughter;

(d) Involuntary manslaughter;

(e) Assault in the first degree;

(f) Assault in the second degree;

(g) Assault while on school property;

(h) Assault of a law enforcement officer in the first degree;

(i) Assault of a law enforcement officer in the second degree;

- 21 (j) Tampering with a judicial officer;
- 22 (k) Kidnapping;
- 23 (l) Felonious restraint;
- 24 (m) False imprisonment;
- 25 (n) Stalking;
- 26 (o) Forcible rape;
- 27 (p) Statutory rape in the first degree;
- 28 (q) Statutory rape in the second degree;
- 29 (r) Sexual assault;
- 30 (s) Forcible sodomy;
- 31 (t) Statutory sodomy in the first degree;
- 32 (u) Statutory sodomy in the second degree;
- 33 (v) Deviate sexual assault;
- 34 (w) Sexual misconduct involving a child;
- 35 (x) Sexual abuse;
- 36 (y) Promoting prostitution in the first degree;
- 37 (z) Endangering the welfare of a child in the first degree;
- 38 (aa) Endangering the welfare of a child in the second degree;
- 39 (bb) Abuse of a child;
- 40 (cc) Genital mutilation;
- 41 (dd) Use of a child in a sexual performance;
- 42 (ee) Promoting a sexual performance;
- 43 (ff) Robbery in the first degree;
- 44 (gg) Pharmacy robbery in the first degree;
- 45 (hh) Robbery in the second degree;
- 46 (ii) Pharmacy robbery in the second degree;
- 47 (jj) Arson in the first degree;
- 48 (kk) Arson in the second degree;
- 49 (ll) Knowingly burning or exploding;
- 50 (mm) Causing a catastrophe;
- 51 (nn) Tampering in the first degree;
- 52 (oo) Tampering in the second degree;
- 53 (pp) Tampering with computer data;
- 54 (qq) Tampering with computer equipment;
- 55 (rr) Tampering with computer users;
- 56 (ss) Burglary in the first degree;

57 (tt) Burglary in the second degree;
58 (uu) Unlawful use of weapons;
59 (vv) Unlawful transfer of weapons;
60 (ww) Use or possession of a metal-penetrating bullet during the commission of a
61 crime.

62 (4) "Specified misdemeanor offense", any of the following misdemeanor offenses
63 and any attempt or conspiracy to commit any of the following misdemeanor offenses:

64 (a) Assault in the third degree;
65 (b) Assault of a law enforcement officer in the third degree;
66 (c) Harassment;
67 (d) False imprisonment;
68 (e) Stalking;
69 (f) Endangering the welfare of a child in the second degree;
70 (g) Reckless burning or exploding;
71 (h) Tampering in the second degree;
72 (i) Tampering with computer data;
73 (j) Tampering with computer equipment;
74 (k) Tampering with computer users;
75 (l) Unlawful use of weapons;
76 (m) Unlawful transfer of weapons;
77 (n) Transfer of a concealable firearm without a permit.

78 (5) "Threat", an express or implied threat but does not include a report made in
79 good faith for the purpose of preventing harm.

 574.130. 1. A person commits the crime of terrorism in the first degree if that
2 person knowingly commits or attempts or conspires to commit a specified felony offense
3 with the intent to:

4 (1) Intimidate or coerce a civilian population; or
5 (2) Influence the policy of a unit of government by intimidation or coercion; or
6 (3) Affect the conduct of a unit of government by murder, assassination, or
7 kidnapping.

8 2. The punishment for terrorism in the first degree shall be one classification higher
9 than the punishment for the underlying specified felony offense unless:

10 (1) The underlying specified felony offense is murder in the first degree in which
11 case the punishment shall be either death or imprisonment for life without eligibility for
12 probation or parole, or release, except by act of the governor;

13 (2) The underlying specified felony offense is any class A felony, except murder in

14 the first degree, in which case the punishment shall be either imprisonment for life or
15 imprisonment for life without eligibility for probation or parole, or release, except by act
16 of the governor;

17 (3) The underlying specified felony offense is a nonclassified felony offense in which
18 case the punishment shall be a term of years not less than ten years and not to exceed thirty
19 years, or imprisonment for life, or imprisonment for life without eligibility for probation
20 or parole, or release, except by act of the governor.

574.135. 1. A person commits the crime of terrorism in the second degree if that
2 person knowingly commits or attempts or conspires to commit a specified misdemeanor
3 offense with the intent to:

4 (1) Intimidate or coerce a civilian population; or

5 (2) Influence the policy of a unit of government by intimidation or coercion.

6 2. Terrorism in the second degree is a class C felony.

574.140. 1. A person commits the crime of soliciting or providing support for an
2 act of terrorism if that person knowingly raises, solicits, collects, or provides material,
3 support, or resources with the intent that such material, support, or resources will be used,
4 in whole or in part, to plan, prepare, carry out, or aid in either an act of terrorism or the
5 concealment of, or an escape from, an act of terrorism.

6 2. Soliciting or providing support for an act of terrorism is a class D felony unless
7 the total value of the material, support, or resources exceeds one thousand dollars in which
8 case it is a class C felony.

574.145. 1. A person commits the crime of making a terroristic threat in the first
2 degree if such person knowingly communicates a threat to commit a felony, or knowingly
3 makes a false report, knowing that it is false, concerning the commission of a felony or the
4 occurrence of a catastrophe as defined in section 569.070, RSMo, or knowingly causes a
5 felony to be committed, with the intent to:

6 (1) Intimidate or coerce a civilian population; or

7 (2) Influence the policy of a unit of government by intimidation or coercion; or

8 (3) Affect the conduct of a unit of government by murder, assassination, or
9 kidnapping; or

10 (4) Cause the evacuation or closure of any building, inhabitable structure, place of
11 assembly, or facility of transportation;

12

13 And thereby causes a reasonable expectation or fear of the imminent commission of such
14 felony or catastrophe or causes the actual evacuation or closure of any building,
15 inhabitable structure, place of assembly or facility of transportation.

16 **2. It shall be no defense to a prosecution pursuant to this section that the defendant**
17 **did not have the intent or capability of committing the threatened felony or that the threat**
18 **was not made to a person who was the intended victim of that felony.**

19 **3. Making a terroristic threat in the first degree is a class C felony.**

574.150. 1. A person commits the crime of making a terroristic threat in the second
2 **degree if such person, with reckless disregard of the risk of causing the evacuation or**
3 **closure of any building, inhabitable structure, place of assembly, or facility of**
4 **transportation, communicates a threat to commit a felony, or makes a false report,**
5 **knowing that it is false, concerning the commission of a felony or the occurrence of a**
6 **catastrophe as defined in section 569.070, RSMo, or causes a felony to be committed, and**
7 **thereby causes the evacuation or closure of any building, inhabitable structure, place of**
8 **assembly, or facility of transportation.**

9 **2. It shall be no defense to a prosecution pursuant to this section that the defendant**
10 **did not have the intent or capability of committing the threatened felony or that the threat**
11 **was not made to a person who was the intended victim of that felony.**

12 **3. Making a terroristic threat in the second degree is a class D felony.**

575.020. 1. A person commits the crime of concealing an offense if:

2 (1) He confers or agrees to confer any pecuniary benefit or other consideration to any
3 person in consideration of that person's concealing of any offense, refraining from initiating or
4 aiding in the prosecution of an offense, or withholding any evidence thereof; or

5 (2) He accepts or agrees to accept any pecuniary benefit or other consideration in
6 consideration of his concealing any offense, refraining from initiating or aiding in the
7 prosecution of an offense, or withholding any evidence thereof.

8 **2. Concealing an offense is a class [D felony if the offense concealed is a felony;**
9 **otherwise concealing an offense is a class A misdemeanor] A misdemeanor unless:**

10 **(1) The offense concealed is any felony except terrorism in the first degree or**
11 **terrorism in the second degree in which case it is a class D felony; or**

12 **(2) The offense concealed is terrorism in the first degree or terrorism in the second**
13 **degree in which case it is a class B felony.**

575.030. 1. A person commits the crime of hindering prosecution if for the purpose of
2 **preventing the apprehension, prosecution, conviction or punishment of another for conduct**
3 **constituting a crime he:**

4 (1) Harbors or conceals such person; or

5 (2) Warns such person of impending discovery or apprehension, except this does not
6 apply to a warning given in connection with an effort to bring another into compliance with the
7 law; or

8 (3) Provides such person with money, transportation, weapon, disguise or other means
9 to aid him in avoiding discovery or apprehension; or

10 (4) Prevents or obstructs, by means of force, deception or intimidation, anyone from
11 performing an act that might aid in the discovery or apprehension of such person.

12 2. Hindering prosecution is a class [D felony if the conduct of the other person
13 constitutes a felony; otherwise hindering prosecution is a class A misdemeanor] **A misdemeanor**
14 **unless:**

15 (1) **The conduct of the other person constitutes any felony except terrorism in the**
16 **first degree or terrorism in the second degree in which case it is a class D felony; or**

17 (2) **The conduct of the other person constitutes terrorism in the second degree in**
18 **which case it is a class C felony; or**

19 (3) **The conduct of the other person constitutes terrorism in the first degree in**
20 **which case it is a class B felony.**

575.100. 1. A person commits the crime of tampering with physical evidence if he:

2 (1) Alters, destroys, suppresses or conceals any record, document or thing with purpose
3 to impair its verity, legibility or availability in any official proceeding or investigation; or

4 (2) Makes, presents or uses any record, document or thing knowing it to be false with
5 purpose to mislead a public servant who is or may be engaged in any official proceeding or
6 investigation.

7 2. Tampering with physical evidence is a class [D felony if the actor impairs or obstructs
8 the prosecution or defense of a felony; otherwise, tampering with physical evidence is a class A
9 misdemeanor] **A misdemeanor unless:**

10 (1) **The actor impairs or obstructs the prosecution or defense of any felony except**
11 **terrorism in the first degree or terrorism in the second degree in which case it is a class D**
12 **felony; or**

13 (2) **The actor impairs or obstructs the prosecution or defense of terrorism in the**
14 **first degree or terrorism in the second degree in which case it is a class B felony.**

575.240. 1. A public servant who is authorized and required by law to have charge of
2 any person charged with or convicted of any crime commits the crime of permitting escape if he
3 knowingly:

4 (1) Suffers, allows or permits any deadly weapon or dangerous instrument, or anything
5 adapted or designed for use in making an escape, to be introduced into or allowed to remain in
6 any place of confinement, in violation of law, regulations or rules governing the operation of the
7 place of confinement; or

8 (2) Suffers, allows or permits a person in custody or confinement to escape.

9 2. Permitting escape is a **class D felony unless the person permits escape** by suffering,

10 allowing or permitting any deadly weapon or dangerous instrument to be introduced into a place
11 of confinement **or permits the escape of a person who is in custody or confinement for**
12 **terrorism in the first degree or terrorism in the second degree in which case it is a class B**
13 **felony**[: otherwise, permitting escape is a class D felony].

575.250. 1. A person commits the crime of disturbing a judicial proceeding if, with
2 purpose to intimidate a judge, attorney, juror, party or witness, and thereby to influence a judicial
3 proceeding, he disrupts or disturbs a judicial proceeding by participating in an assembly and
4 calling aloud, shouting, or holding or displaying a placard or sign containing written or printed
5 matter, concerning the conduct of the judicial proceeding, or the character of a judge, attorney,
6 juror, party or witness engaged in such proceeding, or calling for or demanding any specified
7 action or determination by such judge, attorney, juror, party or witness in connection with such
8 proceeding.

9 2. Disturbing a judicial proceeding is a class A misdemeanor **unless the judicial**
10 **proceeding is a prosecution for terrorism in the first degree or terrorism in the second**
11 **degree in which case it is a class B felony.**

575.270. 1. A person commits the crime of tampering with a witness if, with purpose
2 to induce a witness or a prospective witness in an official proceeding to disobey a subpoena or
3 other legal process, or to absent himself or avoid subpoena or other legal process, or to withhold
4 evidence, information or documents, or to testify falsely, he:

- 5 (1) Threatens or causes harm to any person or property; or
6 (2) Uses force, threats or deception; or
7 (3) Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness;
8 or
9 (4) Conveys any of the foregoing to another in furtherance of a conspiracy.

10 2. A person commits the crime of "victim tampering" if, with purpose to do so, he
11 prevents or dissuades or attempts to prevent or dissuade any person who has been a victim of any
12 crime or a person who is acting on behalf of any such victim from:

- 13 (1) Making any report of such victimization to any peace officer, or state, local or federal
14 law enforcement officer or prosecuting agency or to any judge;
15 (2) Causing a complaint, indictment or information to be sought and prosecuted or
16 assisting in the prosecution thereof;
17 (3) Arresting or causing or seeking the arrest of any person in connection with such
18 victimization.

19 3. Tampering with a witness in a prosecution, tampering with a witness with purpose to
20 induce the witness to testify falsely, or victim tampering is a class [C felony if the] **A**
21 **misdemeanor unless:**

22 (1) **The original charge is [a] any felony[. Otherwise, tampering with a witness or**
23 **victim tampering is a class A misdemeanor] except terrorism in the first degree or terrorism**
24 **in the second degree in which case it is a class D felony;**

25 (2) **The original charge is terrorism in the first degree or terrorism in the second**
26 **degree in which case it is a class B felony.** Persons convicted under this section shall not be
27 eligible for parole.