

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILLS NOS. 2637 & 3155

103RD GENERAL ASSEMBLY

6162S.05C

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 43.503, 211.021, 211.071, 211.319, 211.331, 211.341, 211.436, 217.362, 217.690, 217.760, 556.061, 557.011, 557.021, 558.011, 558.016, 558.019, 558.026, 558.031, 558.046, 559.115, 566.030, 566.032, 566.060, 566.103, 566.125, 566.203, 566.209, 566.210, 566.211, 568.045, 568.060, and 589.425, RSMo, and to enact in lieu thereof thirty-four new sections relating to terms of sentencing, with penalty provisions and a delayed effective date for certain sections.

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

Section A. Sections 43.503, 211.021, 211.071, 211.319,
2 211.331, 211.341, 211.436, 217.362, 217.690, 217.760, 556.061,
3 557.011, 557.021, 558.011, 558.016, 558.019, 558.026, 558.031,
4 558.046, 559.115, 566.030, 566.032, 566.060, 566.103, 566.125,
5 566.203, 566.209, 566.210, 566.211, 568.045, 568.060, and
6 589.425, RSMo, are repealed and thirty-four new sections
7 enacted in lieu thereof, to be known as sections 43.503,
8 211.021, 211.071, 211.319, 211.331, 211.341, 211.342, 211.436,
9 217.362, 217.690, 217.760, 556.061, 557.011, 557.021, 558.011,
10 558.016, 558.019, 558.026, 558.031, 558.046, 559.115, 566.030,
11 566.032, 566.060, 566.103, 566.125, 566.203, 566.209, 566.210,
12 566.211, 568.045, 568.060, 589.425, and 1, to read as follows:

43.503. 1. For the purpose of maintaining complete
2 and accurate criminal history record information, all police
3 officers of this state, the clerk of each court, the

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

4 department of corrections, the sheriff of each county, the
5 chief law enforcement official of a city not within a county
6 and the prosecuting attorney of each county or the circuit
7 attorney of a city not within a county shall submit certain
8 criminal arrest, charge, and disposition information to the
9 central repository for filing without undue delay in the
10 form and manner required by sections 43.500 to 43.651.

11 2. All law enforcement agencies making misdemeanor and
12 felony arrests as determined by section 43.506 shall furnish
13 without undue delay, to the central repository,
14 fingerprints, photograph, and if available, any other unique
15 biometric identification collected, charges, appropriate
16 charge codes, and descriptions of all persons who are
17 arrested for such offenses on standard fingerprint forms
18 supplied or approved by the highway patrol or electronically
19 in a format and manner approved by the highway patrol and in
20 compliance with the standards set by the Federal Bureau of
21 Investigation in its Automated Fingerprint Identification
22 System or its successor program. All such agencies shall
23 also notify the central repository of all decisions not to
24 refer such arrests for prosecution. An agency making such
25 arrests may enter into arrangements with other law
26 enforcement agencies for the purpose of furnishing without
27 undue delay such fingerprints, photograph, and if available,
28 any other unique biometric identification collected,
29 charges, appropriate charge codes, and descriptions to the
30 central repository upon its behalf.

31 3. In order for the Missouri office of prosecution
32 services to maintain complete and accurate statewide reports
33 as required by section 56.750, on or before January 1, 2028,
34 and thereafter, all police officers of this state, the
35 sheriff and each deputy sheriff of each county, and the

36 chief law enforcement official of a city not within a county
37 and his or her officers shall submit referrals for any
38 traffic violation, ordinance violation, or misdemeanor or
39 felony offense referred to a prosecuting or circuit attorney
40 in the form and manner approved by the Missouri office of
41 prosecution services as required by subdivision (7) of
42 subsection 1 of section 56.750. At a minimum, any referral
43 to a prosecuting attorney or circuit attorney for a felony
44 offense shall include a probable cause statement and an
45 investigative report. Any law enforcement agency that
46 violates this subsection shall be ineligible to receive
47 state or federal funds that would otherwise be paid to such
48 agency for law enforcement, safety, or criminal justice
49 purposes.

50 4. In instances where an individual [less than
51 seventeen] **under eighteen** years of age and not currently
52 certified as an adult is taken into custody for an offense
53 [which] **that** would be a **class A or B** felony, **felony under**
54 **chapter 566, or two felony offenses arising from distinct**
55 **acts committed within one year of each other**, if committed
56 by an adult, the arresting officer shall take fingerprints
57 for the central repository. These fingerprints shall be
58 taken on fingerprint cards supplied by or approved by the
59 highway patrol or transmitted electronically in a format and
60 manner approved by the highway patrol and in compliance with
61 the standards set by the Federal Bureau of Investigation in
62 its Automated Fingerprint Identification System or its
63 successor program. [The fingerprint cards shall be so
64 constructed that the name of the juvenile should not be made
65 available to the central repository.] The individual's name
66 and the unique number associated with the fingerprints and
67 other pertinent information shall be provided to the court

68 of jurisdiction by the agency taking the juvenile into
69 custody. The juvenile's fingerprints and other information
70 shall be forwarded to the central repository and the courts
71 without undue delay. The fingerprint information from the
72 card shall be captured and stored in the automated
73 fingerprint identification system operated by the central
74 repository. In the event the fingerprints are found to
75 match other tenprints or unsolved latent prints, the central
76 repository shall notify the submitting agency who shall
77 notify the court of jurisdiction as per local agreement.
78 Under section 211.031, in instances where a juvenile over
79 fifteen and one-half years of age is alleged to have
80 violated a state or municipal traffic ordinance or
81 regulation, which does not constitute a felony, and the
82 juvenile court does not have jurisdiction, the juvenile
83 shall not be fingerprinted unless certified as an adult.
84 **Records of a juvenile who has been fingerprinted under this**
85 **subsection shall be closed records as provided under section**
86 **610.120.**

87 5. Upon certification of the individual as an adult,
88 the certifying court shall order a law enforcement agency to
89 immediately fingerprint and photograph the individual and
90 certification papers will be forwarded to the appropriate
91 law enforcement agency with the order for fingerprinting.
92 The law enforcement agency shall submit such fingerprints,
93 photograph, and certification papers to the central
94 repository within fifteen days and shall furnish the offense
95 cycle number associated with the fingerprints to the
96 prosecuting attorney or the circuit attorney of a city not
97 within a county and to the clerk of the court ordering the
98 subject fingerprinted. If the juvenile is acquitted of the
99 crime and is no longer certified as an adult, the

100 prosecuting attorney shall notify within fifteen days the
101 central repository of the change of status of the juvenile.
102 Records of a child who has been fingerprinted and
103 photographed after being taken into custody shall be closed
104 records as provided under section 610.100 if a petition has
105 not been filed within thirty days of the date that the child
106 was taken into custody; and if a petition for the child has
107 not been filed within one year of the date the child was
108 taken into custody, any records relating to the child
109 concerning the alleged offense may be expunged under the
110 procedures in sections 610.122 to 610.126.

111 6. The prosecuting attorney of each county or the
112 circuit attorney of a city not within a county or the
113 municipal prosecuting attorney shall notify the central
114 repository on standard forms supplied by the highway patrol
115 or in a manner approved by the highway patrol of his or her
116 decision to not file a criminal charge on any charge
117 referred to such prosecuting attorney or circuit attorney
118 for criminal charges. All records forwarded to the central
119 repository and the courts by prosecutors or circuit
120 attorneys as required by sections 43.500 to 43.530 shall
121 include the state offense cycle number of the offense, the
122 charge code for the offense, and the originating agency
123 identifier number of the reporting prosecutor, using such
124 numbers as assigned by the highway patrol.

125 7. The clerk of the courts of each county or city not
126 within a county or municipal court clerk shall furnish the
127 central repository, on standard forms supplied by the
128 highway patrol or in a manner approved by the highway
129 patrol, with a record of all charges filed, including all
130 those added subsequent to the filing of a criminal court
131 case, amended charges, and all final dispositions of cases

132 for which the central repository has a record of an arrest
133 or a record of fingerprints reported pursuant to sections
134 43.500 to 43.506. Such information shall include, for each
135 charge:

136 (1) All judgments of not guilty, acquittals on the
137 ground of mental disease or defect excluding responsibility,
138 judgments or pleas of guilty including the sentence, if any,
139 or probation, if any, pronounced by the court, nolle pros,
140 discharges, releases and dismissals in the trial court;

141 (2) Court orders filed with the clerk of the courts
142 which reverse a reported conviction or vacate or modify a
143 sentence;

144 (3) Judgments terminating or revoking a sentence to
145 probation, supervision or conditional release and any
146 resentencing after such revocation; and

147 (4) The offense cycle number of the offense, and the
148 originating agency identifier number of the sentencing
149 court, using such numbers as assigned by the highway patrol.

150 8. The clerk of the courts of each county or city not
151 within a county shall furnish, to the department of
152 corrections or department of mental health, court judgment
153 and sentence documents and the state offense cycle number
154 and the charge code of the offense which resulted in the
155 commitment or assignment of an offender to the jurisdiction
156 of the department of corrections or the department of mental
157 health if the person is committed pursuant to chapter 552.
158 This information shall be reported to the department of
159 corrections or the department of mental health at the time
160 of commitment or assignment. If the offender was already in
161 the custody of the department of corrections or the
162 department of mental health at the time of such subsequent
163 conviction, the clerk shall furnish notice of such

164 subsequent conviction to the appropriate department by
165 certified mail, return receipt requested, or in a manner and
166 format mutually agreed to, within fifteen days of such
167 disposition.

168 9. Information and fingerprints, photograph and if
169 available, any other unique biometric identification
170 collected, forwarded to the central repository, normally
171 obtained from a person at the time of the arrest, may be
172 obtained at any time the subject is in the criminal justice
173 system or committed to the department of mental health. A
174 law enforcement agency or the department of corrections may
175 fingerprint, photograph, and capture any other unique
176 biometric identification of the person unless collecting
177 other unique biometric identification of the person is not
178 financially feasible for the law enforcement agency, and
179 obtain the necessary information at any time the subject is
180 in custody. If at the time of any court appearance, the
181 defendant has not been fingerprinted and photographed for an
182 offense in which a fingerprint and photograph is required by
183 statute to be collected, maintained, or disseminated by the
184 central repository, the court shall order a law enforcement
185 agency or court marshal to fingerprint and photograph
186 immediately the defendant. The order for fingerprints shall
187 contain the offense, charge code, date of offense, and any
188 other information necessary to complete the fingerprint
189 card. The law enforcement agency or court marshal shall
190 submit such fingerprints, photograph, and if available, any
191 other unique biometric identification collected, to the
192 central repository without undue delay and within thirty
193 days and shall furnish the offense cycle number associated
194 with the fingerprints to the prosecuting attorney or the

195 circuit attorney of a city not within a county and to the
196 court clerk of the court ordering the subject fingerprinted.

197 10. The department of corrections and the department
198 of mental health shall furnish the central repository with
199 all information concerning the receipt, escape, execution,
200 death, release, pardon, parole, commutation of sentence,
201 granting of executive clemency, legal name change, or
202 discharge of an individual who has been sentenced to that
203 department's custody for any offenses which are mandated by
204 law to be collected, maintained or disseminated by the
205 central repository. All records forwarded to the central
206 repository by the department as required by sections 43.500
207 to 43.651 shall include the offense cycle number of the
208 offense, and the originating agency identifier number of the
209 department using such numbers as assigned by the highway
210 patrol.

211.021. As used in this chapter, unless the context
2 clearly requires otherwise, **the following terms shall mean:**

3 (1) "Adult" [means], a person eighteen years of age or
4 older;

5 (2) "Child" [means], any person under eighteen years
6 of age;

7 (3) "Juvenile court" [means], the juvenile division or
8 divisions of the circuit court of the county, or judges
9 while hearing juvenile cases assigned to them;

10 (4) "Juvenile detention facility", a place for the
11 temporary care of a juvenile in judicial custody in a
12 proceeding under subdivision (2) or (3) of subsection 1 of
13 section 211.031 and includes a place that is physically
14 confining, but does not include a jail or other adult
15 detention facility unless the juvenile is seventeen years of
16 age or older or unless the juvenile detention facility is

17 operated, administered, and staffed separately and
18 independently of a jail or other adult detention facility
19 and used exclusively for the lawful custody and treatment of
20 juveniles. A juvenile detention facility may be located in
21 the same building or grounds as a jail or other adult
22 detention facility if there is spatial separation between
23 the facilities which prevents haphazard or accidental
24 contact between juvenile and adult detainees, there is
25 separation between juvenile and adult program activities,
26 and there are separate juvenile and adult staff other than
27 specialized support staff who have infrequent contact with
28 detainees. The facility may be owned or operated by public
29 or private agencies;

30 (5) "Legal custody" [means], the right to the care,
31 custody and control of a child and the duty to provide food,
32 clothing, shelter, ordinary medical care, education,
33 treatment and discipline of a child. Legal custody may be
34 taken from a parent only by court action and if the legal
35 custody is taken from a parent without termination of
36 parental rights, the parent's duty to provide support
37 continues even though the person having legal custody may
38 provide the necessities of daily living;

39 [(5)] (6) "Parent" [means], either a natural parent or
40 a parent by adoption and if the child is illegitimate,
41 "parent" means the mother;

42 [(6)] (7) "Shelter care" [means], the temporary care
43 of juveniles in physically unrestricting facilities pending
44 final court disposition. These facilities may include:

45 (a) "Foster home", the private home of foster parents
46 providing twenty-four-hour care to one to three children
47 unrelated to the foster parents by blood, marriage or
48 adoption;

49 (b) "Group foster home", the private home of foster
50 parents providing twenty-four-hour care to no more than six
51 children unrelated to the foster parents by blood, marriage
52 or adoption;

53 (c) "Group home", a child care facility which
54 approximates a family setting, provides access to community
55 activities and resources, and provides care to no more than
56 twelve children.

211.071. 1. **(1)** If a petition or motion to modify
2 alleges that a child between the ages of fourteen and
3 eighteen has committed an offense that would be considered a
4 **class A or B felony, felony under chapter 566, or three**
5 **felony offenses arising from distinct acts committed within**
6 **one hundred eighty days of each other**, if committed by an
7 adult, the court may, upon its own motion or upon motion by
8 the juvenile officer, **the office of the prosecuting or**
9 **circuit attorney**, the child, or the child's custodian, order
10 a hearing **at which the prosecuting or circuit attorney may**
11 **present evidence if the prosecuting or circuit attorney**
12 **filed the petition**, and may, in its discretion, dismiss the
13 petition or motion to modify and such child may be
14 transferred to the court of general jurisdiction and
15 prosecuted under the general law; except that, if a petition
16 alleges that a child between the ages of twelve and eighteen
17 has committed an offense that would be considered first
18 degree murder under section 565.020, second degree murder
19 under section 565.021, first degree assault under section
20 565.050, forcible rape under section 566.030 as it existed
21 prior to August 28, 2013, rape in the first degree under
22 section 566.030, forcible sodomy under section 566.060 as it
23 existed prior to August 28, 2013, sodomy in the first degree
24 under section 566.060, first degree robbery under section

25 569.020 as it existed prior to January 1, 2017, robbery in
26 the first degree under section 570.023, distribution of
27 drugs under section 195.211 as it existed prior to January
28 1, 2017, or the manufacturing of a controlled substance
29 under section 579.055, if committed by an adult, or a
30 dangerous felony as defined in section 556.061, or any
31 felony involving the use, assistance, or aid of a deadly
32 weapon, or has committed two or more prior unrelated
33 offenses that would be felonies if committed by an adult,
34 the court shall order a hearing, and may, in its discretion,
35 dismiss the petition or motion to modify and transfer the
36 child to a court of general jurisdiction for prosecution
37 under the general law.

38 **(2) The moving party shall be solely responsible for**
39 **all duties enumerated under this section. If the juvenile**
40 **officer forwards to the prosecuting or circuit attorney a**
41 **class A or B felony that is not certified by the juvenile**
42 **officer, the prosecuting or circuit attorney shall notify**
43 **the juvenile officer within fourteen days of the decision to**
44 **certify the case.**

45 2. Upon apprehension and arrest, jurisdiction over the
46 criminal offense allegedly committed by any person between
47 eighteen and twenty-one years of age over whom the juvenile
48 court has retained continuing jurisdiction shall
49 automatically terminate and that offense shall be dealt with
50 in the court of general jurisdiction as provided in section
51 211.041.

52 3. Knowing and willful age misrepresentation by a
53 juvenile subject shall not affect any action or proceeding
54 which occurs based upon the misrepresentation. Any evidence
55 obtained during the period of time in which a child
56 misrepresents his or her age may be used against the child

57 and will be subject only to rules of evidence applicable in
58 adult proceedings.

59 4. Written notification of a transfer hearing shall be
60 given to the juvenile and his or her custodian in the same
61 manner as provided in sections 211.101 and 211.111. Notice
62 of the hearing may be waived by the custodian. Notice shall
63 contain a statement that the purpose of the hearing is to
64 determine whether the child is a proper subject to be dealt
65 with under the provisions of this chapter, and that if the
66 court finds that the child is not a proper subject to be
67 dealt with under the provisions of this chapter, the
68 petition or motion to modify will be dismissed to allow for
69 prosecution of the child under the general law.

70 5. The juvenile officer **[may]** **shall** consult with the
71 office of prosecuting **or circuit** attorney concerning any
72 offense for which the child could be certified as an adult
73 under this section. The prosecuting or circuit attorney
74 shall **[have access to]** **be provided** police reports, reports
75 of the juvenile or deputy juvenile officer, statements of
76 witnesses, **a copy of the completed Missouri Juvenile**
77 **Detention Assessment Form (JDTA) or similar form that was**
78 **used in determining detention**, and all other records or
79 reports relating to the offense alleged to have been
80 committed by the child. The prosecuting or circuit attorney
81 shall have access to the disposition records of the child
82 when the child has been adjudicated pursuant to subdivision
83 (3) of subsection 1 of section 211.031. The prosecuting **or**
84 **circuit** attorney shall not divulge any information regarding
85 the child and the offense until the juvenile court at a
86 judicial hearing has determined that the child is not a
87 proper subject to be dealt with under the provisions of this

88 chapter. Any sanction recommended as a result of the JDTA
89 shall be used as a guideline and shall not be mandatory.

90 6. In every incident, the juvenile officer shall
91 consider legally sufficient charges submitted by a law
92 enforcement agency when utilizing the JDTA form to determine
93 whether or not to detain a child and shall provide a copy of
94 that completed JDTA form to the law enforcement agency once
95 a determination has been made. For purposes of this
96 section, the term "legally sufficient" means a reasonable
97 belief with articulable facts that a crime has been or is
98 being committed based on the totality of the circumstances.

99 7. Notwithstanding any other provision of law or the
100 Missouri supreme court operating rules to the contrary, law
101 enforcement agencies who detain juveniles for offenses where
102 fingerprinting is required, shall collect fingerprints and
103 forward detention information to the central repository, in
104 a manner prescribed by the central repository. The juvenile
105 officer and court of jurisdiction over the juvenile offender
106 shall report all adjudication, delinquency, and custody
107 information to the central repository, in a manner
108 prescribed by the central repository. All information
109 reported under this section shall be available to criminal
110 justice agencies for the administration of criminal justice
111 under section 43.500 through the Missouri Uniform Law
112 Enforcement System (MULES). Such records maintained by the
113 central repository under this subsection shall be closed
114 pursuant to section 610.120.

115 8. A written report shall be prepared in accordance
116 with this chapter developing fully all available information
117 relevant to the criteria which shall be considered by the
118 court in determining whether the child is a proper subject
119 to be dealt with under the provisions of this chapter and

120 whether there are reasonable prospects of rehabilitation
121 within the juvenile justice system. These criteria shall
122 include but not be limited to:

123 (1) The seriousness of the offense alleged and whether
124 the protection of the community requires transfer to the
125 court of general jurisdiction;

126 (2) Whether the offense alleged involved viciousness,
127 force and violence;

128 (3) Whether the offense alleged was against persons or
129 property with greater weight being given to the offense
130 against persons, especially if personal injury resulted;

131 (4) Whether the offense alleged is a part of a
132 repetitive pattern of offenses which indicates that the
133 child may be beyond rehabilitation under the juvenile code;

134 (5) The record and history of the child, including
135 experience with the juvenile justice system, other courts,
136 supervision, commitments to juvenile institutions and other
137 placements;

138 (6) The sophistication and maturity of the child as
139 determined by consideration of his or her home and
140 environmental situation, emotional condition and pattern of
141 living;

142 (7) The age of the child;

143 (8) The program and facilities available to the
144 juvenile court in considering disposition;

145 (9) Whether or not the child can benefit from the
146 treatment or rehabilitative programs available to the
147 juvenile court; and

148 (10) Racial disparity in certification.

149 [7.] 9. If the court dismisses the petition to permit
150 the child to be prosecuted under the general law, the court
151 shall enter a dismissal order containing:

152 (1) Findings showing that the court had jurisdiction
153 of the cause and of the parties;

154 (2) Findings showing that the child was represented by
155 counsel;

156 (3) Findings showing that the hearing was held in the
157 presence of the child and his or her counsel; and

158 (4) Findings showing the reasons underlying the
159 court's decision to transfer jurisdiction.

160 [8.] 10. A copy of the petition or motion to modify
161 and order of the dismissal shall be sent to the prosecuting
162 attorney.

163 [9.] 11. When a petition or motion to modify has been
164 dismissed thereby permitting a child to be prosecuted under
165 the general law and the prosecution of the child results in
166 a conviction, the jurisdiction of the juvenile court over
167 that child is forever terminated, except as provided in
168 subsection [10] 12 of this section, for an act that would be
169 a violation of a state law or municipal ordinance.

170 [10.] 12. If a petition or motion to modify has been
171 dismissed thereby permitting a child to be prosecuted under
172 the general law and the child is found not guilty by a court
173 of general jurisdiction, the juvenile court shall have
174 jurisdiction over any later offense committed by that child
175 which would be considered a misdemeanor or felony if
176 committed by an adult, subject to the certification
177 provisions of this section.

178 [11.] 13. If the court does not dismiss the petition
179 or motion to modify to permit the child to be prosecuted
180 under the general law, it shall set a date for the hearing
181 upon the petition as provided in section 211.171.

211.319. 1. On or before July 1, 2005, all juvenile
2 court proceedings conducted pursuant to subdivision (1) of

3 subsection 1 of section 211.031 and for termination of
4 parental rights cases pursuant to sections 211.442 to
5 211.487 initiated by a juvenile officer or the division
6 shall be open to the public; except that, when the parent
7 has consented in writing to the termination of his or her
8 parental rights in conjunction with a placement with a
9 licensed child-placing agency under subsection 6 of section
10 453.010, the hearing shall be closed. The court, on its own
11 motion, may exclude for good cause shown any person or
12 persons from the proceedings to protect the welfare and best
13 interests of the child and for exceptional circumstances.
14 Any party to a juvenile court proceeding referred to in this
15 subsection, except the state, may file a motion requesting
16 that the general public be excluded from the proceeding or
17 any portion of the proceeding. Upon the filing of such
18 motion, the court shall hear arguments by the parties, but
19 no evidence, and shall make a determination whether closure
20 is in the best interest of the parties or whether it is in
21 the public interest to deny such motion. The court shall
22 make a finding on the record when a motion to close a
23 hearing pursuant to this section is made and heard by the
24 court.

25 2. Notwithstanding the provisions of subsection 1 of
26 this section, the general public shall be excluded from all
27 juvenile court proceedings referred to in subsection 1 of
28 this section during the testimony of any child or victim and
29 only such persons who have a direct interest in the case or
30 in the work of the court will be admitted to the proceedings.

31 3. For juvenile court proceedings described in
32 subsection 1 of this section, pleadings and orders of the
33 juvenile court other than confidential files and those
34 specifically ordered closed by the juvenile court judge

35 shall be open to the general public. For purposes of this
36 section, "confidential file" means all other records and
37 reports considered closed or confidential by law, including
38 but not limited to medical reports, psychological or
39 psychiatric evaluations, investigation reports of the
40 children's division, social histories, home studies, and
41 police reports and law enforcement records. Only persons
42 who are found by the court to have a legitimate interest
43 shall be allowed access to confidential or closed files. In
44 determining whether a person has a legitimate interest, the
45 court shall consider the nature of the proceedings, the
46 welfare and safety of the public, and the interest of any
47 child involved.

48 4. For records made available to the public pursuant
49 to this section:

50 (1) The identity of any child involved except the
51 perpetrator shall not be disclosed and all references in
52 such records to the identity of any child involved except
53 the perpetrator shall be redacted prior to disclosure to the
54 public; and

55 (2) All information that may identify or lead to the
56 disclosure of the identity of a reporter of child abuse
57 under sections 210.109 to 210.183 and section 352.400 shall
58 not be disclosed to the public.

59 **5. All juvenile court proceedings conducted pursuant**
60 **to subdivision (3) of subsection 1 of section 211.031 shall**
61 **not be open to the general public.**

62 6. The provisions of this section shall apply to
63 juvenile court proceedings and records specified in this
64 section in which the initial pleadings are filed on or after
65 July 1, 2005.

211.331. 1. In each county of the first and second
2 classifications and in [the city of St. Louis] **any city not**
3 **within a county**, it is the duty of the county [commission,
4 or, where there is no county commission, such other
5 authorized] **governing** body[,] to provide a place of **juvenile**
6 detention [for children coming within the provisions of this
7 chapter] **or juvenile detention facility**. It is also the
8 duty of the county [commission or other authorized]
9 **governing** body to provide offices for the personnel of the
10 juvenile court.

11 2. The place of **juvenile** detention **or juvenile**
12 **detention facility** shall be so located and arranged that the
13 child being detained does not come in contact, at any time
14 or in any manner, with adults convicted or under arrest, and
15 the care of children in detention shall approximate as
16 closely as possible the care of children in good homes.

17 3. The place of **juvenile** detention **or juvenile**
18 **detention facility** shall be in charge of a superintendent.
19 The judge of the juvenile court or the family court
20 administrator, if provided by local rule, shall appoint and
21 fix the compensation and maintenance of the superintendent
22 and of any assistants or other personnel required to operate
23 the detention facility. Such compensation and maintenance
24 are payable out of funds of the county.

25 4. The county [commission or other] governing body [of
26 the county] is authorized to lease or to acquire by
27 purchase, gift or devise land for such purpose, and to erect
28 buildings thereon and to provide funds to equip and maintain
29 the same for the subsistence and education of the children
30 placed therein.

211.341. 1. [Counties of the third and fourth classes
2 within one judicial circuit, shall,] Upon the written

3 recommendation of the [circuit] **presiding** judge of that
4 judicial circuit, **or upon written notice from the county**
5 **governing body to the presiding judge of approval of**
6 **ordinances, orders, or resolutions authorizing a juvenile**
7 **detention facility by all counties within that judicial**
8 **circuit and the agreement provided in section 211.342,**
9 **counties of the third and fourth classes within one judicial**
10 **circuit shall** establish a place of juvenile detention **or**
11 **juvenile detention facility** to serve all of the counties
12 within that judicial circuit, and in like manner, the
13 counties shall supply offices for the juvenile officers of
14 that circuit.

15 2. The recommendation of the [circuit] **presiding** judge
16 **provided in subsection 1 of this section** shall be made only
17 after a hearing conducted by [him] **the judge**, after thirty
18 days' notice, to determine the need and feasibility of
19 establishing such a place of **juvenile** detention **or juvenile**
20 **detention facility** within the judicial circuit.

21 3. The provisions of section 211.331 apply as to the
22 form of operation and means of maintenance of the place of
23 **juvenile** detention **or juvenile detention facility**, except
24 that the total cost of establishment and operation of the
25 places of **juvenile** detention **or juvenile detention**
26 **facilities** shall be prorated among the several counties
27 within that judicial circuit upon a ratio to be determined
28 by a comparison of the respective populations of the
29 counties. The point of location of the place of juvenile
30 detention **or juvenile detention facility** shall be determined
31 by the [circuit] **presiding** judge of the judicial circuit **or**
32 **pursuant to an agreement established by section 211.342.**

33 [2. Circuit judges of any two or more adjoining
34 judicial circuits after a hearing as provided in subsection

35 1 may, by agreement confirmed by judicial order, and] 4. In
36 the interest of economy of administration, **after a hearing**
37 **as provided in subsection 2 of this section, the presiding**
38 **judges of any two or more adjoining judicial circuits may**
39 establish one place of juvenile detention **or juvenile**
40 **detention facility** to serve their respective judicial
41 circuits, **by agreement confirmed by judicial order.** In such
42 event, the [circuit] **presiding** judges so agreeing shall
43 jointly govern the affairs of the place of **juvenile**
44 **detention or juvenile detention facility** and the cost
45 thereof shall be apportioned among the counties served in
46 the manner provided for in subsection 1 **of this section.**

47 [3.] 5. Any county of the third or fourth class
48 desiring to provide its own place of juvenile detention **or**
49 **juvenile detention facility** may do so in the manner
50 prescribed for counties of the first and second classes.

211.342. 1. (1) **In coordination with each other, the**
2 **governing bodies of the counties within the same judicial**
3 **circuit may establish a juvenile detention facility to serve**
4 **the judicial circuit.**

5 (2) **The governing body of each county desiring to**
6 **coordinate a juvenile detention facility under this**
7 **subsection shall approve an ordinance, order, or resolution**
8 **authorizing a juvenile detention facility within one of the**
9 **counties and shall approve an agreement between all counties**
10 **within the same judicial circuit, as specified by subsection**
11 **4 of this section.**

12 2. (1) **In coordination with each other, the governing**
13 **bodies of the counties in adjoining judicial circuits may**
14 **establish a juvenile detention facility to serve the**
15 **judicial circuits.**

16 (2) The governing body of each county desiring to
17 coordinate a juvenile detention facility under this
18 subsection shall approve an ordinance, order, or resolution
19 authorizing a juvenile detention facility within one of the
20 counties and shall approve an agreement between all counties
21 within each judicial circuit, as specified by subsection 4
22 of this section.

23 3. The governing body of each county desiring to
24 coordinate a juvenile detention facility under subsection 1
25 or 2 of this section shall notify the presiding judge of the
26 judicial circuit or each judicial circuit of the
27 authorization of a juvenile detention facility. The notice
28 shall include the authorizing ordinance, order, or
29 resolution of each county and the approved agreement, as
30 specified in subsection 4 of this section.

31 4. The agreement that specifies the duties of each
32 county shall contain the following:

33 (1) The total cost of establishment and operation of
34 the places of detention;

35 (2) The prorated formula for the calculation of each
36 county's contribution to the costs of a juvenile detention
37 facility based upon a ratio of the respective populations of
38 the counties;

39 (3) The methods and powers that may be used for
40 constructing, leasing, or financing a juvenile detention
41 facility;

42 (4) The use of the sales tax as authorized by
43 subsection 6 of this section; and

44 (5) The point of location of the place of juvenile
45 detention facility.

46 5. Subsections 3 and 4 of section 211.331 shall apply
47 to a juvenile detention facility authorized pursuant to this

48 section. The operation and support of a juvenile detention
49 facility authorized pursuant to this section shall be
50 regulated in accordance with the rules and standards of the
51 Missouri supreme court under the governance of the presiding
52 judge of the judicial circuit. If the counties of adjoining
53 judicial circuits have authorized a juvenile detention
54 facility pursuant to this section, the presiding judges
55 shall jointly govern the affairs of the juvenile detention
56 facility.

57 6. (1) The counties authorizing a juvenile detention
58 facility pursuant to this section may impose, by order, a
59 sales tax up to one percent on all retail sales made in such
60 counties which are subject to taxation pursuant to the
61 provisions of sections 144.010 to 144.525 for the purpose of
62 providing a juvenile detention facility. The tax authorized
63 by this section shall be in addition to any and all other
64 sales taxes allowed by law, except that no order imposing a
65 sales tax pursuant to this section shall be effective unless
66 the governing body, for each county in the judicial circuit
67 or circuits submits to the voters of the county, on any
68 election date authorized in chapter 115, a proposal to
69 authorize the governing body of the county to impose a tax.

70 (2) The ballot of submission shall contain, but need
71 not be limited to, the following language:

72 Shall the (counties' names) impose a region-wide
73 sales tax of _____ (insert amount) for the purpose
74 of providing a juvenile detention facility within
75 the jurisdiction of (judicial circuit's name or
76 judicial circuits' names)?

77 YES

NO

78 If you are in favor of the question, place an "X" in
79 the box opposite "YES". If you are opposed to the
80 question, place an "X" in the box opposite "NO".

81 If a majority of the votes cast on the proposal by the
82 qualified voters of the county voting thereon are in favor
83 of the proposal, then the order and any amendment to such
84 order shall be in effect on the first day of the second
85 quarter immediately following the election approving the
86 proposal. If the proposal receives less than the required
87 majority, the governing body of the county shall have no
88 power to impose the sales tax authorized pursuant to this
89 section unless and until the governing body of the county
90 shall again have submitted another proposal to authorize the
91 county commission, or authorized body, to impose the sales
92 tax authorized by this section and such proposal is approved
93 by the required majority of the qualified voters of the
94 county commission, or authorized body, voting on such
95 proposal; however, in no event shall a proposal pursuant to
96 this section be submitted to the voters sooner than twelve
97 months from the date of the last submission of a proposal
98 pursuant to this section.

99 (3) All revenue received by a county from the tax
100 authorized pursuant to this section shall be deposited in a
101 special trust fund and shall be used solely for providing a
102 juvenile detention facility for children coming within the
103 provisions of this chapter for so long as the tax shall
104 remain in effect.

105 (4) Once the tax authorized by this section is
106 abolished or terminated by any means, all funds remaining in
107 the special trust fund shall be used solely for providing a

108 juvenile detention facility for children coming within the
109 provisions of this chapter for the counties. Any funds in
110 such special trust fund which are not needed for current
111 expenditures may be invested by the county commission in
112 accordance with applicable laws relating to the investment
113 of other county funds.

114 (5) All sales taxes collected by the director of
115 revenue pursuant to this section on behalf of any county,
116 less one percent for cost of collection which shall be
117 deposited in the state's general revenue fund after payment
118 of premiums for surety bonds as provided in section 32.087,
119 shall be deposited in a special trust fund, which is hereby
120 created, to be known as the "Juvenile Detention Facility
121 Sales Tax Trust Fund". The moneys in the juvenile detention
122 facility sales tax trust fund shall not be deemed to be
123 state funds and shall not be commingled with any funds of
124 the state. The director of revenue shall keep accurate
125 records of the amount of money in the trust fund which was
126 collected in each county imposing a sales tax pursuant to
127 this section, and the records shall be open to the
128 inspection of officers of each member county and the
129 public. Not later than the tenth day of each month, the
130 director of revenue shall distribute all moneys deposited in
131 the trust fund during the preceding month to the county
132 which levied the tax. Such funds shall be deposited with
133 the treasurer of each such county, and all expenditures of
134 funds arising from the juvenile detention facility sales tax
135 trust fund shall be paid pursuant to an appropriation
136 adopted by the governing body of the county. Expenditures
137 may be made from the fund for the function authorized in the
138 order adopted by the governing body of the county submitting
139 the juvenile detention facility tax to the voters.

140 (6) The director of revenue may make refunds from the
141 amounts in the trust fund and credited to any county for
142 erroneous payments and overpayments made, and may redeem
143 dishonored checks and drafts deposited to the credit of such
144 counties. If any county abolishes the tax, the governing
145 body of the county shall notify the director of revenue of
146 the action at least ninety days prior to the effective date
147 of the repeal, and the director of revenue may order
148 retention in the trust fund, for a period of one year, of
149 two percent of the amount collected after receipt of such
150 notice to cover possible refunds or overpayment of the tax
151 and to redeem dishonored checks and drafts deposited to the
152 credit of such accounts. After one year has elapsed after
153 the effective date of abolition of the tax in such county,
154 the director of revenue shall remit the balance in the
155 account to the county and close the account of that county.
156 The director of revenue shall notify each county in each
157 instance of any amount refunded or any check redeemed from
158 receipts due the county.

159 (7) Except as provided in this section, all provisions
160 of sections 32.085 and 32.087 shall apply to the tax imposed
161 pursuant to this section.

211.436. 1. Instruments of restraint, including
2 handcuffs, chains, irons, or straitjackets, shall not be
3 used on a child during a proceeding in a juvenile court and
4 shall be removed prior to the child's appearance before the
5 court unless, after a hearing, the court finds both that:

6 (1) The use of restraints is necessary due to one of
7 the following factors:

8 (a) Instruments of restraint are necessary to prevent
9 physical harm to the child or another person;

10 (b) The child has a history of disruptive courtroom
11 behavior that has placed others in potentially harmful
12 situations or presents a substantial risk of inflicting
13 physical harm on himself or herself or others as evidenced
14 by recent behavior; or

15 (c) There is evidence that the child presents a
16 substantial risk of flight from the courtroom; and

17 (2) There are no less restrictive alternatives to
18 restraints that will prevent flight or physical harm to the
19 child or another person including, but not limited to, the
20 presence of court personnel, law enforcement officers, or
21 bailiffs.

22 2. If the juvenile officer believes that there is an
23 immediate safety or flight risk, as provided under
24 subsection 1 of this section, the juvenile officer shall
25 advise the attorney for the child and make a request in
26 writing prior to the commencement of the proceeding for the
27 child to remain restrained during the court proceeding while
28 in the presence of the parties to the proceeding.

29 3. If a request for restraints is made by the juvenile
30 officer, the court shall order a hearing and provide the
31 child's attorney an opportunity to be heard before the court
32 orders the use of restraints. If restraints are ordered,
33 the court shall make findings of fact in support of the
34 order.

35 4. If restraints are used, the restraints shall allow
36 the child limited movement of the hands to read and handle
37 documents and writings necessary to the proceeding. Under
38 no circumstances shall a child be restrained using
39 restraints fixed to a wall, floor, furniture, or other
40 stationary object.

41 **5. Leg restraints shall not be used on a child unless**
42 **the child is charged with a class A or class B felony, or**
43 **the official overseeing custody of the child determines the**
44 **child to be an immediate safety or flight risk.**

 217.362. 1. The department of corrections shall
2 design and implement an intensive long-term program for the
3 treatment of chronic nonviolent offenders with serious
4 substance abuse addictions who have not [pleaded] **pled**
5 guilty to or been convicted of a dangerous felony as defined
6 in section 556.061.

7 2. Prior to sentencing, any judge considering an
8 offender for this program shall notify the department. The
9 potential candidate for the program shall be screened by the
10 department to determine eligibility. The department shall,
11 by regulation, establish eligibility criteria and inform the
12 court of such criteria. The department shall notify the
13 court as to the offender's eligibility and the availability
14 of space in the program. Notwithstanding any other
15 provision of law to the contrary, except as provided for in
16 section 558.019, if an offender is eligible and there is
17 adequate space, the court may sentence a person to the
18 program which shall consist of institutional drug or alcohol
19 treatment for a period of at least twelve and no more than
20 twenty-four months, as well as a term of incarceration. The
21 department shall determine the nature, intensity, duration,
22 and completion criteria of the education, treatment, and
23 aftercare portions of any program services provided.
24 Execution of the offender's term of incarceration shall be
25 suspended pending completion of said program. Allocation of
26 space in the program may be distributed by the department in
27 proportion to drug arrest patterns in the state. If the
28 court is advised that an offender is not eligible or that

29 there is no space available, the court shall consider other
30 authorized dispositions.

31 3. Upon successful completion of the program, the
32 division of probation and parole shall advise the sentencing
33 court of an offender's probationary release date thirty days
34 prior to release. If the court determines that probation is
35 not appropriate the court may order the execution of the
36 offender's sentence.

37 4. If it is determined by the department that the
38 offender has not successfully completed the program, or that
39 the offender is not cooperatively participating in the
40 program, the offender shall be removed from the program and
41 the court shall be advised. Failure of an offender to
42 complete the program shall cause the offender to serve the
43 sentence prescribed by the court and void the right to be
44 considered for probation on this sentence.

45 [5. An offender's first incarceration in a department
46 of corrections program pursuant to this section prior to
47 release on probation shall not be considered a previous
48 prison commitment for the purpose of determining a minimum
49 prison term pursuant to the provisions of section 558.019.]

217.690. 1. All releases or paroles shall issue upon
2 order of the parole board, duly adopted.

3 2. Before ordering the parole of any offender, the
4 parole board shall conduct a validated risk and needs
5 assessment and evaluate the case under the rules governing
6 parole that are promulgated by the parole board. The parole
7 board shall then have the offender appear before a hearing
8 panel and shall conduct a personal interview with him or
9 her, unless waived by the offender, or if the guidelines
10 indicate the offender may be paroled without need for an
11 interview. The guidelines and rules shall not allow for the

12 waiver of a hearing if a victim requests a hearing. The
13 appearance or presence may occur by means of a
14 videoconference at the discretion of the parole board. A
15 parole may be ordered for the best interest of society when
16 there is a reasonable probability, based on the risk
17 assessment and indicators of release readiness, that the
18 person can be supervised under parole supervision and
19 successfully reintegrated into the community, not as an
20 award of clemency; it shall not be considered a reduction of
21 sentence or a pardon. Every offender while on parole shall
22 remain in the legal custody of the department but shall be
23 subject to the orders of the parole board.

24 3. The division of probation and parole has
25 discretionary authority to require the payment of a fee, not
26 to exceed sixty dollars per month, from every offender
27 placed under division supervision on probation, parole, or
28 conditional release, to waive all or part of any fee, to
29 sanction offenders for willful nonpayment of fees, and to
30 contract with a private entity for fee collections
31 services. All fees collected shall be deposited in the
32 inmate fund established in section 217.430. Fees collected
33 may be used to pay the costs of contracted collections
34 services. The fees collected may otherwise be used to
35 provide community corrections and intervention services for
36 offenders. Such services include substance abuse assessment
37 and treatment, mental health assessment and treatment,
38 electronic monitoring services, residential facilities
39 services, employment placement services, and other offender
40 community corrections or intervention services designated by
41 the division of probation and parole to assist offenders to
42 successfully complete probation, parole, or conditional
43 release. The division of probation and parole shall adopt

44 rules not inconsistent with law, in accordance with section
45 217.040, with respect to sanctioning offenders and with
46 respect to establishing, waiving, collecting, and using fees.

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

53 5. When considering parole for an offender with
54 consecutive sentences, the minimum term for eligibility for
55 parole shall be calculated by adding the minimum terms for
56 parole eligibility for each of the consecutive sentences,
57 except the minimum term for parole eligibility shall not
58 exceed the minimum term for parole eligibility for an
59 ordinary life sentence.

60 6. Any offender sentenced to a term of imprisonment
61 amounting to fifteen years or more or multiple terms of
62 imprisonment that, taken together, amount to fifteen or more
63 years who was under eighteen years of age at the time of the
64 commission of the offense or offenses may be eligible for
65 parole after serving fifteen years of incarceration,
66 regardless of whether the case is final for the purposes of
67 appeal, and may be eligible for reconsideration hearings in
68 accordance with regulations promulgated by the parole board.

69 7. The provisions of subsection 6 of this section
70 shall not apply to an offender found guilty of capital
71 murder, murder in the first degree or murder in the second
72 degree, when murder in the second degree is committed
73 pursuant to subdivision (1) of subsection 1 of section
74 565.021, who was under eighteen years of age when the
75 offender committed the offense or offenses who may be found

76 ineligible for parole or whose parole eligibility may be
77 controlled by section 558.047 or 565.033.

78 8. Any offender under a sentence for first degree
79 murder who has been denied release on parole after a parole
80 hearing shall not be eligible for another parole hearing
81 until at least three years from the month of the parole
82 denial; however, this subsection shall not prevent a release
83 pursuant to subsection [4] 7 of section 558.011.

84 9. A victim who has requested an opportunity to be
85 heard shall receive notice that the parole board is
86 conducting an assessment of the offender's risk and
87 readiness for release and that the victim's input will be
88 particularly helpful when it pertains to safety concerns and
89 specific protective measures that may be beneficial to the
90 victim should the offender be granted release.

91 10. Parole hearings shall, at a minimum, contain the
92 following procedures:

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

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

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

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

105 (5) The judge, prosecuting attorney or circuit
106 attorney and a representative of the local law enforcement
107 agency investigating the crime shall be allowed to attend

108 the hearing or provide information to the hearing panel in
109 regard to the parole consideration; and

110 (6) The parole board shall evaluate information listed
111 in the juvenile sex offender registry pursuant to section
112 211.425, provided the offender is between the ages of
113 seventeen and twenty-one, as it impacts the safety of the
114 community.

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

118 12. The parole board may, at its discretion, require
119 any offender seeking parole to meet certain conditions
120 during the term of that parole so long as said conditions
121 are not illegal or impossible for the offender to perform.
122 These conditions may include an amount of restitution to the
123 state for the cost of that offender's incarceration.

124 13. Special parole conditions shall be responsive to
125 the assessed risk and needs of the offender or the need for
126 extraordinary supervision, such as electronic monitoring.
127 The parole board shall adopt rules to minimize the
128 conditions placed on low-risk cases, to frontload conditions
129 upon release, and to require the modification and reduction
130 of conditions based on the person's continuing stability in
131 the community. Parole board rules shall permit parole
132 conditions to be modified by parole officers with review and
133 approval by supervisors.

134 14. Nothing contained in this section shall be
135 construed to require the release of an offender on parole
136 nor to reduce the sentence of an offender heretofore
137 committed.

138 15. Beginning January 1, 2001, the parole board shall
139 not order a parole unless the offender has obtained a high

140 school diploma or its equivalent, or unless the parole board
141 is satisfied that the offender, while committed to the
142 custody of the department, has made an honest good-faith
143 effort to obtain a high school diploma or its equivalent;
144 provided that the director may waive this requirement by
145 certifying in writing to the parole board that the offender
146 has actively participated in mandatory education programs or
147 is academically unable to obtain a high school diploma or
148 its equivalent.

149 16. Any rule or portion of a rule, as that term is
150 defined in section 536.010, that is created under the
151 authority delegated in this section shall become effective
152 only if it complies with and is subject to all of the
153 provisions of chapter 536 and, if applicable, section
154 536.028. This section and chapter 536 are nonseverable and
155 if any of the powers vested with the general assembly
156 pursuant to chapter 536 to review, to delay the effective
157 date, or to disapprove and annul a rule are subsequently
158 held unconstitutional, then the grant of rulemaking
159 authority and any rule proposed or adopted after August 28,
160 2005, shall be invalid and void.

161 **17. When concurrent sentences are imposed by a court,**
162 **the person shall serve the minimum required percentage for**
163 **the longest sentence prior to parole eligibility.**

217.760. 1. In all felony cases and class A
2 misdemeanor cases, the basis of which misdemeanor cases are
3 contained in chapters 565 and 566 and section 577.023, at
4 the request of a [circuit] **sentencing** judge of any circuit
5 court, the division of probation and parole shall assign one
6 or more state probation and parole officers to make an
7 investigation of the person convicted of the crime or
8 offense before sentence is imposed. In all felony cases in

9 which the recommended sentence established by the sentencing
10 advisory commission pursuant to subsection [7] 1 of section
11 558.019 includes probation but the recommendation of the
12 prosecuting attorney or circuit attorney does not include
13 probation, the division of probation and parole shall, prior
14 to sentencing, provide the judge with a report on available
15 alternatives to incarceration. If a presentence
16 investigation report is completed then the available
17 alternatives shall be included in the presentence
18 investigation report.

19 2. The report of the presentence investigation or
20 preparole investigation shall contain any prior criminal
21 record of the defendant and such information about his or
22 her characteristics, his or her financial condition, his or
23 her social history, the circumstances affecting his or her
24 behavior as may be helpful in imposing sentence or in
25 granting probation or in the correctional treatment of the
26 defendant, information concerning the impact of the crime
27 upon the victim, the recommended sentence established by the
28 sentencing advisory commission and available alternatives to
29 incarceration including opportunities for restorative
30 justice, as well as a recommendation by the probation and
31 parole officer. The officer shall secure such other
32 information as may be required by the court and, whenever it
33 is practicable and needed, such investigation shall include
34 a physical and mental examination of the defendant.

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

3 (1) "Access", to instruct, communicate with, store
4 data in, retrieve or extract data from, or otherwise make
5 any use of any resources of, a computer, computer system, or
6 computer network;

7 (2) "Affirmative defense":

8 (a) The defense referred to is not submitted to the
9 trier of fact unless supported by evidence; and

10 (b) If the defense is submitted to the trier of fact
11 the defendant has the burden of persuasion that the defense
12 is more probably true than not;

13 (3) "Burden of injecting the issue":

14 (a) The issue referred to is not submitted to the
15 trier of fact unless supported by evidence; and

16 (b) If the issue is submitted to the trier of fact any
17 reasonable doubt on the issue requires a finding for the
18 defendant on that issue;

19 (4) "Commercial film and photographic print
20 processor", any person who develops exposed photographic
21 film into negatives, slides or prints, or who makes prints
22 from negatives or slides, for compensation. The term
23 commercial film and photographic print processor shall
24 include all employees of such persons but shall not include
25 a person who develops film or makes prints for a public
26 agency;

27 (5) "Computer", the box that houses the central
28 processing unit (CPU), along with any internal storage
29 devices, such as internal hard drives, and internal
30 communication devices, such as internal modems capable of
31 sending or receiving [electronic mail] **email** or fax cards,
32 along with any other hardware stored or housed internally.
33 Thus, computer refers to hardware, software and data
34 contained in the main unit. Printers, external modems
35 attached by cable to the main unit, monitors, and other
36 external attachments will be referred to collectively as
37 peripherals and discussed individually when appropriate.
38 When the computer and all peripherals are referred to as a

39 package, the term "computer system" is used. Information
40 refers to all the information on a computer system including
41 both software applications and data;

42 (6) "Computer equipment", computers, terminals, data
43 storage devices, and all other computer hardware associated
44 with a computer system or network;

45 (7) "Computer hardware", all equipment which can
46 collect, analyze, create, display, convert, store, conceal
47 or transmit electronic, magnetic, optical or similar
48 computer impulses or data. Hardware includes, but is not
49 limited to, any data processing devices, such as central
50 processing units, memory typewriters and self-contained
51 laptop or notebook computers; internal and peripheral
52 storage devices, transistor-like binary devices and other
53 memory storage devices, such as floppy disks, removable
54 disks, compact disks, digital video disks, magnetic tape,
55 hard drive, optical disks and digital memory; local area
56 networks, such as two or more computers connected together
57 to a central computer server via cable or modem; peripheral
58 input or output devices, such as keyboards, printers,
59 scanners, plotters, video display monitors and optical
60 readers; and related communication devices, such as modems,
61 cables and connections, recording equipment, RAM or ROM
62 units, acoustic couplers, automatic dialers, speed dialers,
63 programmable telephone dialing or signaling devices and
64 electronic tone-generating devices; as well as any devices,
65 mechanisms or parts that can be used to restrict access to
66 computer hardware, such as physical keys and locks;

67 (8) "Computer network", two or more interconnected
68 computers or computer systems;

69 (9) "Computer program", a set of instructions,
70 statements, or related data that directs or is intended to
71 direct a computer to perform certain functions;

72 (10) "Computer software", digital information which
73 can be interpreted by a computer and any of its related
74 components to direct the way they work. Software is stored
75 in electronic, magnetic, optical or other digital form. The
76 term commonly includes programs to run operating systems and
77 applications, such as word processing, graphic, or
78 spreadsheet programs, utilities, compilers, interpreters and
79 communications programs;

80 (11) "Computer-related documentation", written,
81 recorded, printed or electronically stored material which
82 explains or illustrates how to configure or use computer
83 hardware, software or other related items;

84 (12) "Computer system", a set of related, connected or
85 unconnected, computer equipment, data, or software;

86 (13) "Confinement":

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

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

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

93 c. A public servant having the legal power and duty to
94 confine the person authorizes his release without guard and
95 without condition that he return to confinement;

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

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

99 b. The person is under sentence to serve a term of
100 confinement which is not continuous, or is serving a

101 sentence under a work-release program, and in either such
102 case is not being held in a place of confinement or is not
103 being held under guard by a person having the legal power
104 and duty to transport the person to or from a place of
105 confinement;

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

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

112 (b) It is given by a person who by reason of youth,
113 mental disease or defect, intoxication, a drug-induced
114 state, or any other reason is manifestly unable or known by
115 the actor to be unable to make a reasonable judgment as to
116 the nature or harmfulness of the conduct charged to
117 constitute the offense; or

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

119 (15) "Controlled substance", a drug, substance, or
120 immediate precursor in Schedules I through V as defined in
121 chapter 195;

122 (16) "Criminal negligence", failure to be aware of a
123 substantial and unjustifiable risk that circumstances exist
124 or a result will follow, and such failure constitutes a
125 gross deviation from the standard of care which a reasonable
126 person would exercise in the situation;

127 (17) "Custody", a person is in custody when he or she
128 has been arrested but has not been delivered to a place of
129 confinement;

130 (18) "Damage", when used in relation to a computer
131 system or network, means any alteration, deletion, or
132 destruction of any part of the computer system or network;

133 (19) "Dangerous felony", the felonies [of] **requiring**
134 **eighty-five percent of the imposed sentence to be served**
135 **prior to parole eligibility, which are** arson in the first
136 degree, assault in the first degree, attempted rape in the
137 first degree if physical injury results, attempted forcible
138 rape if physical injury results, attempted sodomy in the
139 first degree if physical injury results, attempted forcible
140 sodomy if physical injury results, rape in the first degree,
141 forcible rape, sodomy in the first degree, forcible sodomy,
142 assault in the second degree if the victim of such assault
143 is a special victim as defined in subdivision (14) of
144 section 565.002, kidnapping in the first degree, kidnapping,
145 murder in the second degree, assault of a law enforcement
146 officer in the first degree, domestic assault in the first
147 degree, elder abuse in the first degree, robbery in the
148 first degree, armed criminal action, conspiracy to commit an
149 offense when the offense is a dangerous felony, vehicle
150 hijacking when punished as a class A felony, statutory rape
151 in the first degree [when the victim is a child less than
152 twelve years of age at the time of the commission of the act
153 giving rise to the offense], statutory sodomy in the first
154 degree [when the victim is a child less than twelve years of
155 age at the time of the commission of the act giving rise to
156 the offense], child molestation in the first or second
157 degree, abuse of a child if the child dies as a result of
158 injuries sustained from conduct chargeable under section
159 568.060, child kidnapping, parental kidnapping committed by
160 detaining or concealing the whereabouts of the child for not
161 less than one hundred twenty days under section 565.153, bus
162 hijacking when punished as a class A felony, planting a bomb
163 or explosive in or near a bus or terminal, [and] an
164 "intoxication-related traffic offense" or "intoxication-

165 related boating offense" if the person is found to be a
166 "habitual offender" or "habitual boating offender" as such
167 terms are defined in section 577.001, **abuse through forced**
168 **labor when punished under subsection 4 of section 566.203,**
169 **trafficking for the purposes of slavery, involuntary**
170 **servitude, peonage, or forced labor or the attempt of such**
171 **when punished under subsection 4 of section 566.206,**
172 **trafficking for the purposes of sexual exploitation or the**
173 **attempt of such when the offense was effected by force,**
174 **abduction, or coercion, sexual trafficking of a child in the**
175 **first degree, sexual trafficking of a child in the second**
176 **degree, a third violation of failure to register as a sexual**
177 **offender, and endangering the welfare of a child in the**
178 **first degree when punished under section 568.045;**

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

183 (21) "Data", a representation of information, facts,
184 knowledge, concepts, or instructions prepared in a
185 formalized or other manner and intended for use in a
186 computer or computer network. Data may be in any form
187 including, but not limited to, printouts, microfiche,
188 magnetic storage media, punched cards and as may be stored
189 in the memory of a computer;

190 (22) "Deadly weapon", any firearm, loaded or unloaded,
191 or any weapon from which a shot, readily capable of
192 producing death or serious physical injury, may be
193 discharged, or a switchblade knife, dagger, billy club,
194 blackjack or metal knuckles;

195 (23) "Digital camera", a camera that records images in
196 a format which enables the images to be downloaded into a
197 computer;

198 (24) "Disability", a mental, physical, or
199 developmental impairment that substantially limits one or
200 more major life activities or the ability to provide
201 adequately for one's care or protection, whether the
202 impairment is congenital or acquired by accident, injury or
203 disease, where such impairment is verified by medical
204 findings;

205 (25) "Elderly person", a person sixty years of age or
206 older;

207 (26) "Felony", an offense so designated or an offense
208 for which persons found guilty thereof may be sentenced to
209 death or imprisonment for a term of more than one year;

210 (27) "Forcible compulsion" either:

211 (a) Physical force that overcomes reasonable
212 resistance; or

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

216 (28) "Incapacitated", a temporary or permanent
217 physical or mental condition in which a person is
218 unconscious, unable to appraise the nature of his or her
219 conduct, or unable to communicate unwillingness to an act;

220 (29) "Infraction", a violation defined by this code or
221 by any other statute of this state if it is so designated or
222 if no sentence other than a fine, or fine and forfeiture or
223 other civil penalty, is authorized upon conviction;

224 (30) "Inhabitable structure", a vehicle, vessel or
225 structure;

226 (a) Where any person lives or carries on business or
227 other calling; or

228 (b) Where people assemble for purposes of business,
229 government, education, religion, entertainment, or public
230 transportation; or

231 (c) Which is used for overnight accommodation of
232 persons.

233 Any such vehicle, vessel, or structure is inhabitable
234 regardless of whether a person is actually present. If a
235 building or structure is divided into separately occupied
236 units, any unit not occupied by the actor is an inhabitable
237 structure of another;

238 (31) "Knowingly", when used with respect to:

239 (a) Conduct or attendant circumstances, means a person
240 is aware of the nature of his or her conduct or that those
241 circumstances exist; or

242 (b) A result of conduct, means a person is aware that
243 his or her conduct is practically certain to cause that
244 result;

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

250 (33) "Misdemeanor", an offense so designated or an
251 offense for which persons found guilty thereof may be
252 sentenced to imprisonment for a term of which the maximum is
253 one year or less;

254 (34) "Of another", property that any entity, including
255 but not limited to any natural person, corporation, limited
256 liability company, partnership, association, governmental

257 subdivision or instrumentality, other than the actor, has a
258 possessory or proprietary interest therein, except that
259 property shall not be deemed property of another who has
260 only a security interest therein, even if legal title is in
261 the creditor pursuant to a conditional sales contract or
262 other security arrangement;

263 (35) "Offense", any felony or misdemeanor;

264 (36) "Physical injury", slight impairment of any
265 function of the body or temporary loss of use of any part of
266 the body;

267 (37) "Place of confinement", any building or facility
268 and the grounds thereof wherein a court is legally
269 authorized to order that a person charged with or convicted
270 of a crime be held;

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

282 (39) "Property", anything of value, whether real or
283 personal, tangible or intangible, in possession or in action;

284 (40) "Public servant", any person employed in any way
285 by a government of this state who is compensated by the
286 government by reason of such person's employment, any person
287 appointed to a position with any government of this state,
288 or any person elected to a position with any government of

289 this state. It includes, but is not limited to,
290 legislators, jurors, members of the judiciary and law
291 enforcement officers. It does not include witnesses;

292 (41) "Purposely", when used with respect to a person's
293 conduct or to a result thereof, means when it is his or her
294 conscious object to engage in that conduct or to cause that
295 result;

296 (42) "Recklessly", consciously disregarding a
297 substantial and unjustifiable risk that circumstances exist
298 or that a result will follow, and such disregard constitutes
299 a gross deviation from the standard of care which a
300 reasonable person would exercise in the situation;

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

309 (44) "Serious physical injury", physical injury that
310 creates a substantial risk of death or that causes serious
311 disfigurement or protracted loss or impairment of the
312 function of any part of the body;

313 (45) "Services", when used in relation to a computer
314 system or network, means use of a computer, computer system,
315 or computer network and includes, but is not limited to,
316 computer time, data processing, and storage or retrieval
317 functions;

318 (46) "Sexual orientation", male or female
319 heterosexuality, homosexuality or bisexuality by
320 inclination, practice, identity or expression, or having a

321 self-image or identity not traditionally associated with
322 one's gender;

323 (47) "Vehicle", a self-propelled mechanical device
324 designed to carry a person or persons, excluding vessels or
325 aircraft;

326 (48) "Vessel", any boat or craft propelled by a motor
327 or by machinery, whether or not such motor or machinery is a
328 principal source of propulsion used or capable of being used
329 as a means of transportation on water, or any boat or craft
330 more than twelve feet in length which is powered by sail
331 alone or by a combination of sail and machinery, and used or
332 capable of being used as a means of transportation on water,
333 but not any boat or craft having, as the only means of
334 propulsion, a paddle or oars;

335 (49) "Voluntary act":

336 (a) A bodily movement performed while conscious as a
337 result of effort or determination. Possession is a
338 voluntary act if the possessor knowingly procures or
339 receives the thing possessed, or having acquired control of
340 it was aware of his or her control for a sufficient time to
341 have enabled him or her to dispose of it or terminate his or
342 her control; or

343 (b) An omission to perform an act of which the actor
344 is physically capable. A person is not guilty of an offense
345 based solely upon an omission to perform an act unless the
346 law defining the offense expressly so provides, or a duty to
347 perform the omitted act is otherwise imposed by law;

348 (50) "Vulnerable person", any person in the custody,
349 care, or control of the department of mental health who is
350 receiving services from an operated, funded, licensed, or
351 certified program.

557.011. 1. Every person found guilty of an offense
2 shall be dealt with by the court in accordance with the
3 provisions of this chapter, except that for offenses defined
4 outside this code and not repealed, the term of imprisonment
5 or the fine that may be imposed is that provided in the
6 statute defining the offense; however, the conditional
7 release term of any sentence of a term of years shall be
8 determined as provided in subsection [4] 7 of section
9 558.011.

10 2. Whenever any person has been found guilty of a
11 felony or a misdemeanor the court shall make one or more of
12 the following dispositions of the offender in any
13 appropriate combination. The court may:

14 (1) Sentence the person to a term of imprisonment as
15 authorized by chapter 558;

16 (2) Sentence the person to pay a fine as authorized by
17 chapter 560;

18 (3) Suspend the imposition of sentence, with or
19 without placing the person on probation;

20 (4) Pronounce sentence and suspend its execution,
21 placing the person on probation;

22 (5) Impose a period of detention as a condition of
23 probation, as authorized by section 559.026.

24 3. Whenever any person has been found guilty of an
25 infraction, the court shall make one or more of the
26 following dispositions of the offender in any appropriate
27 combination. The court may:

28 (1) Sentence the person to pay a fine as authorized by
29 chapter 560;

30 (2) Suspend the imposition of sentence, with or
31 without placing the person on probation;

32 (3) Pronounce sentence and suspend its execution,
33 placing the person on probation.

34 4. Whenever any organization has been found guilty of
35 an offense, the court shall make one or more of the
36 following dispositions of the organization in any
37 appropriate combination. The court may:

38 (1) Sentence the organization to pay a fine as
39 authorized by chapter 560;

40 (2) Suspend the imposition of sentence, with or
41 without placing the organization on probation;

42 (3) Pronounce sentence and suspend its execution,
43 placing the organization on probation;

44 (4) Impose any special sentence or sanction authorized
45 by law.

46 5. This chapter shall not be construed to deprive the
47 court of any authority conferred by law to decree a
48 forfeiture of property, suspend or cancel a license, remove
49 a person from office, or impose any other civil penalty. An
50 appropriate order exercising such authority may be included
51 as part of any sentence.

52 6. In the event a sentence of confinement is ordered
53 executed, a court may order that an individual serve all or
54 any portion of such sentence on electronic monitoring;
55 except that all costs associated with the electronic
56 monitoring shall be charged to the person on house arrest.
57 If the judge finds the person unable to afford the costs
58 associated with electronic monitoring, the judge may order
59 that the person be placed on house arrest with electronic
60 monitoring if the county commission agrees to pay the costs
61 of such monitoring. If the person on house arrest is unable
62 to afford the costs associated with electronic monitoring
63 and the county commission does not agree to pay from the

64 general revenue of the county the costs of such electronic
65 monitoring, the judge shall not order that the person be
66 placed on house arrest with electronic monitoring.

557.021. 1. Any offense defined outside this code
2 **[which] that** is declared to be a misdemeanor without
3 specification of the penalty therefor is a class A
4 misdemeanor.

5 2. Any offense defined outside this code **[which] that**
6 is declared to be a felony without specification of the
7 penalty therefor is a class E felony **and subject to the**
8 **terms as provided in chapter 558.**

9 3. For the purpose of applying the extended term
10 provisions of section 558.016 **[and the minimum prison term**
11 **provisions of], the parole eligibility provisions pursuant**
12 **to section [558.019] 558.011** and for determining the penalty
13 for attempts, offenses defined outside of this code shall be
14 classified as follows:

15 (1) If the offense is a felony:

16 (a) It is a class A felony if the authorized penalty
17 includes death, life imprisonment or imprisonment for a term
18 of twenty years or more;

19 (b) It is a class B felony if the maximum term of
20 imprisonment authorized exceeds ten years but is less than
21 twenty years;

22 (c) It is a class C felony if the maximum term of
23 imprisonment authorized is ten years;

24 (d) It is a class D felony if the maximum term of
25 imprisonment exceeds four years but is less than ten years;

26 (e) It is a class E felony if the maximum term of
27 imprisonment is four years or less;

28 (2) If the offense is a misdemeanor:

29 (a) It is a class A misdemeanor if the authorized
30 imprisonment exceeds six months in jail;

31 (b) It is a class B misdemeanor if the authorized
32 imprisonment exceeds thirty days but is not more than six
33 months;

34 (c) It is a class C misdemeanor if the authorized
35 imprisonment is thirty days or less;

36 (d) It is a class D misdemeanor if it includes a
37 mental state as an element of the offense and there is no
38 authorized imprisonment;

39 (e) It is an infraction if there is no authorized
40 imprisonment.

558.011. 1. The authorized terms of imprisonment,
2 including both prison and conditional release terms, **for all**
3 **offenses are as follows:**

4 (1) For a class A felony, a term of years not less
5 than ten years and not to exceed thirty years, or life
6 imprisonment, **for which an offender shall serve seventy**
7 **percent of the imposed sentence prior to parole eligibility;**

8 (2) For a class B felony, a term of years not less
9 than five years and not to exceed fifteen years, **for which**
10 **an offender shall serve fifty percent of the imposed**
11 **sentence prior to parole eligibility;**

12 (3) For a class C felony, a term of years not less
13 than three years and not to exceed ten years, **for which an**
14 **offender shall serve:**

15 (a) **Forty percent of the imposed sentence prior to**
16 **parole eligibility for an offense under chapters 566, 568,**
17 **and 573 that requires registration as a sex offender under**
18 **chapter 589;**

19 (b) Thirty percent of the imposed sentence prior to
20 parole eligibility for a first offense other than an offense
21 under paragraph (a) of this subdivision;

22 (c) Thirty-five percent of the imposed sentence prior
23 to parole eligibility for a second offense other than an
24 offense under paragraph (a) of this subdivision;

25 (d) Fifty percent of the imposed sentence prior to
26 parole eligibility for a third or subsequent offense other
27 than an offense under paragraph (a) of this subdivision;

28 (4) For a class D felony, a term of years not to
29 exceed seven years, for which an offender shall serve:

30 (a) Twenty-five percent of the imposed sentence prior
31 to parole eligibility for an offense under chapters 566,
32 568, and 573 that requires registration as a sex offender
33 under chapter 589;

34 (b) Twenty percent of the imposed sentence prior to
35 parole eligibility for a first offense other than an offense
36 under paragraph (a) of this subdivision;

37 (c) Twenty-five percent of the imposed sentence prior
38 to parole eligibility for a second offense other than an
39 offense under paragraph (a) of this subdivision;

40 (d) Fifty percent of the imposed sentence prior to
41 parole eligibility for a third or subsequent offense other
42 than an offense under paragraph (a) of this subdivision;

43 (5) For a class E felony, a term of years not to
44 exceed four years, for which an offender shall serve:

45 (a) Twenty-five percent of the imposed sentence prior
46 to parole eligibility for an offense under chapters 566,
47 568, and 573 that requires registration as a sex offender
48 under chapter 589;

49 (b) Fifteen percent of the imposed sentence prior to
50 parole eligibility for a first offense other than an offense
51 under paragraph (a) of this subdivision;

52 (c) Twenty percent of the imposed sentence prior to
53 parole eligibility for a second offense other than an
54 offense under paragraph (a) of this subdivision;

55 (d) Fifty percent of the imposed sentence prior to
56 parole eligibility for a third or subsequent offense other
57 than an offense under paragraph (a) of this subdivision;

58 (6) For a class A misdemeanor, a term not to exceed
59 one year;

60 (7) For a class B misdemeanor, a term not to exceed
61 six months;

62 (8) For a class C misdemeanor, a term not to exceed
63 fifteen days.

64 2. When a person is sentenced to the authorized term
65 of imprisonment for a higher class than the offense for
66 which the person was found guilty under sections 558.016,
67 565.079, and 579.170, the person shall also be sentenced to
68 the parole eligibility percentage of the higher class.

69 3. The authorized terms of imprisonment under
70 subsections 1 and 2 of this section shall apply to all
71 offenses, except if the terms for parole eligibility
72 otherwise provided by statute result in a higher parole
73 eligibility percentage, in which case the statute resulting
74 in the higher parole eligibility percentage shall apply.

75 4. The authorized terms of imprisonment under
76 subsection 1 of this section shall not apply to any offense
77 where a suspended imposition of sentence is imposed or where
78 the matter is referred to an adult treatment court as
79 provided in chapter 478.

80 5. In cases of class D and E felonies, the court shall
81 have discretion to imprison for a special term not to exceed
82 one year in the county jail or other authorized penal
83 institution, and the place of confinement shall be fixed by
84 the court. If the court imposes a sentence of imprisonment
85 for a term longer than one year upon a person convicted of a
86 class D or E felony, it shall commit the person to the
87 custody of the department of corrections.

88 [3.] 6. (1) When a regular sentence of imprisonment
89 for a felony is imposed, the court shall commit the person
90 to the custody of the department of corrections for the term
91 imposed under section 557.036, or until released under
92 procedures established elsewhere by law.

93 (2) A sentence of imprisonment for a misdemeanor shall
94 be for a definite term and the court shall commit the person
95 to the county jail or other authorized penal institution for
96 the term of his or her sentence or until released under
97 procedure established elsewhere by law.

98 [4.] 7. (1) Except as otherwise provided, a sentence
99 of imprisonment for a term of years for felonies other than
100 dangerous felonies as defined in section 556.061, and other
101 than sentences of imprisonment which involve the
102 individual's fourth or subsequent remand to the department
103 of corrections shall consist of a prison term and a
104 conditional release term. The conditional release term of
105 any term imposed under section 557.036 shall be:

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

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

109 (c) Five years for terms more than fifteen years; and
110 the prison term shall be the remainder of such term. The

111 prison term may be extended by the parole board pursuant to
112 subsection [5] 8 of this section.

113 (2) "Conditional release" means the conditional
114 discharge of an offender by the parole board, subject to
115 conditions of release that the parole board deems reasonable
116 to assist the offender to lead a law-abiding life, and
117 subject to the supervision under the division of probation
118 and parole. The conditions of release shall include
119 avoidance by the offender of any other offense, federal or
120 state, and other conditions that the parole board in its
121 discretion deems reasonably necessary to assist the releasee
122 in avoiding further violation of the law.

123 [5.] 8. The date of conditional release from the
124 prison term may be extended up to a maximum of the entire
125 sentence of imprisonment by the parole board. The director
126 of any division of the department of corrections except the
127 division of probation and parole may file with the parole
128 board a petition to extend the conditional release date when
129 an offender fails to follow the rules and regulations of the
130 division or commits an act in violation of such rules.
131 Within ten working days of receipt of the petition to extend
132 the conditional release date, the parole board shall convene
133 a hearing on the petition. The offender shall be present
134 and may call witnesses in his or her behalf and cross-
135 examine witnesses appearing against the offender. The
136 hearing shall be conducted as provided in section 217.670.
137 If the violation occurs in close proximity to the
138 conditional release date, the conditional release may be
139 held for a maximum of fifteen working days to permit
140 necessary time for the division director to file a petition
141 for an extension with the parole board and for the parole
142 board to conduct a hearing, provided some affirmative

143 manifestation of an intent to extend the conditional release
144 has occurred prior to the conditional release date. If at
145 the end of a fifteen-working-day period a parole board
146 decision has not been reached, the offender shall be
147 released conditionally. The decision of the parole board
148 shall be final.

149 **9. Any person who commits a class A or B felony or an**
150 **offense under chapters 566, 568, and 573 that requires**
151 **registration as a sex offender under chapter 589, on or**
152 **after January 1, 2028, shall not be eligible for conditional**
153 **release for that offense.**

154 **10. Notwithstanding any other provision of law to the**
155 **contrary, any offender who has been found guilty of a**
156 **dangerous felony as defined in section 556.061 and is**
157 **committed to the department of corrections shall be required**
158 **to serve eighty-five percent of the sentence imposed by the**
159 **court prior to parole eligibility.**

160 **11. For the purpose of determining the minimum time**
161 **required to be served by the offender before he or she is**
162 **eligible for parole, the following calculations shall apply:**

163 **(1) A sentence of life shall be calculated to be**
164 **thirty years; and**

165 **(2) Any sentence either alone or in the aggregate with**
166 **other consecutive sentences for offenses committed at or**
167 **near the same time that is over seventy-five years shall be**
168 **calculated to be seventy-five years.**

169 **12. When consecutive sentences are imposed by a court,**
170 **the minimum percentage for each respective felony shall be**
171 **met prior to parole eligibility.**

172 **13. When concurrent sentences are imposed by a court,**
173 **the person shall serve the minimum required percentage for**
174 **the longest sentence prior to parole eligibility.**

558.016. 1. The court may sentence a person who has
2 been found guilty of an offense to a term of imprisonment as
3 authorized by section 558.011 or to a term of imprisonment
4 authorized by a statute governing the offense if it finds
5 the defendant is a prior offender or a persistent
6 misdemeanor offender. The court [may] **shall** sentence a
7 person to an extended term of imprisonment if:

8 (1) The defendant is a persistent offender or a
9 dangerous offender, and the person is sentenced under
10 subsection 7 of this section;

11 (2) The statute under which the person was found
12 guilty contains a sentencing enhancement provision that is
13 based on a prior finding of guilt or a finding of prior
14 criminal conduct and the person is sentenced according to
15 the statute; or

16 (3) A more specific sentencing enhancement provision
17 applies that is based on a prior finding of guilt or a
18 finding of prior criminal conduct.

19 2. A "prior offender" is one who has been found guilty
20 of one felony.

21 3. A "persistent offender" is one who has been found
22 guilty of two or more felonies committed at different times,
23 or one who has been previously found guilty of a dangerous
24 felony as defined in subdivision (19) of section 556.061.

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

26 (1) Is being sentenced for a felony during the
27 commission of which he knowingly murdered or endangered or
28 threatened the life of another person or knowingly inflicted
29 or attempted or threatened to inflict serious physical
30 injury on another person; and

31 (2) Has been found guilty of a class A or B felony or
32 a dangerous felony.

33 5. A "persistent misdemeanor offender" is one who has
34 been found guilty of two or more offenses, committed at
35 different times that are classified as A or B misdemeanors
36 under the laws of this state.

37 6. The findings of guilt shall be prior to the date of
38 commission of the present offense.

39 7. The court shall sentence a person, who has been
40 found to be a persistent offender or a dangerous offender,
41 and is found guilty of a class B, C, D, or E felony to the
42 authorized term of imprisonment for the offense that is one
43 class higher than the offense for which the person is found
44 guilty.

 558.019. 1. [This section shall not be construed to
2 affect the powers of the governor under Article IV, Section
3 7, of the Missouri Constitution. This statute shall not
4 affect those provisions of section 565.020 or section
5 566.125, which set minimum terms of sentences, or the
6 provisions of section 559.115, relating to probation.

7 2. The provisions of subsections 2 to 5 of this
8 section shall only be applicable to the offenses contained
9 in sections 565.021, 565.023, 565.024, 565.027, 565.050,
10 565.052, 565.054, 565.072, 565.073, 565.074, 565.090,
11 565.110, 565.115, 565.120, 565.153, 565.156, 565.225,
12 565.300, 566.030, 566.031, 566.032, 566.034, 566.060,
13 566.061, 566.062, 566.064, 566.067, 566.068, 566.069,
14 566.071, 566.083, 566.086, 566.100, 566.101, 566.103,
15 566.111, 566.115, 566.145, 566.151, 566.153, 566.203,
16 566.206, 566.209, 566.210, 566.211, 566.215, 568.030,
17 568.045, 568.060, 568.065, 568.175, 569.040, 569.160,
18 570.023, 570.025, 570.030 when punished as a class A, B, or
19 C felony, 570.145 when punished as a class A or B felony,
20 570.223 when punished as a class B or C felony, 571.020,

21 571.030, 571.070, 573.023, 573.025, 573.035, 573.037,
22 573.200, 573.205, 574.070, 574.080, 574.115, 575.030,
23 575.150, 575.153, 575.155, 575.157, 575.200 when punished as
24 a class A felony, 575.210, 575.230 when punished as a class
25 B felony, 575.240 when punished as a class B felony,
26 576.070, 576.080, 577.010, 577.013, 577.078, 577.703,
27 577.706, 579.065, and 579.068 when punished as a class A or
28 B felony. For the purposes of this section, "prison
29 commitment" means and is the receipt by the department of
30 corrections of an offender after sentencing. For purposes
31 of this section, prior prison commitments to the department
32 of corrections shall not include an offender's first
33 incarceration prior to release on probation under section
34 217.362 or 559.115. Other provisions of the law to the
35 contrary notwithstanding, any offender who has been found
36 guilty of a felony other than a dangerous felony as defined
37 in section 556.061 and is committed to the department of
38 corrections shall be required to serve the following minimum
39 prison terms:

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

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

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

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

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

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

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

76 5. For purposes of this section, the term "minimum
77 prison term" shall mean time required to be served by the
78 offender before he or she is eligible for parole,
79 conditional release or other early release by the department
80 of corrections.

81 6. An offender who was convicted of, or pled guilty
82 to, a felony offense other than those offenses listed in
83 subsection 2 of this section prior to August 28, 2019, shall
84 no longer be subject to the minimum prison term provisions

85 under subsection 2 of this section, and shall be eligible
86 for parole, conditional release, or other early release by
87 the department of corrections according to the rules and
88 regulations of the department.

89 7.] (1) A sentencing advisory commission is hereby
90 created to consist of eleven members. One member shall be
91 appointed by the speaker of the house. One member shall be
92 appointed by the president pro tem of the senate. One
93 member shall be the director of the department of
94 corrections. Six members shall be appointed by and serve at
95 the pleasure of the governor from among the following: the
96 public defender commission; private citizens; a private
97 member of the Missouri Bar; the board of probation and
98 parole; and a prosecutor. Two members shall be appointed by
99 the supreme court, one from a metropolitan area and one from
100 a rural area. All members shall be appointed to a four-year
101 term. All members of the sentencing commission appointed
102 prior to August 28, 1994, shall continue to serve on the
103 sentencing advisory commission at the pleasure of the
104 governor.

105 (2) The commission shall study sentencing practices in
106 the circuit courts throughout the state for the purpose of
107 determining whether and to what extent disparities exist
108 among the various circuit courts with respect to the length
109 of sentences imposed and the use of probation for offenders
110 convicted of the same or similar offenses and with similar
111 criminal histories. The commission shall also study and
112 examine whether and to what extent sentencing disparity
113 among economic and social classes exists in relation to the
114 sentence of death and if so, the reasons therefor, if
115 sentences are comparable to other states, if the length of
116 the sentence is appropriate, and the rate of rehabilitation

117 based on sentence. It shall compile statistics, examine
118 cases, draw conclusions, and perform other duties relevant
119 to the research and investigation of disparities in death
120 penalty sentencing among economic and social classes.

121 (3) The commission shall study alternative sentences,
122 prison work programs, work release, home-based
123 incarceration, probation and parole options, and any other
124 programs and report the feasibility of these options in
125 Missouri.

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

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

134 (6) The circuit and associate circuit courts of this
135 state, the office of the state courts administrator, the
136 department of public safety, and the department of
137 corrections shall cooperate with the commission by providing
138 information or access to information needed by the
139 commission. The office of the state courts administrator
140 will provide needed staffing resources.

141 [8.] 2. Courts shall retain discretion to lower or
142 exceed the sentence recommended by the commission as
143 otherwise allowable by law, and to order restorative justice
144 methods, when applicable.

145 [9.] 3. If the imposition or execution of a sentence
146 is suspended, the court may order any or all of the
147 following restorative justice methods, or any other method
148 that the court finds just or appropriate:

149 (1) Restitution to any victim or a statutorily created
150 fund for costs incurred as a result of the offender's
151 actions;

152 (2) Offender treatment programs;

153 (3) Mandatory community service;

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

155 (5) Community-based residential and nonresidential
156 programs.

157 [10.] 4. Pursuant to subdivision (1) of subsection [9]
158 3 of this section, the court may order the assessment and
159 payment of a designated amount of restitution to a county
160 law enforcement restitution fund established by the county
161 commission pursuant to section 50.565. Such contribution
162 shall not exceed three hundred dollars for any charged
163 offense. Any restitution moneys deposited into the county
164 law enforcement restitution fund pursuant to this section
165 shall only be expended pursuant to the provisions of section
166 50.565.

167 [11.] 5. A judge may order payment to a restitution
168 fund only if such fund had been created by ordinance or
169 resolution of a county of the state of Missouri prior to
170 sentencing. A judge shall not have any direct supervisory
171 authority or administrative control over any fund to which
172 the judge is ordering a person to make payment.

173 [12.] 6. A person who fails to make a payment to a
174 county law enforcement restitution fund may not have his or
175 her probation revoked solely for failing to make such
176 payment unless the judge, after evidentiary hearing, makes a
177 finding supported by a preponderance of the evidence that
178 the person either willfully refused to make the payment or
179 that the person willfully, intentionally, and purposefully

180 failed to make sufficient bona fide efforts to acquire the
181 resources to pay.

182 [13.] 7. Nothing in this section shall be construed to
183 allow the sentencing advisory commission to issue
184 recommended sentences in specific cases pending in the
185 courts of this state.

558.026. 1. Multiple sentences of imprisonment shall
2 run concurrently unless the court specifies that they shall
3 run consecutively; except in the case of multiple sentences
4 of imprisonment imposed for any offense committed during or
5 at the same time as, or multiple offenses of, the following
6 felonies:

7 (1) Rape in the first degree, forcible rape, or rape;

8 (2) Statutory rape in the first degree;

9 (3) Sodomy in the first degree, forcible sodomy, or
10 sodomy;

11 (4) Statutory sodomy in the first degree; or

12 (5) An attempt to commit any of the felonies listed in
13 this subsection. In such case, the sentence of imprisonment
14 imposed for any felony listed in this subsection or an
15 attempt to commit any of the aforesaid shall run
16 consecutively to the other sentences. The sentences imposed
17 for any other offense may run concurrently.

18 2. If a person who is on probation, parole or
19 conditional release is sentenced to a term of imprisonment
20 for an offense committed after the granting of probation or
21 parole or after the start of his or her conditional release
22 term, the court shall direct the manner in which the
23 sentence or sentences imposed by the court shall run with
24 respect to any resulting probation, parole or conditional
25 release revocation term or terms. If the subsequent
26 sentence to imprisonment is in another jurisdiction, the

27 court shall specify how any resulting probation, parole or
28 conditional release revocation term or terms shall run with
29 respect to the foreign sentence of imprisonment.

30 3. A court may cause any sentence it imposes to run
31 concurrently with a sentence an individual is serving or is
32 to serve in another state or in a federal correctional
33 center. If the Missouri sentence is served in another state
34 or in a federal correctional center, subsection [4] 7 of
35 section 558.011 and section 217.690 shall apply as if the
36 individual were serving his or her sentence within the
37 department of corrections of the state of Missouri, except
38 that a personal hearing before the parole board shall not be
39 required for parole consideration.

558.031. 1. A sentence of imprisonment shall commence
2 when a person convicted of an offense in this state is
3 received into the custody of the department of corrections
4 or other place of confinement where the offender is
5 sentenced.

6 2. **[Such] When placing a person on probation for a**
7 **suspended imposition of sentence, probation for a suspended**
8 **execution of sentence, or when executing a sentence of**
9 **imprisonment, the court shall record, as part of each**
10 **judgment, the number of days the person [shall receive**
11 **credit toward the service of a sentence of imprisonment for**
12 **all time] was in prison, jail, or custody, that was related**
13 **to the offense, after the offense occurred and before [the**
14 **commencement of the sentence, when the time in custody was**
15 **related to that offense] being sentenced to imprisonment and**
16 **the defendant shall be awarded credit toward the service of**
17 **a sentence of imprisonment for that number of days. [This]**
18 **The jail time credit calculation shall be based upon the**
19 certification of the sheriff as provided in subdivision (3)

20 of subsection 2 of section 217.305 and may be supplemented
21 by a certificate of a sheriff or other custodial officer
22 from another jurisdiction having held the person on the
23 charge of the offense for which the sentence of imprisonment
24 is ordered **and shall be pronounced at the time of the**
25 **judgment, the execution of a suspended sentence, or the**
26 **suspension of imposition of sentence, shall be included in**
27 **the record, and shall include both the dates the person was**
28 **in custody and the number of days to be credited toward the**
29 **service of the sentence.**

30 3. For purposes of this section, time in custody
31 related to an offense includes time during which the offense
32 was charged in a criminal proceeding, there was an arrest
33 warrant issued in said criminal proceeding, and the arrest
34 warrant was served upon the person, and includes time served
35 on house arrest. The person shall not be entitled to any
36 credit toward the service of a sentence of imprisonment for
37 any time such person was not being held on said arrest
38 warrant because such person posted bond, the arrest warrant
39 was recalled, or the person was otherwise released.

40 4. The court may take judicial notice of all time the
41 person has served in prison, jail, or custody, or on house
42 arrest for a criminal proceeding by comparing dates of
43 service on arrest warrants with evidence contained within
44 the court file of dates of release and the prosecution and
45 defense attorney may enter into a stipulation with regard to
46 credit for the service of a sentence of imprisonment for all
47 time in prison, jail, or custody, or on house arrest except
48 in no event may the court approve a stipulation that is
49 greater than or less than the time in custody related to an
50 offense.

51 5. Upon motion and notice by defendant or defense
52 counsel, for any such person who was held in a juvenile
53 detention facility for an offense for which such person was
54 subsequently adjudicated to stand trial as an adult, the
55 court may also award credit toward the service of a sentence
56 of imprisonment for any time such person was confined in a
57 juvenile detention facility.

58 6. In the event a criminal proceeding related to an
59 offense is dismissed without prejudice by a court or nolle
60 prosequi by the state, upon motion and notice by defendant or
61 defense counsel, the proceeding may be consolidated into the
62 present matter for purposes of calculating credit for the
63 service of a sentence of imprisonment.

64 7. The officer required by law to deliver a person
65 convicted of an offense in this state to the department of
66 corrections shall endorse upon the papers required by
67 section 217.305 both the dates the offender was in custody
68 and the period of time to be credited toward the service of
69 the sentence of imprisonment, [except as endorsed by such
70 officer] included in the judgment or suspended imposition of
71 sentence and such additional days after the pronouncement of
72 sentence and before the delivery of the person to the
73 department of corrections.

74 [4.] 8. If a person convicted of an offense escapes
75 from custody, such escape shall interrupt the sentence. The
76 interruption shall continue until such person is returned to
77 the correctional center where the sentence was being served,
78 or in the case of a person committed to the custody of the
79 department of corrections, to any correctional center
80 operated by the department of corrections. An escape shall
81 also interrupt the jail time credit to be applied to a
82 sentence which had not commenced when the escape occurred.

83 [5.] 9. If a sentence of imprisonment is vacated and a
84 new sentence imposed upon the offender for that offense, all
85 time served under the vacated sentence shall be credited
86 against the new sentence, unless the time has already been
87 credited to another sentence as provided in subsection 1 of
88 this section.

89 [6.] 10. If a person released from imprisonment on
90 parole or serving a conditional release term violates any of
91 the conditions of his or her parole or release, he or she
92 may be treated as a parole violator. If the parole board
93 revokes the parole or conditional release, the paroled
94 person shall serve the remainder of the prison term and
95 conditional release term, as an additional prison term, and
96 the conditionally released person shall serve the remainder
97 of the conditional release term as a prison term, unless
98 released on parole.

99 [7. Subsection 2 of this section shall be applicable
100 to offenses for which the offender was sentenced on or after
101 August 28, 2023.]

102 8. The total amount of credit given shall not exceed
103 the number of days spent in prison, jail, or custody after
104 the offense occurred and before the commencement of the
105 sentence.]

106 11. **A person may only challenge credit awarded or not**
107 **awarded pursuant to this section by the filing of a petition**
108 **for a writ of habeas corpus.**

558.046. The sentencing court may, upon petition,
2 reduce any term of sentence or probation pronounced by the
3 court or a term of conditional release or parole pronounced
4 by the parole board if the court determines that:

5 (1) The convicted person was:

6 (a) Convicted of an offense that did not involve
7 violence or the threat of violence; and

8 (b) Convicted of an offense that involved alcohol or
9 illegal drugs; and

10 (2) Since the commission of such offense, the
11 convicted person has successfully completed a detoxification
12 and rehabilitation program; and

13 (3) The convicted person is not:

14 (a) A prior offender, a persistent offender, a
15 dangerous offender or a persistent misdemeanor offender as
16 defined by section 558.016; or

17 (b) A persistent sexual offender as defined in section
18 566.125[; or

19 (c) A prior offender, a persistent offender or a class
20 X offender as defined in section 558.019].

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

6 2. Unless otherwise prohibited by subsection [8] 7 of
7 this section, a circuit court only upon its own motion and
8 not that of the state or the offender shall have the power
9 to grant probation to an offender anytime up to one hundred
10 twenty days after such offender has been delivered to the
11 department of corrections but not thereafter. The court may
12 request information and a recommendation from the department
13 concerning the offender and such offender's behavior during
14 the period of incarceration. Except as provided in this
15 section, the court may place the offender on probation in a
16 program created pursuant to section 217.777, or may place

17 the offender on probation with any other conditions
18 authorized by law.

19 3. The court may recommend placement of an offender in
20 a department of corrections one hundred twenty-day program
21 under this subsection. The department of corrections shall
22 assess each offender to determine the appropriate one
23 hundred twenty-day program in which to place the offender,
24 which may include placement in the structured cognitive
25 behavioral intervention program or institutional treatment
26 program. The placement of an offender in the structured
27 cognitive behavioral intervention program or institutional
28 treatment program shall be at the sole discretion of the
29 department based on the assessment of the offender and
30 available bed space. When the court recommends and receives
31 placement of an offender in a department of corrections one
32 hundred twenty-day program, the offender shall be released
33 on probation if the department of corrections determines
34 that the offender has successfully completed the program
35 except as follows. Upon successful completion of a program
36 under this subsection, the division of probation and parole
37 shall advise the sentencing court of an offender's
38 probationary release date thirty days prior to release. The
39 court shall follow the recommendation of the department
40 unless the court determines that probation is not
41 appropriate. If the court determines that probation is not
42 appropriate, the court may order the execution of the
43 offender's sentence only after conducting a hearing on the
44 matter within ninety to one hundred twenty days from the
45 date the offender was delivered to the department of
46 corrections. If the department determines the offender has
47 not successfully completed a one hundred twenty-day program
48 under this subsection, the division of probation and parole

49 shall advise the prosecuting attorney and the sentencing
50 court of the defendant's unsuccessful program exit and the
51 defendant shall be removed from the program. The department
52 shall report on the offender's participation in the program
53 and may provide recommendations for terms and conditions of
54 an offender's probation. The court shall then have the
55 power to grant probation or order the execution of the
56 offender's sentence.

57 4. If the court is advised that an offender is not
58 eligible for placement in a one hundred twenty-day program
59 under subsection 3 of this section, the court shall consider
60 other authorized dispositions. If the department of
61 corrections one hundred twenty-day program under subsection
62 3 of this section is full, the court may place the offender
63 in a private program approved by the department of
64 corrections or the court, the expenses of such program to be
65 paid by the offender, or in an available program offered by
66 another organization. If the offender is convicted of a
67 class C, class D, or class E nonviolent felony, the court
68 may order probation while awaiting appointment to treatment.

69 5. Except when the offender has been found to be a
70 predatory sexual offender pursuant to section 566.125, the
71 court shall request the department of corrections to conduct
72 a sexual offender assessment if the defendant has been found
73 guilty of sexual abuse when classified as a class B felony.
74 Upon completion of the assessment, the department shall
75 provide to the court a report on the offender and may
76 provide recommendations for terms and conditions of an
77 offender's probation. The assessment shall not be
78 considered a one hundred twenty-day program as provided
79 under subsection 3 of this section. The process for
80 granting probation to an offender who has completed the

81 assessment shall be as provided under subsections 2 and 6 of
82 this section.

83 6. Unless the offender is being granted probation
84 pursuant to successful completion of a one hundred twenty-
85 day program the circuit court shall notify the state in
86 writing when the court intends to grant probation to the
87 offender pursuant to the provisions of this section. The
88 state may, in writing, request a hearing within ten days of
89 receipt of the court's notification that the court intends
90 to grant probation. Upon the state's request for a hearing,
91 the court shall grant a hearing as soon as reasonably
92 possible. If the state does not respond to the court's
93 notice in writing within ten days, the court may proceed
94 upon its own motion to grant probation.

95 7. [An offender's first incarceration under this
96 section prior to release on probation shall not be
97 considered a previous prison commitment for the purpose of
98 determining a minimum prison term under the provisions of
99 section 558.019.

100 8.] Notwithstanding any other provision of law,
101 probation may not be granted pursuant to this section to
102 offenders who have been convicted of murder in the second
103 degree pursuant to section 565.021; forcible rape pursuant
104 to section 566.030 as it existed prior to August 28, 2013;
105 rape in the first degree under section 566.030; forcible
106 sodomy pursuant to section 566.060 as it existed prior to
107 August 28, 2013; sodomy in the first degree under section
108 566.060; statutory rape in the first degree pursuant to
109 section 566.032; statutory sodomy in the first degree
110 pursuant to section 566.062; child molestation in the first
111 degree pursuant to section 566.067 when classified as a
112 class A felony; abuse of a child pursuant to section 568.060

113 when classified as a class A felony; or an offender who has
114 been found to be a predatory sexual offender pursuant to
115 section 566.125; any offense under section 557.045; or any
116 offense in which there exists a statutory prohibition
117 against either probation or parole.

566.030. 1. A person commits the offense of rape in
2 the first degree if he or she has sexual intercourse with
3 another person who is incapacitated, incapable of consent,
4 or lacks the capacity to consent, or by the use of forcible
5 compulsion. Forcible compulsion includes the use of a
6 substance administered without a victim's knowledge or
7 consent which renders the victim physically or mentally
8 impaired so as to be incapable of making an informed consent
9 to sexual intercourse.

10 2. The offense of rape in the first degree or an
11 attempt to commit rape in the first degree is a **class A**
12 felony for which the authorized term of imprisonment is life
13 imprisonment or a term of years not less than [five] **ten**
14 years, **not to exceed thirty years**, unless:

15 (1) The offense is an aggravated sexual offense, in
16 which case the authorized term of imprisonment is life
17 imprisonment **as defined in section 558.011** or [a term of
18 years not less than fifteen years] **life imprisonment without**
19 **eligibility for probation or parole;**

20 (2) The person is a persistent or predatory sexual
21 offender as defined in section 566.125 and subjected to an
22 extended term of imprisonment under said section;

23 (3) The victim is a child less than twelve years of
24 age, in which case the required term of imprisonment is life
25 imprisonment **as defined in section 558.011 or life**
26 **imprisonment** without eligibility for probation or parole
27 [until the offender has served not less than thirty years of

28 such sentence or unless the offender has reached the age of
29 seventy-five years and has served at least fifteen years of
30 such sentence, unless such rape in the first degree is
31 described under subdivision (4) of this subsection]; or

32 (4) The victim is a child less than twelve years of
33 age and such rape in the first degree or attempt to commit
34 rape in the first degree was outrageously or wantonly vile,
35 horrible or inhumane, in that it involved torture or
36 depravity of mind, in which case the required term of
37 imprisonment is life imprisonment without eligibility for
38 probation, parole or conditional release.

39 3. [Subsection 4 of section 558.019 shall not apply to
40 the sentence of a person who has been found guilty of rape
41 in the first degree or attempt to commit rape in the first
42 degree when the victim is less than twelve years of age, and
43 "life imprisonment" shall mean imprisonment for the duration
44 of a person's natural life for the purposes of this section.

45 4.] No person found guilty of rape in the first degree
46 or an attempt to commit rape in the first degree shall be
47 granted a suspended imposition of sentence or suspended
48 execution of sentence.

566.032. 1. A person commits the offense of statutory
2 rape in the first degree if he or she has sexual intercourse
3 with another person who is less than fourteen years of age.

4 2. The offense of statutory rape in the first degree
5 or an attempt to commit statutory rape in the first degree
6 is a felony for which the authorized term of imprisonment is
7 life imprisonment or a term of years not less than [five]
8 **ten** years, unless:

9 (1) The offense is an aggravated sexual offense, or
10 the victim is less than twelve years of age in which case

11 the authorized term of imprisonment is life imprisonment or
12 a term of years not less than [ten] **fifteen** years; or

13 (2) The person is a persistent or predatory sexual
14 offender as defined in section 566.125 and subjected to an
15 extended term of imprisonment under said section.

566.060. 1. A person commits the offense of sodomy in
2 the first degree if he or she has deviate sexual intercourse
3 with another person who is incapacitated, incapable of
4 consent, or lacks the capacity to consent, or by the use of
5 forcible compulsion. Forcible compulsion includes the use
6 of a substance administered without a victim's knowledge or
7 consent which renders the victim physically or mentally
8 impaired so as to be incapable of making an informed consent
9 to sexual intercourse.

10 2. The offense of sodomy in the first degree or an
11 attempt to commit sodomy in the first degree is a felony for
12 which the authorized term of imprisonment is life
13 imprisonment or a term of years not less than five years,
14 unless:

15 (1) The offense is an aggravated sexual offense, in
16 which case the authorized term of imprisonment is life
17 imprisonment or a term of years not less than ten years;

18 (2) The person is a persistent or predatory sexual
19 offender as defined in section 566.125 and subjected to an
20 extended term of imprisonment under said section;

21 (3) The victim is a child less than twelve years of
22 age, in which case the required term of imprisonment is life
23 imprisonment **as defined in section 558.011 or life**

24 **imprisonment** without eligibility for probation or parole
25 [until the offender has served not less than thirty years of
26 such sentence or unless the offender has reached the age of
27 seventy-five years and has served at least fifteen years of

28 such sentence, unless such sodomy in the first degree is
29 described under subdivision (4) of this subsection]; or

30 (4) The victim is a child less than twelve years of
31 age and such sodomy in the first degree or attempt to commit
32 sodomy in the first degree was outrageously or wantonly
33 vile, horrible or inhumane, in that it involved torture or
34 depravity of mind, in which case the required term of
35 imprisonment is life imprisonment without eligibility for
36 probation, parole or conditional release.

37 3. [Subsection 4 of section 558.019 shall not apply to
38 the sentence of a person who has been found guilty of sodomy
39 in the first degree or an attempt to commit sodomy in the
40 first degree when the victim is less than twelve years of
41 age, and "life imprisonment" shall mean imprisonment for the
42 duration of a person's natural life for the purposes of this
43 section.

44 4.] No person found guilty of sodomy in the first
45 degree or an attempt to commit sodomy in the first degree
46 shall be granted a suspended imposition of sentence or
47 suspended execution of sentence.

566.103. 1. A person or entity commits the offense of
2 promoting online sexual solicitation if such person or
3 entity knowingly permits a web-based classified service
4 owned or operated by such person or entity to be used by
5 individuals to post advertisements promoting prostitution,
6 enticing a child to engage in sexual conduct, or promoting
7 sexual trafficking of a child after receiving notice under
8 this section.

9 2. As used in this section, the term "web-based
10 classified service" means a person or entity in whose name a
11 specific URL or internet domain name is registered which has

12 advertisements for goods and services or personal
13 advertisements.

14 3. An advertisement may be deemed to promote
15 prostitution, entice a child to engage in sexual conduct, or
16 promote sexual trafficking of a child, if the content of
17 such advertisement would be interpreted by a reasonable
18 person as offering to exchange sexual conduct for goods or
19 services in violation of chapter 567, as seeking a child for
20 the purpose of sexual conduct or commercial sex act, or as
21 offering a child as a participant in sexual conduct or
22 commercial sex act in violation of section 566.151,
23 566.210, or 566.211.

24 4. It shall be prima facie evidence that a person or
25 entity acts knowingly if an advertisement is not removed
26 from the web-based classified service within seventy-two
27 hours of that person or entity being notified that an
28 advertisement has been posted on that service which is
29 prohibited under this section.

30 5. Notice under this section may be provided by
31 certified mail or facsimile transmission by the attorney
32 general or any prosecuting attorney or circuit attorney.

33 6. A violation of this section shall be a **class E**
34 felony, punishable by **imprisonment or** a fine in the amount
35 of five thousand dollars per day that the advertisement
36 remains posted on the web-based classified service after
37 seventy-two hours of when notice has been provided pursuant
38 to this section, **or by both such fine and imprisonment.**

39 7. Original jurisdiction for prosecution of a
40 violation of this section shall be with the local
41 prosecuting attorney or circuit attorney.

566.125. 1. The court shall sentence a person to an
2 extended term of imprisonment if it finds the defendant is a

3 persistent sexual offender and has been found guilty of
4 attempting to commit or committing the following offenses:

5 (1) Statutory rape in the first degree or statutory
6 sodomy in the first degree;

7 (2) Rape in the first degree or sodomy in the first
8 degree;

9 (3) Forcible rape;

10 (4) Forcible sodomy;

11 (5) Rape;

12 (6) Sodomy.

13 2. A "persistent sexual offender" is one who has
14 previously been found guilty of attempting to commit or
15 committing any of the offenses listed in subsection 1 of
16 this section or one who has previously been found guilty of
17 an offense in any other jurisdiction which would constitute
18 any of the offenses listed in subsection 1 of this section.

19 3. The term of imprisonment for one found to be a
20 persistent sexual offender shall be imprisonment for life
21 without eligibility for probation or parole. [Subsection 4
22 of section 558.019 shall not apply to any person imprisoned
23 under this subsection, and] "Imprisonment for life" shall
24 mean imprisonment for the duration of the person's natural
25 life.

26 4. The court shall sentence a person to an extended
27 term of imprisonment as provided for in this section if it
28 finds the defendant is a predatory sexual offender and has
29 been found guilty of committing or attempting to commit any
30 of the offenses listed in subsection 1 of this section or
31 committing child molestation in the first or second degree
32 or sexual abuse when classified as a class B felony.

33 5. For purposes of this section, a "predatory sexual
34 offender" is a person who:

35 (1) Has previously been found guilty of committing or
36 attempting to commit any of the offenses listed in
37 subsection 1 of this section, or committing child
38 molestation in the first or second degree, or sexual abuse
39 when classified as a class B felony; or

40 (2) Has previously committed an act which would
41 constitute an offense listed in subsection 4 of this
42 section, whether or not the act resulted in a conviction; or

43 (3) Has committed an act or acts against more than one
44 victim which would constitute an offense or offenses listed
45 in subsection 4 of this section, whether or not the
46 defendant was charged with an additional offense or offenses
47 as a result of such act or acts.

48 6. A person found to be a predatory sexual offender
49 shall be imprisoned for life with eligibility for parole[,
50 however subsection 4 of section 558.019 shall not apply to
51 persons found to be predatory sexual offenders for the
52 purposes of determining the minimum prison term or the
53 length of sentence as defined or used in such subsection].

54 Notwithstanding any other provision of law, in no event
55 shall a person found to be a predatory sexual offender
56 receive a final discharge from parole.

57 7. Notwithstanding any other provision of law, the
58 court shall set the minimum time required to be served
59 before a predatory sexual offender is eligible for parole,
60 conditional release or other early release by the department
61 of corrections. The minimum time to be served by a person
62 found to be a predatory sexual offender who:

63 (1) Has previously been found guilty of committing or
64 attempting to commit any of the offenses listed in
65 subsection 1 of this section and is found guilty of
66 committing or attempting to commit any of the offenses

67 listed in subsection 1 of this section shall be any number
68 of years but not less than thirty years;

69 (2) Has previously been found guilty of child
70 molestation in the first or second degree, or sexual abuse
71 when classified as a class B felony and is found guilty of
72 attempting to commit or committing any of the offenses
73 listed in subsection 1 of this section shall be any number
74 of years but not less than fifteen years;

75 (3) Has previously been found guilty of committing or
76 attempting to commit any of the offenses listed in
77 subsection 1 of this section, or committing child
78 molestation in the first or second degree, or sexual abuse
79 when classified as a class B felony shall be any number of
80 years but not less than fifteen years;

81 (4) Has previously been found guilty of child
82 molestation in the first degree or second degree, or sexual
83 abuse when classified as a class B felony, and is found
84 guilty of child molestation in the first or second degree,
85 or sexual abuse when classified as a class B felony shall be
86 any number of years but not less than fifteen years;

87 (5) Is found to be a predatory sexual offender
88 pursuant to subdivision (2) or (3) of subsection 5 of this
89 section shall be any number of years within the range to
90 which the person could have been sentenced pursuant to the
91 applicable law if the person was not found to be a predatory
92 sexual offender.

93 8. Notwithstanding any provision of law to the
94 contrary, the department of corrections, or any division
95 thereof, may not furlough an individual found to be and
96 sentenced as a persistent sexual offender or a predatory
97 sexual offender.

566.203. 1. A person commits the offense of abusing
2 an individual through forced labor by knowingly providing or
3 obtaining the labor or services of a person:

4 (1) By causing or threatening to cause serious
5 physical injury to any person;

6 (2) By physically restraining or threatening to
7 physically restrain another person;

8 (3) By blackmail;

9 (4) By means of any scheme, plan, or pattern of
10 behavior intended to cause such person to believe that, if
11 the person does not perform the labor services, the person
12 or another person will suffer serious physical injury,
13 physical restraint, or financial harm; or

14 (5) By means of the abuse or threatened abuse of the
15 law or the legal process.

16 2. A person who is found guilty of the crime of abuse
17 through forced labor shall not be required to register as a
18 sexual offender pursuant to the provisions of section
19 589.400, unless such person is otherwise required to
20 register pursuant to the provisions of such section.

21 3. The offense of abuse through forced labor is a
22 felony punishable by imprisonment for a term of years not
23 less than five years and not more than twenty years and a
24 fine not to exceed two hundred fifty thousand dollars.

25 4. If death results from a violation of this section,
26 or if the violation includes kidnapping or an attempt to
27 kidnap, sexual abuse when punishable as a class B felony, or
28 an attempt to commit sexual abuse when punishable as a class
29 B felony, or an attempt to kill, it shall be punishable for
30 a term of years not less than **[five] ten** years or life and a
31 fine not to exceed two hundred fifty thousand dollars.

566.209. 1. A person commits the **[crime] offense** of
2 trafficking for the purposes of sexual exploitation if a
3 person knowingly recruits, entices, harbors, transports,
4 provides, advertises the availability of or obtains by any
5 means, including but not limited to through the use of
6 force, **intoxicating or inhibiting substances**, abduction,
7 coercion, fraud, deception, blackmail, or causing or
8 threatening to cause financial harm, another person for the
9 use or employment of such person in a commercial sex act,
10 sexual conduct, a sexual performance, or the production of
11 explicit sexual material as defined in section 573.010,
12 without his or her consent, or benefits, financially or by
13 receiving anything of value, from participation in such
14 activities.

15 2. The **[crime] offense** of trafficking for the purposes
16 of sexual exploitation is a felony punishable by
17 imprisonment for a term of years not less than five years
18 and not more than twenty years and a fine not to exceed two
19 hundred fifty thousand dollars. If a violation of this
20 section was effected by force, abduction, or coercion, the
21 crime of trafficking for the purposes of sexual exploitation
22 is a felony punishable by imprisonment for a term of years
23 not less than ten years or life and a fine not to exceed two
24 hundred fifty thousand dollars.

566.210. 1. A person commits the offense of sexual
2 trafficking of a child in the first degree if he or she
3 knowingly:

4 (1) Recruits, entices, harbors, transports, provides,
5 or obtains by any means, including but not limited to
6 through the use of force, abduction, coercion, fraud,
7 deception, blackmail, or causing or threatening to cause
8 financial harm, a person under the age of fourteen to

9 participate in a commercial sex act, a sexual performance,
10 or the production of explicit sexual material as defined in
11 section 573.010, or benefits, financially or by receiving
12 anything of value, from participation in such activities;

13 (2) Causes a person under the age of fourteen to
14 engage in a commercial sex act, a sexual performance, or the
15 production of explicit sexual material as defined in section
16 573.010; or

17 (3) Advertises the availability of a person under the
18 age of fourteen to participate in a commercial sex act, a
19 sexual performance, or the production of explicit sexual
20 material as defined in section 573.010.

21 2. It shall not be a defense that the defendant
22 believed that the person was fourteen years of age or older.

23 3. The offense of sexual trafficking of a child in the
24 first degree is a felony for which the authorized term of
25 imprisonment is life imprisonment without eligibility for
26 probation or parole until the offender has served not less
27 than thirty years of such sentence. [Subsection 4 of
28 section 558.019 shall not apply to the sentence of a person
29 who has been found guilty of sexual trafficking of a child
30 less than fourteen years of age, and "life imprisonment"
31 shall mean imprisonment for the duration of a person's
32 natural life for the purposes of this section.]

566.211. 1. A person commits the offense of sexual
2 trafficking of a child in the second degree if he or she
3 knowingly:

4 (1) Recruits, entices, harbors, transports, provides,
5 or obtains by any means, including but not limited to
6 through the use of force, abduction, coercion, fraud,
7 deception, blackmail, or causing or threatening to cause
8 financial harm, a person under the age of eighteen to

9 participate in a commercial sex act, a sexual performance,
10 or the production of explicit sexual material as defined in
11 section 573.010, or benefits, financially or by receiving
12 anything of value, from participation in such activities;

13 (2) Causes a person under the age of eighteen to
14 engage in a commercial sex act, a sexual performance, or the
15 production of explicit sexual material as defined in section
16 573.010; or

17 (3) Advertises the availability of a person under the
18 age of eighteen to participate in a commercial sex act, a
19 sexual performance, or the production of explicit sexual
20 material as defined in section 573.010.

21 2. It shall not be a defense that the defendant
22 believed that the person was eighteen years of age or older.

23 3. The offense of sexual trafficking of a child in the
24 second degree is a felony punishable by imprisonment for a
25 term of years not less than twenty years or life and a fine
26 not to exceed two hundred fifty thousand dollars if the
27 child is under the age of eighteen. If a violation of this
28 section was effected by force, abduction, or coercion, the
29 **[crime] offense** of sexual trafficking of a child shall be a
30 felony for which the authorized term of imprisonment is life
31 imprisonment without eligibility for probation or parole
32 until the defendant has served **[not less than twenty-five**
33 **years] eighty-five percent** of such sentence **as provided**
34 **under section 558.011.**

568.045. 1. A person commits the offense of
2 endangering the welfare of a child in the first degree if he
3 or she:

4 (1) Knowingly acts in a manner that creates a
5 substantial risk to the life, body, or health of a child
6 less than **[seventeen] eighteen** years of age;

7 (2) Knowingly engages in sexual conduct with a person
8 under the age of eighteen years over whom the person is a
9 parent, guardian, or otherwise charged with the care and
10 custody;

11 (3) Knowingly encourages, aids or causes a child less
12 than **[seventeen]** **eighteen** years of age to engage in any
13 conduct which violates the provisions of chapter 571 or 579;
14 or

15 (4) In the presence of a child less than **[seventeen]**
16 **eighteen** years of age or in a residence where a child less
17 than **[seventeen]** **eighteen** years of age resides, unlawfully
18 manufactures or attempts to manufacture compounds,
19 possesses, produces, prepares, sells, transports, tests or
20 analyzes any of the following: fentanyl, carfentanil,
21 amphetamine, or methamphetamine, or any analogue thereof.

22 2. The offense of endangering the welfare of a child
23 in the first degree is a class D felony unless the offense:

24 (1) Is committed as part of an act or series of acts
25 performed by two or more persons as part of an established
26 or prescribed pattern of activity, or where physical injury
27 to the child results, or the offense is a second or
28 subsequent offense under this section, in which case the
29 offense is a class C felony;

30 (2) Involves fentanyl or carfentanil, or any analogue
31 thereof, in which case:

32 (a) The offense is a class B felony; and

33 (b) A person sentenced under this subdivision shall
34 not be eligible for conditional release or parole until he
35 or she has served at least five years of imprisonment;

36 (3) Results in serious physical injury to the child,
37 in which case the offense is a class B felony; or

38 (4) Results in the death of a child, in which case the
39 offense is a class A felony.

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

3 (1) "Abuse", the infliction of physical, sexual, or
4 mental injury against a child by any person eighteen years
5 of age or older. For purposes of this section, abuse shall
6 not include injury inflicted on a child by accidental means
7 by a person with care, custody, or control of the child, or
8 discipline of a child by a person with care, custody, or
9 control of the child, including spanking, in a reasonable
10 manner;

11 (2) "Abusive head trauma", a serious physical injury
12 to the head or brain caused by any means, including but not
13 limited to shaking, jerking, pushing, pulling, slamming,
14 hitting, or kicking;

15 (3) "Mental injury", an injury to the intellectual or
16 psychological capacity or the emotional condition of a child
17 as evidenced by an observable and substantial impairment of
18 the ability of the child to function within his or her
19 normal range of performance or behavior;

20 (4) "Neglect", the failure to provide, by those
21 responsible for the care, custody, and control of a child
22 under the age of eighteen years, the care reasonable and
23 necessary to maintain the physical and mental health of the
24 child, when such failure presents a substantial probability
25 that death or physical injury or sexual injury would result;

26 (5) "Physical injury", physical pain, illness, or any
27 impairment of physical condition, including but not limited
28 to bruising, lacerations, hematomas, welts, or permanent or
29 temporary disfigurement and impairment of any bodily
30 function or organ;

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

39 (7) "Serious physical injury", a physical injury that
40 creates a substantial risk of death or that causes serious
41 disfigurement or protracted loss or impairment of the
42 function of any part of the body.

43 2. A person commits the offense of abuse or neglect of
44 a child if such person knowingly causes a child who is less
45 than eighteen years of age:

46 (1) To suffer physical or mental injury as a result of
47 abuse or neglect; or

48 (2) To be placed in a situation in which the child may
49 suffer physical or mental injury as the result of abuse or
50 neglect.

51 3. A person commits the offense of abuse or neglect of
52 a child if such person recklessly causes a child who is less
53 than eighteen years of age to suffer from abusive head
54 trauma.

55 4. A person does not commit the offense of abuse or
56 neglect of a child by virtue of the sole fact that the
57 person delivers or allows the delivery of a child to a
58 provider of emergency services.

59 5. (1) A person does not commit the offense of abuse
60 or neglect of a child by virtue of the sole fact that the
61 person allows the child to engage in independent activities
62 without adult supervision and the person is a parent to the

63 child or is responsible for the child's care, provided that
64 the:

65 (a) Independent activities are appropriate based on
66 the child's age, maturity, and physical and mental
67 abilities; and

68 (b) Lack of adult supervision does not constitute
69 conduct that is so grossly negligent as to endanger the
70 health or safety of the child.

71 (2) As used in this subsection, "independent
72 activities" shall include traveling to or from school or
73 nearby locations by bicycle or on foot, playing outdoors, or
74 remaining at home for a reasonable period of time without
75 adult supervision.

76 6. The offense of abuse or neglect of a child is:

77 (1) A class D felony[, without eligibility for
78 probation, parole, or conditional release until the
79 defendant has served no less than one year of such
80 sentence], unless the person has previously been found
81 guilty of a violation of this section or of a violation of
82 the law of any other jurisdiction that prohibits the same or
83 similar conduct or the injury inflicted on the child is a
84 serious emotional injury or a serious physical injury, in
85 which case abuse or neglect of a child is a class B felony,
86 without eligibility for probation or parole until the
87 defendant has served not less than five years of such
88 sentence; or

89 (2) A class A felony if the child dies as a result of
90 injuries sustained from conduct chargeable under the
91 provisions of this section.

92 7. Notwithstanding subsection 6 of this section to the
93 contrary, the offense of abuse or neglect of a child is a
94 class A felony, without eligibility for probation, parole,

95 or conditional release until the defendant has served not
96 less than fifteen years of such sentence, if:

97 (1) The injury is a serious emotional injury or a
98 serious physical injury;

99 (2) The child is less than fourteen years of age; and

100 (3) The injury is the result of sexual abuse or sexual
101 abuse in the first degree as defined under section 566.100
102 or sexual exploitation of a minor as defined under section
103 573.023.

104 8. The circuit or prosecuting attorney may refer a
105 person who is suspected of abuse or neglect of a child to an
106 appropriate public or private agency for treatment or
107 counseling so long as the agency has consented to taking
108 such referrals. Nothing in this subsection shall limit the
109 discretion of the circuit or prosecuting attorney to
110 prosecute a person who has been referred for treatment or
111 counseling pursuant to this subsection.

112 9. Nothing in this section shall be construed to alter
113 the requirement that every element of any crime referred to
114 herein must be proven beyond a reasonable doubt.

115 10. Discipline, including spanking administered in a
116 reasonable manner, shall not be construed to be abuse under
117 this section.

589.425. 1. A person commits the crime of failing to
2 register as a sex offender when the person is required to
3 register under sections 589.400 to 589.425 and fails to
4 comply with any requirement of sections 589.400 to 589.425.
5 Failing to register as a sex offender is a class E felony
6 unless the person is required to register based on having
7 committed an offense in chapter 566 which was an
8 unclassified felony, a class A or B felony, or a felony

9 involving a child under the age of fourteen, in which case
10 it is a class D felony.

11 2. A person commits the crime of failing to register
12 as a sex offender as a second offense by failing to comply
13 with any requirement of sections 589.400 to 589.425 and he
14 or she has previously pled guilty to or has previously been
15 found guilty of failing to register as a sex offender.
16 Failing to register as a sex offender as a second offense is
17 a class E felony unless the person is required to register
18 based on having committed an offense in chapter 566, or an
19 offense in any other state or foreign country, or under
20 federal, tribal, or military jurisdiction, which if
21 committed in this state would be an offense under chapter
22 566 which was an unclassified felony, a class A or B felony,
23 or a felony involving a child under the age of fourteen, in
24 which case it is a class D felony.

25 3. (1) A person commits the crime of failing to
26 register as a sex offender as a third offense by failing to
27 meet the requirements of sections 589.400 to 589.425 and he
28 or she has, on two or more occasions, previously pled guilty
29 to or has previously been found guilty of failing to
30 register as a sex offender. Failing to register as a sex
31 offender as a third offense is a **class A** felony, which shall
32 be punished by a term of imprisonment of not less than ten
33 years and not more than thirty years.

34 (2) No court may suspend the imposition or execution
35 of sentence of a person who pleads guilty to or is found
36 guilty of failing to register as a sex offender as a third
37 offense. No court may sentence such person to pay a fine in
38 lieu of a term of imprisonment.

39 (3) [A person sentenced under this subsection shall
40 not be eligible for conditional release or parole until he
41 or she has served at least two years of imprisonment.]

42 (4)] Upon release, an offender who has committed
43 failing to register as a sex offender as a third offense
44 shall be electronically monitored as a mandatory condition
45 of supervision. Electronic monitoring may be based on a
46 global positioning system or any other technology which
47 identifies and records the offender's location at all times.

**Section 1. In the event that any section, provision,
2 clause, phrase, or word of this act or the application
3 thereof is declared invalid under the Constitution of the
4 United States or the Constitution of the State of Missouri,
5 it is the intent of the general assembly that the remaining
6 sections of this act remain in force and effect as far as
7 they are capable of being carried into execution as intended
8 by the general assembly. The general assembly hereby
9 declares that it would have passed each section, provision,
10 clause, phrase, or word thereof, irrespective of the fact
11 that any one or more sections, provisions, clauses, phrases,
12 or words of this act or the application of this act would be
13 declared unenforceable, unconstitutional, or invalid.**

 Section B. The repeal and reenactment of sections
2 558.011, 558.019, and 558.031 of this act shall become
3 effective on January 1, 2028.

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