

FIRST REGULAR SESSION

HOUSE COMMITTEE BILL NO. 2

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOGAN.

2485H.03I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 311.060, 311.660, 313.220, 543.270, 558.006, 559.016, 559.600, 577.010, and 590.650, RSMo, and to enact in lieu thereof fifteen new sections relating to criminal justice, with penalty provisions.

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

Section A. Sections 311.060, 311.660, 313.220, 543.270, 558.006, 559.016, 559.600, 2 577.010, and 590.650, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to 3 be known as sections 217.149, 217.199, 221.065, 221.520, 221.523, 311.060, 311.660, 313.220, 4 543.270, 558.006, 558.043, 559.016, 559.600, 577.010, and 590.650, to read as follows:

217.149. 1. Female inmates in the last trimester of pregnancy may be considered
2 **for a pregnancy furlough if the chief medical administrator verifies that the level of**
3 **medical care that will be rendered to the inmate outside the correctional center is**
4 **comparable to or greater than that which could be rendered to the inmate within the**
5 **correctional center.**

6 **2. A plan of community supervision shall be developed by a probation or parole**
7 **officer and approved by the chief administrative officer of the inmate's correctional center,**
8 **and arrangements shall be made for monitoring the inmate's activities while on furlough.**
9 **The plan of community supervision shall include supervision contact by the division of**
10 **probation and parole while the inmate is on furlough status. The correctional center**
11 **placing the inmate on furlough status shall contact the division of probation and parole in**
12 **the district where the inmate will be residing during the furlough period and develop**
13 **community control supervision contact standards. The developed plan shall be attached**
14 **to the furlough request.**

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

15 **3. The correctional center placing the inmate on furlough status shall be**
 16 **responsible for the monitoring of the inmate's progress while on the furlough. Monitoring**
 17 **shall include any changes in the inmate's medical condition or any violations of the rules**
 18 **concerning the furlough. Any changes or violations detected shall be reported immediately**
 19 **to the chief administrative officer of the correctional center placing the inmate on furlough.**

20 **4. The chief administrative officer of the correctional center is authorized to**
 21 **terminate a pregnancy furlough at any time during the furlough period for noncompliance**
 22 **with the conditions of the furlough. The pregnancy furlough shall be terminated within**
 23 **one week after a satisfactory six-week postpartum examination for a vaginal birth or eight-**
 24 **week postpartum examination for a cesarean birth.**

217.199. 1. As used in this section, "healthcare products" include tampons and
 2 **sanitary napkins.**

3 **2. The director shall ensure that healthcare products are available for free to**
 4 **offenders while confined in any correctional center of the department, in a quantity that**
 5 **is appropriate for the healthcare needs of each offender. The director shall ensure that the**
 6 **healthcare products conform with applicable industry standards.**

221.065. 1. As used in this section, "healthcare products" include tampons and
 2 **sanitary napkins.**

3 **2. Every sheriff and jailer who holds a person in custody pursuant to a writ or**
 4 **process or for a criminal offense shall ensure that healthcare products are available for**
 5 **free to such person while in custody, in a quantity that is appropriate for the healthcare**
 6 **needs of the person. The sheriff or jailer shall ensure that the healthcare products conform**
 7 **with applicable industry standards.**

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

2 **(1) "Extraordinary circumstance", a substantial flight risk or some other**
 3 **extraordinary medical or security circumstance that dictates restraints be used to ensure**
 4 **the safety and security of a pregnant prisoner in her third trimester or a postpartum**
 5 **prisoner within forty-eight hours postdelivery, the staff of the county or city jail or medical**
 6 **facility, other prisoners, or the public;**

7 **(2) "Labor", the period of time before a birth during which contractions are**
 8 **present;**

9 **(3) "Postpartum", the period of recovery immediately following childbirth, which**
 10 **is six weeks for a vaginal birth or eight weeks for a cesarean birth, or longer if so**
 11 **determined by a physician or nurse;**

12 **(4) "Restraints", any physical restraint or other device used to control the**
 13 **movement of a person's body or limbs.**

14 **2. A county or city jail shall not use restraints on a pregnant prisoner in her third**
15 **trimester, whether during transportation to and from visits to health care providers and**
16 **court proceedings or medical appointments and examinations, or during labor, delivery,**
17 **or forty-eight hours postdelivery.**

18 **3. Pregnant prisoners shall be transported in vehicles equipped with seatbelts.**

19 **4. Any time restraints are used on a pregnant prisoner in her third trimester or on**
20 **a postpartum prisoner within forty-eight hours postdelivery, the restraints shall be the**
21 **least restrictive available and the most reasonable under the circumstances. In no case**
22 **shall leg, ankle, or waist restraints or any mechanical restraints be used on any such**
23 **prisoner, and if wrist restraints are used, such restraints shall be placed in the front of such**
24 **prisoner's body to protect the prisoner and the unborn child in the case of a forward fall.**

25 **5. If a doctor, nurse, or other health care provider treating the pregnant prisoner**
26 **in her third trimester or the postpartum prisoner within forty-eight hours postdelivery**
27 **requests that restraints not be used, the sheriff or jailer accompanying such prisoner shall**
28 **immediately remove all restraints.**

29 **6. In the event a sheriff or jailer determines that extraordinary circumstances exist**
30 **and restraints are necessary, the sheriff or jailer shall fully document in writing within**
31 **forty-eight hours of the incident the reasons he or she determined such extraordinary**
32 **circumstances existed, the type of restraints used, and the reasons those restraints were**
33 **considered the least restrictive available and the most reasonable under the circumstances.**
34 **Such documents shall be kept on file by the county or city jail for at least five years from**
35 **the date the restraints were used.**

36 **7. The county or city jail shall:**

37 **(1) Ensure that employees of the jail are provided with training, which may include**
38 **online training, on the provisions of this section; and**

39 **(2) Inform female prisoners, in writing and orally, of any policies and practices**
40 **developed in accordance with this section upon admission to the jail, and post the policies**
41 **and practices in locations in the jail where such notices are commonly posted and will be**
42 **seen by female prisoners.**

221.523. 1. By September 1, 2018, all county and city jails shall develop specific
2 **procedures for the intake and care of prisoners who are pregnant, which shall include**
3 **procedures regarding:**

4 **(1) Maternal health evaluations;**

5 **(2) Dietary supplements;**

6 **(3) Substance abuse treatment;**

- 7 **(4) Treatment for the human immunodeficiency virus and ways to avoid human**
8 **immunodeficiency virus transmission;**
- 9 **(5) Hepatitis C;**
- 10 **(6) Sleeping arrangements for such prisoners, including requiring such prisoners**
11 **to sleep on the bottom bunk bed;**
- 12 **(7) Access to mental health professionals;**
- 13 **(8) Sanitary materials;**
- 14 **(9) Postpartum recovery, including that no such prisoner shall be placed in**
15 **isolation during such recovery; and**
- 16 **(10) A requirement that a female medical professional be present during any**
17 **examination of such prisoner.**
- 18 **2. As used in this section "postpartum recovery" means, as determined by a**
19 **physician, the period immediately following delivery, including the entire period a prisoner**
20 **who was pregnant is in the hospital or infirmary after delivery.**

311.060. 1. No person shall be granted a license hereunder unless such person is of good
2 moral character and a qualified legal voter and a taxpaying citizen of the county, town, city or
3 village, nor shall any corporation be granted a license hereunder unless the managing officer of
4 such corporation is of good moral character and a qualified legal voter and taxpaying citizen of
5 the county, town, city or village; and, except as otherwise provided under subsection 7 of this
6 section, no person shall be granted a license or permit hereunder whose license as such dealer
7 has been revoked, or who has been convicted, since the ratification of the twenty-first
8 amendment to the Constitution of the United States, of a violation of the provisions of any law
9 applicable to the manufacture or sale of intoxicating liquor, or who employs in his or her
10 business as such dealer any person whose license has been revoked unless five years have passed
11 since the revocation as provided under subsection 6 of this section, or who has been convicted
12 of violating such law since the date aforesaid; provided, that nothing in this section contained
13 shall prevent the issuance of licenses to nonresidents of Missouri or foreign corporations for the
14 privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating
15 liquors to, by or through a duly licensed wholesaler, within this state.

16 2. (1) No person, partnership or corporation shall be qualified for a license under this
17 law if such person, any member of such partnership, or such corporation, or any officer, director,
18 or any stockholder owning, legally or beneficially, directly or indirectly, ten percent or more of
19 the stock of such corporation, or other financial interest therein, or ten percent or more of the
20 interest in the business for which the person, partnership or corporation is licensed, or any person
21 employed in the business licensed under this law shall have had a license revoked under this law
22 except as otherwise provided under subsections 6 and 7 of this section, or shall have been

23 convicted of violating the provisions of any law applicable to the manufacture or sale of
24 intoxicating liquor since the ratification of the twenty-first amendment to the Constitution of the
25 United States, or shall not be a person of good moral character.

26 (2) No license issued under this chapter shall be denied, suspended, revoked or otherwise
27 affected based solely on the fact that an employee of the licensee has been convicted of a felony
28 unrelated to the manufacture or sale of intoxicating liquor. ~~[Each employer shall report the~~
29 ~~identity of any employee convicted of a felony to the division of liquor control.]~~ The division
30 of liquor control shall promulgate rules to enforce the provisions of this subdivision.

31 (3) No wholesaler license shall be issued to a corporation for the sale of intoxicating
32 liquor containing alcohol in excess of five percent by weight, except to a resident corporation
33 as defined in this section.

34 3. A "resident corporation" is defined to be a corporation incorporated under the laws
35 of this state, all the officers and directors of which, and all the stockholders, who legally and
36 beneficially own or control sixty percent or more of the stock in amount and in voting rights,
37 shall be qualified legal voters and taxpaying citizens of the county and municipality in which
38 they reside and who shall have been bona fide residents of the state for a period of three years
39 continuously immediately prior to the date of filing of application for a license, provided that a
40 stockholder need not be a voter or a taxpayer, and all the resident stockholders of which shall
41 own, legally and beneficially, at least sixty percent of all the financial interest in the business to
42 be licensed under this law; provided, that no corporation, licensed under the provisions of this
43 law on January 1, 1947, nor any corporation succeeding to the business of a corporation licensed
44 on January 1, 1947, as a result of a tax-free reorganization coming within the provisions of
45 Section 112, United States Internal Revenue Code, shall be disqualified by reason of the new
46 requirements herein, except corporations engaged in the manufacture of alcoholic beverages
47 containing alcohol in excess of five percent by weight, or owned or controlled, directly or
48 indirectly, by nonresident persons, partnerships or corporations engaged in the manufacture of
49 alcoholic beverages containing alcohol in excess of five percent by weight.

50 4. The term "financial interest" as used in this chapter is defined to mean all interest,
51 legal or beneficial, direct or indirect, in the capital devoted to the licensed enterprise and all such
52 interest in the net profits of the enterprise, after the payment of reasonable and necessary
53 operating business expenses and taxes, including interest in dividends, preferred dividends,
54 interest and profits, directly or indirectly paid as compensation for, or in consideration of interest
55 in, or for use of, the capital devoted to the enterprise, or for property or money advanced, loaned
56 or otherwise made available to the enterprise, except by way of ordinary commercial credit or
57 bona fide bank credit not in excess of credit customarily granted by banking institutions, whether

58 paid as dividends, interest or profits, or in the guise of royalties, commissions, salaries, or any
59 other form whatsoever.

60 5. The supervisor shall by regulation require all applicants for licenses to file written
61 statements, under oath, containing the information reasonably required to administer this section.
62 Statements by applicants for licenses as wholesalers and retailers shall set out, with other
63 information required, full information concerning the residence of all persons financially
64 interested in the business to be licensed as required by regulation. All material changes in the
65 information filed shall be promptly reported to the supervisor.

66 6. Any person whose license or permit issued under this chapter has been revoked shall
67 be automatically eligible to work as an employee of an establishment holding a license or permit
68 under this chapter five years after the date of the revocation.

69 7. Any person whose license or permit issued under this chapter has been revoked shall
70 be eligible to apply and be qualified for a new license or permit five years after the date of the
71 revocation. The person may be issued a new license or permit at the discretion of the division
72 of alcohol and tobacco control. If the division denies the request for a new permit or license, the
73 person may not submit a new application for five years from the date of the denial. If the
74 application is approved, the person shall pay all fees required by law for the license or permit.
75 Any person whose request for a new license or permit is denied may seek a determination by the
76 administrative hearing commission as provided under section 311.691.

 311.660. 1. The supervisor of liquor control shall have the authority to suspend or
2 revoke for cause all such licenses; and to make the following regulations, without limiting the
3 generality of provisions empowering the supervisor of liquor control as in this chapter set forth
4 as to the following matters, acts and things:

5 (1) Fix and determine the nature, form and capacity of all packages used for containing
6 intoxicating liquor of any kind, to be kept or sold under this law;

7 (2) Prescribe an official seal and label and determine the manner in which such seal or
8 label shall be attached to every package of intoxicating liquor so sold under this law; this
9 includes prescribing different official seals or different labels for the different classes, varieties
10 or brands of intoxicating liquor;

11 (3) Prescribe all forms, applications and licenses and such other forms as are necessary
12 to carry out the provisions of this chapter, except that when a licensee substantially complies
13 with all requirements for the renewal of a license by the date on which the application for
14 renewal is due, such licensee shall be permitted at least an additional ten days from the date
15 notice is sent that the application is deficient, in which to complete the application;

16 (4) Prescribe the terms and conditions of the licenses issued and granted under this law;

17 (5) Prescribe the nature of the proof to be furnished and conditions to be observed in the
18 issuance of duplicate licenses, in lieu of those lost or destroyed;

19 (6) Establish rules and regulations for the conduct of the business carried on by each
20 specific licensee under the license, and such rules and regulations if not obeyed by every licensee
21 shall be grounds for the revocation or suspension of the license;

22 (7) The right to examine books, records and papers of each licensee and to hear and
23 determine complaints against any licensee;

24 (8) To issue subpoenas and all necessary processes and require the production of papers,
25 to administer oaths and to take testimony;

26 (9) Prescribe all forms of labels to be affixed to all packages containing intoxicating
27 liquor of any kind; and

28 (10) To make such other rules and regulations as are necessary and feasible for carrying
29 out the provisions of this chapter, as are not inconsistent with this law.

30 **2. Notwithstanding subsection 1 of this section, the supervisor of liquor control**
31 **shall not prohibit persons from participating in the sale of intoxicating liquor within the**
32 **scope of their employment solely on the basis of being found guilty of any felony offense,**
33 **except for prohibitions set forth in sections 311.191 and 311.193.**

313.220. 1. The commission shall promulgate such rules and regulations governing the
2 establishment and operation of a state lottery as it deems necessary and desirable to fully
3 implement the mandate of the people expressed in the approval of the lottery amendment to
4 Article III of the Missouri Constitution. Such rules and regulations shall be designed so that a
5 lottery may be initiated at the earliest feasible and practicable time. No rule or portion of a rule
6 promulgated under the authority of this chapter shall become effective unless it has been
7 promulgated pursuant to the provisions of section 536.024.

8 2. The commission shall have the authority to require a fingerprint background check
9 on any person seeking employment or employed by the commission, any person seeking contract
10 with or contracted to the commission and any person seeking license from or licensed by the
11 commission. The background check shall include a check of the Missouri criminal records
12 repository and when the commission deems it necessary to perform a nationwide criminal history
13 check, a check of the Federal Bureau of Investigation's criminal records file. Fingerprints shall
14 be submitted to the Missouri criminal records repository as required. Notwithstanding the
15 provisions of section 610.120, the commission shall have access to closed criminal history
16 information when fingerprints are submitted. **The commission shall not prohibit a person**
17 **from participating in the sale of lottery tickets solely on the basis of the person being found**
18 **guilty of any criminal offense; except that, the person shall not be eligible to be a licensed**
19 **lottery game retailer under subsection 2 of section 313.260.**

543.270. [~~1.~~ When any person shall be unable to pay any fine and costs assessed against
2 him, the associate circuit judge shall have power, at the request of the defendant, to commute
3 such fine and costs to imprisonment in the county jail, which shall be credited at the rate of ten
4 dollars of such fine and costs for each day's imprisonment.
5 ~~—————2.~~] When a fine is assessed by [~~aa~~] **a municipal judge**, associate circuit judge, **or circuit**
6 **judge**, it shall be within his **or her** discretion to provide for the payment of the fine on an
7 installment basis under such terms and conditions as he **or she** may deem appropriate. **In no**
8 **event shall the recovery of costs incurred by a municipality or county for the detention,**
9 **imprisonment, or holding of any person be the subject of any condition of probation, nor**
10 **shall the failure to pay such costs be the sole basis for the issuance of a warrant.**

558.006. [~~1.~~] When an offender sentenced to pay a fine defaults in the payment of the
2 fine or in any installment, [~~the court upon motion of the prosecuting attorney or upon its own~~
3 ~~motion may require him or her to show cause why he or she should not be imprisoned for~~
4 ~~nonpayment. The court may issue a warrant of arrest or a summons for his or her appearance.~~
5 ~~—————2.~~ Following an order to show cause under subsection 1 of this section, unless the
6 offender shows that his or her default was not attributable to an intentional refusal to obey the
7 sentence of the court, or not attributable to a failure on his or her part to make a good faith effort
8 to obtain the necessary funds for payment, the court may order the defendant imprisoned for a
9 term not to exceed one hundred eighty days if the fine was imposed for conviction of a felony
10 or thirty days if the fine was imposed for conviction of a misdemeanor or infraction. The court
11 may provide in its order that payment or satisfaction of the fine at any time will entitle the
12 offender to his or her release from such imprisonment or, after entering the order, may at any
13 time reduce the sentence for good cause shown, including payment or satisfaction of the fine.
14 ~~—————3.~~ If it appears that the default in the payment of a fine is excusable under the standards
15 set forth in subsection 2 of this section, the court may enter an order allowing the offender
16 additional time for payment, reducing the amount of the fine or of each installment, or revoking
17 the fine or the unpaid portion in whole or in part.
18 ~~—————4.~~ When a fine is imposed on a corporation it is the duty of the person or persons
19 authorized to make disbursement of the assets of the corporation and their superiors to pay the
20 fine from the assets of the corporation. The failure of such persons to do so shall render them
21 subject to imprisonment under subsections 1 and 2 of this section.
22 ~~—————5.~~ Upon default in the payment of a) **the** fine or [any] installment [thereof, the fine may]
23 **shall** be collected by any means authorized for the [~~enforcement~~] **collection** of money judgments,
24 **or may be waived at the discretion of the sentencing judge.**

2 **558.043. 1. Notwithstanding any other provision of law, in sentencing a person**
3 **convicted of an offense for which there is a statutory minimum sentence or a minimum**
4 **prison term required by section 558.019 but that did not:**

5 **(1) Include the use, attempted use, or threatened use of serious physical force by**
6 **the defendant against another person or result in the serious physical injury of another**
7 **person by the defendant;**

8 **(2) Involve any sexual offense by the defendant against a minor other than an**
9 **offense involving sexual contact if the victim was fourteen years of age or older and the**
10 **defendant was not more than four years older than the victim and the sexual contact was**
11 **consensual; or**

12 **(3) Include the brandishing or discharge of a firearm by the defendant,**
13 **the court may depart from the applicable statutory minimum sentence or minimum prison**
14 **term required by section 558.019 if the court finds substantial and compelling reasons on**
15 **the record that, giving due regard to the nature of the offense, the history and character**
16 **of the defendant, and his or her chances of successful rehabilitation, imposition of the**
17 **statutory minimum sentence or minimum prison term required by section 558.019 would**
18 **result in substantial injustice to the defendant or is not necessary for the protection of the**
19 **public.**

20 **2. The provisions of this section shall also apply to any applicable offense a person**
21 **pled guilty to or was convicted of on or before August 28, 2019.**

2 **559.016. 1. Unless terminated as provided in section 559.036 or modified under section**
3 **217.703, the terms during which each probation shall remain conditional and be subject to**
4 **revocation are:**

5 **(1) A term of years not less than one year and not to exceed five years for a felony;**

6 **(2) A term not less than six months and not to exceed ~~[two years]~~ **eighteen months** for**
7 **a misdemeanor or municipal ordinance violation;**

8 **(3) A term not less than six months and not to exceed one year for an infraction.**

9 **2. The court shall designate a specific term of probation at the time of sentencing or at**
10 **the time of suspension of imposition of sentence. Such term may be modified by the division**
11 **of probation and parole under section 217.703.**

12 **3. The court may extend a period of probation[;] ; however, no more than one extension**
13 **of any probation may be ordered, except that the court may extend the total time on probation**
14 **by one additional year by order of the court if the defendant admits he or she has violated the**
15 **conditions of his or her probation or is found by the court to have violated the conditions of his**
or her probation. Total time on any probation term, including any extension, shall not exceed

16 the maximum term as established in subsection 1 of this section plus one additional year if the
 17 defendant admits or the court finds that the defendant has violated the conditions of his or her
 18 probation.

559.600. 1. In cases where the board of probation and parole is not required under
 2 section 217.750 to provide probation supervision and rehabilitation services for misdemeanor
 3 offenders, the circuit and associate circuit judges in a circuit may contract with one or more
 4 private entities or other court-approved entity to provide such services. The court-approved
 5 entity, including private or other entities, shall act as a misdemeanor probation office in that
 6 circuit and shall, pursuant to the terms of the contract, supervise persons placed on probation by
 7 the judges for class A, B, C, and D misdemeanor offenses, specifically including persons placed
 8 on probation for violations of section 577.023. Nothing in sections 559.600 to 559.615 shall be
 9 construed to prohibit the board of probation and parole, or the court, from supervising
 10 misdemeanor offenders in a circuit where the judges have entered into a contract with a
 11 probation entity.

12 2. In all cases, the entity providing such private probation service shall utilize the cutoff
 13 concentrations utilized by the department of corrections with regard to drug and alcohol
 14 screening for clients assigned to such entity. A drug test is positive if drug presence is at or
 15 above the cutoff concentration or negative if no drug is detected or if drug presence is below the
 16 cutoff concentration. **No client shall be required to submit to an alcohol or drug test unless
 17 the client is on probation for an offense that involved either alcohol or a controlled
 18 substance or unless ordered by the judge for good cause shown.**

19 3. In all cases, the entity providing such private probation service shall not require the
 20 clients assigned to such entity to travel in excess of fifty miles in order to attend their regular
 21 probation meetings.

577.010. 1. A person commits the offense of driving while intoxicated if he or she
 2 operates a vehicle while in an intoxicated condition.

3 2. The offense of driving while intoxicated is:

4 (1) A class B misdemeanor;

5 (2) A class A misdemeanor if:

6 (a) The defendant is a prior offender; or

7 (b) A person less than seventeen years of age is present in the vehicle;

8 (3) A class E felony if:

9 (a) The defendant is a persistent offender; or

10 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
 11 physical injury to another person;

12 (4) A class D felony if:

- 13 (a) The defendant is an aggravated offender;
- 14 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
15 physical injury to a law enforcement officer or emergency personnel; or
- 16 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
17 serious physical injury to another person;
- 18 (5) A class C felony if:
- 19 (a) The defendant is a chronic offender;
- 20 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
21 serious physical injury to a law enforcement officer or emergency personnel; or
- 22 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
23 the death of another person;
- 24 (6) A class B felony if:
- 25 (a) The defendant is a habitual offender;
- 26 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
27 the death of a law enforcement officer or emergency personnel;
- 28 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
29 the death of any person not a passenger in the vehicle operated by the defendant, including the
30 death of an individual that results from the defendant's vehicle leaving a highway, as defined in
31 section 301.010, or the highway's right-of-way;
- 32 (d) While driving while intoxicated, the defendant acts with criminal negligence to cause
33 the death of two or more persons; or
- 34 (e) While driving while intoxicated, the defendant acts with criminal negligence to cause
35 the death of any person while he or she has a blood alcohol content of at least eighteen-
36 hundredths of one percent by weight of alcohol in such person's blood;
- 37 (7) A class A felony if the defendant has previously been found guilty of an offense
38 under paragraphs (a) to (e) of subdivision (6) of this subsection and is found guilty of a
39 subsequent violation of such paragraphs.
- 40 3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty
41 of the offense of driving while intoxicated as a first offense shall not be granted a suspended
42 imposition of sentence:
- 43 (1) Unless such person shall be placed on probation for a minimum of [~~two years~~]
44 **eighteen months**; or
- 45 (2) In a circuit where a DWI court or docket created under section 478.007 or other
46 court-ordered treatment program is available, and where the offense was committed with fifteen-
47 hundredths of one percent or more by weight of alcohol in such person's blood, unless the

48 individual participates and successfully completes a program under such DWI court or docket
49 or other court-ordered treatment program.

50 4. If a person is found guilty of a second or subsequent offense of driving while
51 intoxicated, the court may order the person to submit to a period of continuous alcohol
52 monitoring or verifiable breath alcohol testing performed a minimum of four times per day as
53 a condition of probation.

54 5. If a person is not granted a suspended imposition of sentence for the reasons described
55 in subsection 3 of this section:

56 (1) If the individual operated the vehicle with fifteen-hundredths to twenty-hundredths
57 of one percent by weight of alcohol in such person's blood, the required term of imprisonment
58 shall be not less than forty-eight hours;

59 (2) If the individual operated the vehicle with greater than twenty-hundredths of one
60 percent by weight of alcohol in such person's blood, the required term of imprisonment shall be
61 not less than five days.

62 6. A person found guilty of the offense of driving while intoxicated:

63 (1) As a prior offender, persistent offender, aggravated offender, chronic offender, or
64 habitual offender shall not be granted a suspended imposition of sentence or be sentenced to pay
65 a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

66 (2) As a prior offender shall not be granted parole or probation until he or she has served
67 a minimum of ten days imprisonment:

68 (a) Unless as a condition of such parole or probation such person performs at least thirty
69 days of community service under the supervision of the court in those jurisdictions which have
70 a recognized program for community service; or

71 (b) The offender participates in and successfully completes a program established under
72 section 478.007 or other court-ordered treatment program, if available, and as part of either
73 program, the offender performs at least thirty days of community service under the supervision
74 of the court;

75 (3) As a persistent offender shall not be eligible for parole or probation until he or she
76 has served a minimum of thirty days imprisonment:

77 (a) Unless as a condition of such parole or probation such person performs at least sixty
78 days of community service under the supervision of the court in those jurisdictions which have
79 a recognized program for community service; or

80 (b) The offender participates in and successfully completes a program established under
81 section 478.007 or other court-ordered treatment program, if available, and as part of either
82 program, the offender performs at least sixty days of community service under the supervision
83 of the court;

84 (4) As an aggravated offender shall not be eligible for parole or probation until he or she
85 has served a minimum of sixty days imprisonment;

86 (5) As a chronic or habitual offender shall not be eligible for parole or probation until
87 he or she has served a minimum of two years imprisonment; and

88 (6) Any probation or parole granted under this subsection may include a period of
89 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four
90 times per day.

590.650. 1. **The provisions of this section shall be known and may be cited as "The
2 John Ashcroft Fourth Amendment Affirmation Act".** As used in this section [~~"minority
3 group" means individuals of African, Hispanic, Native American or Asian descent~~] **the
4 following terms mean:**

5 (1) **"Benchmark", the number used as a basis of comparison in determining
6 possible disproportions in law enforcement activities, which shall only include the
7 following:**

8 (a) **The benchmark for measuring disproportions in vehicle stops shall be the
9 proportions of drivers in racial or ethnic groups residing in a jurisdiction;**

10 (b) **The benchmark for measuring disproportions in post-stop activities shall be the
11 racial or ethnic group's proportion of stops; and**

12 (c) **The benchmark used to measure disproportions in hit rates shall be the group
13 proportions of drivers searched;**

14 (2) **"Consent search", a search authorized by the consent of the individual, not by
15 probable cause;**

16 (3) **"Discriminatory policing", circumstances in which the peace officer's actions
17 are based in whole or in part on the real or perceived race, ethnicity, religious beliefs,
18 gender, English language proficiency, status as a person with a disability, or a person's
19 national origin rather than upon specific and articulable facts which, taken together with
20 rational inferences from those facts, reasonably indicate criminal activity. "Discriminatory
21 policing" does not include investigations of alleged crimes when law enforcement must seek
22 out suspects who match a specifically delineated description;**

23 (4) **"Hit rate", the rate of searches in which contraband is found. The hit rate is
24 calculated by dividing the number of searches that yield contraband by the total number
25 of searches. Hit rate may be calculated for individual officers, agencies, or multiple
26 agencies;**

27 (5) **"Investigative stop", any stop, by a peace officer, of a motor vehicle based on
28 reasonable suspicion or probable cause and not a motor vehicle violation. Investigative
29 stops can involve calls for service, stops conducted in support of an agency investigation,**

30 stops conducted because of a peace officer's observations, stops made at a sobriety
 31 checkpoint or other road block, or other investigatory stops;

32 (6) "Minority group", individuals of African, Hispanic, Native American, or Asian
 33 descent;

34 (7) "Ratio of disparity", the ratio of the rate of stops or other peace officer activities
 35 for a non-white group as compared to the rate for the white group. The ratio of disparity
 36 for the white group shall be the white group rate compared to the rate for non-white
 37 groups;

38 (8) "Significant disproportion", a ratio of disparity that differs significantly from
 39 the overall state ratio of disparity for any minority group for that category of peace officer
 40 activity. The attorney general shall determine what deviation from the overall state ratio
 41 of disparity warrants further scrutiny after considering factors other than discrimination.
 42 The attorney general shall find any ratio of disparity that is over one hundred twenty-five
 43 percent of the overall state disparity for any minority group for that category of peace
 44 officer activity to be a significant disproportion.

45 2. Each time a peace officer stops a driver of a motor vehicle, that officer shall report at
 46 least the following information to the law enforcement agency that employs the officer:

47 (1) The age, gender and race or minority group of the individual stopped;

48 (2) **Whether the driver resides in the jurisdiction of the stop;**

49 (3) The reasons for the stop. **Reasons for an investigative stop include, but are not**
 50 **limited to, calls for service, stops conducted in support of an agency investigation, stops**
 51 **conducted because of a peace officer's observations, and stops made at a sobriety**
 52 **checkpoint or other road block;**

53 [~~3~~] (4) Whether a search was conducted as a result of the stop;

54 [~~4~~] (5) If a search was conducted, whether the individual consented to the search, **how**
 55 **the individual's consent was documented**, the probable cause for the search, whether the
 56 person was searched, whether the person's property was searched, and the duration of the search;

57 [~~5~~] (6) Whether any contraband was discovered in the course of the search and the type
 58 of any contraband discovered;

59 [~~6~~] (7) Whether any warning or citation was issued as a result of the stop;

60 [~~7~~] (8) If a warning or citation was issued, the violation charged or warning provided;

61 [~~8~~] (9) Whether an arrest was made as a result of either the stop or the search;

62 [~~9~~] (10) If an arrest was made, the crime charged; [~~and~~]

63 [~~10~~] (11) The **time and** location of the stop; **and**

64 (12) **The municipal or state infraction for which the individual was stopped.**

65

66 Such information ~~[may]~~ **shall** be ~~[reported using a format determined by the department of public~~
67 ~~safety which uses existing citation and report forms]~~ **submitted to the attorney general as a**
68 **single report indicating for each traffic stop the required information on the driver and**
69 **stop. The format of the report shall be determined by the attorney general. No personnel**
70 **information shall be disclosed.**

71 3. (1) Each law enforcement agency shall compile the data described in subsection 2 of
72 this section for the calendar year ~~[into a]~~ **and send the stop** report to the attorney general.

73 (2) Each law enforcement agency shall submit the **stop** report to the attorney general no
74 later than March first of the following calendar year.

75 (3) The attorney general shall determine the format that all law enforcement agencies
76 shall use to submit the report. **The attorney general may allow the department of public**
77 **safety to extract the data from other reports filed by law enforcement agencies.**

78 4. (1) The attorney general shall analyze the annual **stop** reports of law enforcement
79 agencies required by this section and submit a report of the findings to the governor, the general
80 assembly and each law enforcement agency no later than June first of each year.

81 (2) **The report shall identify situations in which data submitted by agencies indicate**
82 **that racial and ethnic groups are disproportionately affected by law enforcement activity**
83 **so that further analysis may be conducted to determine whether peace officers are**
84 **engaging in discriminatory policing.**

85 (3) **The report shall provide group ratios of disparity for all categories of stops,**
86 **post-stop activities, searches, and contraband found, using appropriate benchmarks as**
87 **defined in subsection 1 of this section.**

88 (4) The report of the attorney general shall include at least the following information for
89 each agency **and for the state overall:**

90 (a) The total number of vehicles stopped by peace officers during the previous calendar
91 year;

92 (b) The number and percentage of stopped motor vehicles that were driven by members
93 of each particular minority group;

94 (c) ~~[A comparison of the percentage of stopped motor vehicles driven by each minority~~
95 ~~group and the percentage of the state's population that each minority group comprises]~~ **Ratios**
96 **of disparity for all categories of stops, post-stop activities, searches, and contraband using**
97 **appropriate benchmarks as defined in subsection 1 of this section; and**

98 (d) A compilation of the information reported by law enforcement agencies pursuant to
99 subsection 2 of this section.

100 5. (1) Each law enforcement agency shall adopt a policy on ~~[race-based traffic stops]~~
101 **discriminatory policing** that:

102 ~~[(1)]~~ **(a)** Prohibits ~~[the practice of routinely stopping members of minority groups for~~
103 ~~violations of vehicle laws as a pretext for investigating other violations of criminal law]~~
104 **discriminatory policing;**

105 ~~[(2)]~~ **(b)** Provides for ~~[periodic]~~ **annual** reviews by the law enforcement agency of the
106 annual report of the attorney general required by subsection 4 of this section that:

107 ~~[(a)]~~ **a.** Determine whether any peace officers of the law enforcement agency have a
108 pattern of stopping members of minority groups for violations of vehicle laws in a number
109 disproportionate to the population of minority groups residing or traveling within the jurisdiction
110 of the law enforcement agency; and

111 ~~[(b)]~~ **b.** If the review reveals a pattern, require an investigation to determine whether any
112 peace officers of the law enforcement agency ~~[routinely stop members of minority groups for~~
113 ~~violations of vehicle laws as a pretext for investigating other violations of criminal law; and]~~
114 **engaged in discriminatory policing;**

115 **c. Include a review of complaints received by the law enforcement agency and a**
116 **breakdown of which complaints were verified, found to be unfounded, remain active, and**
117 **what steps were taken to address verified complaints. The review of complaints shall**
118 **indicate the number of complaints alleging discriminatory policing that a law enforcement**
119 **agency received; and**

120 **d. The results of the review shall be made public, however, no personnel**
121 **information shall be disclosed; and**

122 ~~[(3)]~~ **(c)** Provides for appropriate **discipline, up to and including dismissal**, counseling,
123 and training of any peace officer found to have engaged in ~~[race-based traffic stops]~~
124 **discriminatory policing** within ninety days of the review.

125

126 The course or courses of instruction and the guidelines shall stress understanding and respect for
127 racial and cultural differences, **cultural competency**, and development of effective,
128 noncombative methods of carrying out law enforcement duties in a racially and culturally diverse
129 environment.

130 **(2) Each policy shall be in writing and accessible by the public. The attorney**
131 **general shall certify that the discriminatory policing policy of each agency is substantially**
132 **equivalent to the requirements of this subsection.**

133 **(3) Each policy shall put in place procedures to eliminate discriminatory policing.**

134 **6. Each law enforcement agency shall establish policies to eliminate discriminatory**
135 **policing in the administration of consent searches. The procedures shall include the**
136 **following:**

137 **(1) A peace officer shall have specific and articulable facts about the individual**
138 **that, taken together with rational inferences from those facts, lead the peace officer to**
139 **reasonably believe a search is needed;**

140 **(2) The peace officer shall document, in writing, such specific articulable facts**
141 **about the circumstances leading to the request for consent in individual searches and if**
142 **multiple searches take place under the same circumstances at or near the same time;**

143 **(3) Prior to requesting consent for a search, a peace officer shall communicate**
144 **orally or in writing, in a language that the person being questioned clearly understands,**
145 **that the person's consent must be voluntary, that the voluntary consent authorizes the**
146 **search even if the peace officer does not have probable cause to search, that the lawfulness**
147 **of the search cannot be challenged in court if consent is given, and that the person has the**
148 **right to refuse the request to search;**

149 **(4) After providing such advisement, a peace officer shall obtain voluntary written**
150 **or recorded audio or video consent to the search;**

151 **(5) The peace officer shall document whether the person from whom the search was**
152 **requested provided written consent, if that consent was recorded by audio or video, or**
153 **whether consent was denied, and the law enforcement agency will submit this data for**
154 **compilation in the attorney general's vehicle stop report;**

155 **(6) The peace officer shall not ask for consent when he or she has probable cause**
156 **to conduct a search;**

157 **(7) Any evidence obtained as a result of a search prohibited by this section shall be**
158 **inadmissible in any judicial proceeding; and**

159 **(8) Nothing contained in this subsection shall be construed to preclude a search**
160 **based upon probable cause.**

161 **7. (1) If a law enforcement agency fails to comply with the provisions of this section,**
162 **the governor may withhold any state funds appropriated to the noncompliant law enforcement**
163 **agency.**

164 **(2) If a law enforcement agency's data shows for three consecutive years a**
165 **significant disproportion, the attorney general shall study the efforts of the law**
166 **enforcement agency to decrease its disproportion during the prior three years.**

167 **(3) If a law enforcement agency fails to provide documentation to the attorney**
168 **general that proves the agency's significant disproportions cannot be attributed to**
169 **discriminatory policing, the agency shall be subject to review for a period of three years.**

170 **(4) Documentation provided to the attorney general to analyze significant**
171 **disproportions shall be made public to the extent permitted by law.**

172 **(5) If a law enforcement agency subject to review shows a significant disproportion**
173 **in its data after its first year under review and the attorney general's study determines that**
174 **the law enforcement agency cannot show good-faith efforts to remedy the significant**
175 **disproportion, the attorney general shall require changes in the agency's policies and**
176 **practices, including techniques for identifying problem officers, requirements that an**
177 **officer's ratios of disparity along with any mitigating circumstances be a part of the record**
178 **used to evaluate promotions and reassignments, training of supervisors in the skills**
179 **necessary to eliminate discriminatory policing, and increasing the quality and quantity of**
180 **officer training related to discriminatory policing. The attorney general's office shall work**
181 **with other state agencies to provide financial assistance and expertise to facilitate these**
182 **changes.**

183 **(6) If a law enforcement agency continues to show a significant disproportion in its**
184 **data at the close of its three-year review period and the attorney general's study determines**
185 **that the significant disproportion can be attributed in whole or in part to discriminatory**
186 **policing, the attorney general shall evaluate whether the agency is making a good-faith**
187 **effort to achieve nondiscriminatory policing. As a minimum penalty, the agency shall**
188 **remain under review, with ongoing attorney general oversight, until such time as the**
189 **attorney general determines that discriminatory policing is no longer a cause of the**
190 **significant disproportion. As a maximum penalty, or after six years of review, the attorney**
191 **general shall order that the governing body or jurisdiction that the law enforcement agency**
192 **serves be required, from that point forward, to forfeit twenty-five percent of its annual**
193 **general operating revenue received from fines, bond forfeitures, and court costs for traffic**
194 **violations, including amended charges for any traffic violations. The forfeited amount**
195 **shall be paid to the general revenue fund of the state of Missouri, to be designated as**
196 **additional funds for the peace officers standards and training commission. This penalty**
197 **shall continue until such time as the attorney general determines that discriminatory**
198 **policing is no longer a cause of the significant proportion.**

199 **(7) A law enforcement agency may petition the attorney general to evaluate the**
200 **agency's vehicle stops report data using a different benchmark. The attorney general shall**
201 **determine appropriate benchmarks used in his or her evaluation of the data. The attorney**
202 **general shall note in his or her annual report if an alternative benchmark was granted and**
203 **the reasons for using the alternative benchmark.**

204 **[7-] 8. Each law enforcement agency in this state may utilize federal funds from**
205 **community-oriented policing services grants or any other federal sources to equip each vehicle**
206 **used for traffic stops with a video camera and voice-activated microphone or to purchase body**
207 **cameras.**

208 ~~[8. A peace officer who stops a driver of a motor vehicle pursuant to a lawfully~~
209 ~~conducted sobriety check point or road block shall be exempt from the reporting requirements~~
210 ~~of subsection 2 of this section.]~~

✓