

FIRST REGULAR SESSION

# HOUSE BILL NO. 373

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MCGAUGH.

0708L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 571.070, RSMo, and sections 561.021 and 561.026 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 561.021 as enacted by senate bill no. 262, eighty-sixth general assembly, first regular session, and section 561.026 as enacted by house bill no. 1647, ninety-sixth general assembly, second regular session, and to enact in lieu thereof four new sections relating to the restoration of the civil right to ship, transport, possess, or receive a firearm, with a penalty provision.

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

Section A. Section 571.070, RSMo, and sections 561.021 and 561.026 as enacted by  
2 senate bill no. 491, ninety-seventh general assembly, second regular session, and section 561.021  
3 as enacted by senate bill no. 262, eighty-sixth general assembly, first regular session, and section  
4 561.026 as enacted by house bill no. 1647, ninety-sixth general assembly, second regular session,  
5 are repealed and four new sections enacted in lieu thereof, to be known as sections 561.021,  
6 561.026, 571.070, and 571.075, to read as follows:

561.021. 1. A person holding any public office, elective or appointive, under the  
2 government of this state or any agency or political subdivision thereof, who is convicted of an  
3 offense shall, upon sentencing, forfeit such office if:

4 (1) He or she is convicted under the laws of this state of a felony or under the laws of  
5 another jurisdiction of an offense which, if committed within this state, would be a felony, or he  
6 or she pleads guilty or nolo contendere of such an offense; or

7 (2) He or she is convicted of or pleads guilty or nolo contendere to an offense involving  
8 misconduct in office, or dishonesty; or

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

9 (3) The constitution or a statute other than the code so provides.

10 2. Except as provided in subsection 3 of this section, a person who pleads guilty or nolo  
11 contendere or is convicted under the laws of this state of a felony or under the laws of another  
12 jurisdiction of an offense which, if committed within this state, would be a felony, shall be  
13 ineligible to hold any public office, elective or appointive, under the government of this state or  
14 any agency or political subdivision thereof, until the completion of his or her sentence or period  
15 of probation.

16 3. **Except as provided in subsection 4 of this section,** a person who pleads guilty or  
17 nolo contendere or is convicted under the laws of this state or under the laws of another  
18 jurisdiction of a felony connected with the exercise of the right of suffrage shall be forever  
19 disqualified from holding any public office, elective or appointive, under the government of this  
20 state or any agency or political subdivision thereof.

21 **4. The provisions of subsection 3 of this section shall not apply to any person who**  
22 **has had his or her civil rights restored under section 571.075.**

561.021. 1. A person holding any public office, elective or appointive, under the  
2 government of this state or any agency or political subdivision thereof, who is convicted of a  
3 crime shall, upon sentencing, forfeit such office if:

4 (1) He is convicted under the laws of this state of a felony or under the laws of another  
5 jurisdiction of a crime which, if committed within this state, would be a felony, or he pleads  
6 guilty or nolo contendere of such a crime; or

7 (2) He is convicted of or pleads guilty or nolo contendere to a crime involving  
8 misconduct in office, or dishonesty; or

9 (3) The constitution or a statute other than the code so provides.

10 2. Except as provided in subsection 3 of this section, a person who pleads guilty or nolo  
11 contendere or is convicted under the laws of this state of a felony or under the laws of another  
12 jurisdiction of a crime which, if committed within this state, would be a felony, shall be  
13 ineligible to hold any public office, elective or appointive, under the government of this state or  
14 any agency or political subdivision thereof, until the completion of his sentence or period of  
15 probation.

16 3. **Except as provided in subsection 4 of this section,** a person who pleads guilty or  
17 nolo contendere or is convicted under the laws of this state or under the laws of another  
18 jurisdiction of a felony connected with the exercise of the right of suffrage shall be forever  
19 disqualified from holding any public office, elective or appointive, under the government of this  
20 state or any agency or political subdivision thereof.

21 **4. The provisions of subsection 3 of this section shall not apply to any person who**  
22 **has had his or her civil rights restored under section 571.075.**

561.026. 1. Notwithstanding any other provision of law except for section 610.140 and  
2 **except as provided in subsection 2 of this section**, a person who is convicted:

3 (1) Of any offense shall be disqualified from registering and voting in any election under  
4 the laws of this state while confined under a sentence of imprisonment;

5 (2) Of a felony or misdemeanor connected with the exercise of the right of suffrage shall  
6 be forever disqualified from registering and voting;

7 (3) Of any felony shall be forever disqualified from serving as a juror.

8 **2. The provisions of subdivision (2) of subsection 1 of this section shall not apply**  
9 **to any person who has had his or her civil rights restored under section 571.075.**

561.026. 1. Notwithstanding any other provision of law except for section 610.140 and  
2 **except as provided in subsection 2 of this section**, a person who is convicted:

3 (1) Of any crime shall be disqualified from registering and voting in any election under  
4 the laws of this state while confined under a sentence of imprisonment;

5 (2) Of a felony or misdemeanor connected with the exercise of the right of suffrage shall  
6 be forever disqualified from registering and voting;

7 (3) Of any felony shall be forever disqualified from serving as a juror.

8 **2. The provisions of subdivision (2) of subsection 1 of this section shall not apply**  
9 **to any person who has had his or her civil rights restored under section 571.075.**

571.070. 1. A person commits the crime of unlawful possession of a firearm if such  
2 person knowingly has any firearm in his or her possession and:

3 (1) Such person has been convicted of a felony under the laws of this state, or of a crime  
4 under the laws of any state or of the United States which, if committed within this state, would  
5 be a felony; or

6 (2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged  
7 condition, or is currently adjudged mentally incompetent.

8 2. Unlawful possession of a firearm is a class C felony.

9 3. The provisions of subdivision (1) of subsection 1 of this section shall not apply to:

10 (1) **Any person who has had his or her civil right to ship, transport, possess, or**  
11 **receive a firearm restored under section 571.075 after each crime that would otherwise**  
12 **have been the basis for a violation of subdivision (1) of subsection 1 of this section; or**

13 (2) The possession of an antique firearm.

**571.075. 1. Except as provided in subsection 2 of this section, any person who has**  
2 **been deprived of his or her civil right to ship, transport, possess, or receive a firearm**  
3 **because of a conviction for a felony under the laws of this state or of a crime under the laws**  
4 **of any state or of the United States which, if committed within this state, would be a felony**  
5 **shall have his or her civil right to ship, transport, possess, or receive a firearm**

6 automatically restored upon such person's discharge from confinement, probation, or  
7 parole, whichever occurs later.

8       **2. The provisions of subsection 1 of this section shall not apply to:**

9       **(1) Any person who has been convicted of an offense which requires registration**  
10 **as a sex offender unless such person has been removed from the sex offender registry or**  
11 **exempted from having to register as a sex offender;**

12       **(2) Any person convicted of any offense listed in subsection 1 of section 566.147; or**

13       **(3) Any person who has been convicted of a violent felony as defined in subsection**  
14 **3 of this section.**

15       **3. As used in this section, the term "violent felony" shall mean a felony conviction**  
16 **of any of the following offenses:**

17       **(1) Violating an ex parte order of protection or a full order of protection under**  
18 **section 455.085;**

19       **(2) Violating an ex parte order of protection for a child or a full order of protection**  
20 **for a child under section 455.538;**

21       **(3) Murder in the first degree under section 565.020;**

22       **(4) Murder in the second degree under section 565.021;**

23       **(5) Voluntary manslaughter under section 565.023;**

24       **(6) Involuntary manslaughter in the first and second degrees under section 565.024;**

25       **(7) Assault in the first degree under section 565.050;**

26       **(8) Assault in the second degree under section 565.060 until December 31, 2016, and**  
27 **section 565.052 beginning January 1, 2017;**

28       **(9) Unlawful endangerment of another under section 565.065 until December 31,**  
29 **2016, and creating a danger under section 579.070 beginning January 1, 2017;**

30       **(10) Assault in the third degree under section 565.070 until December 31, 2016, and**  
31 **section 565.054 beginning January 1, 2017;**

32       **(11) Domestic assault in the first degree under section 565.072;**

33       **(12) Domestic assault in the second degree under section 565.073;**

34       **(13) Domestic assault in the third degree under section 565.074;**

35       **(14) Assault while on school property under section 565.075 until December 31,**  
36 **2016;**

37       **(15) Assault of a law enforcement officer, corrections officer, emergency personnel,**  
38 **highway worker in a construction zone or work zone, utility worker, cable worker, or**  
39 **probation and parole officer in the first degree under section 565.081 until December 31,**  
40 **2016;**

- 41           **(16) Assault of a law enforcement officer, corrections officer, emergency personnel,**  
42 **highway worker in a construction zone or work zone, utility worker, cable worker, or**  
43 **probation and parole officer in the second degree under section 565.082 until December**  
44 **31, 2016;**
- 45           **(17) Assault when the victim is a special victim as defined in section 565.002;**
- 46           **(18) Tampering with a judicial officer under section 565.084 until December 31,**  
47 **2016, and section 575.095 beginning January 1, 2017;**
- 48           **(19) Endangering a corrections employee, a visitor to a correctional facility, or**  
49 **another offender or prisoner under section 565.085 until December 31, 2016, and section**  
50 **575.155 beginning January 1, 2017;**
- 51           **(20) Endangering a department of mental health employee, a visitor or other person**  
52 **at a secure facility, or another offender under section 565.086 until December 31, 2016, and**  
53 **section 575.157 beginning January 1, 2017;**
- 54           **(21) Harassment under section 565.090;**
- 55           **(22) Cross burning under section 565.095 until December 31, 2016, and section**  
56 **574.140 beginning January 1, 2017;**
- 57           **(23) Kidnapping under section 565.110 until December 31, 2016, and kidnapping**  
58 **in the first degree under section 565.110 beginning January 1, 2017;**
- 59           **(24) Child kidnapping under section 565.115;**
- 60           **(25) Felonious restraint under section 565.120 until December 31, 2016, and**  
61 **kidnapping in the second degree under section 565.120 beginning January 1, 2017;**
- 62           **(26) False imprisonment under section 565.130 until December 31, 2016, and**  
63 **kidnapping in the third degree under section 565.130 beginning January 1, 2017;**
- 64           **(27) Interference with custody under section 565.150;**
- 65           **(28) Parental kidnapping under section 565.153;**
- 66           **(29) Child abduction under section 565.156;**
- 67           **(30) Elder abuse in the first degree under section 565.180 until December 31, 2016;**
- 68           **(31) Elder abuse in the second degree under section 565.182 until December 31,**  
69 **2016;**
- 70           **(32) An owner or employee of a skilled nursing facility or an Alzheimer's special**  
71 **unit or program having sexual intercourse or deviate sexual intercourse with a resident**  
72 **under section 565.200;**
- 73           **(33) Vulnerable person abuse in the first degree under section 565.210 until**  
74 **December 31, 2016;**
- 75           **(34) Vulnerable person abuse in the second degree under section 565.212 until**  
76 **December 31, 2016;**

- 77           **(35) Stalking and aggravated stalking under section 565.225 until December 31,**  
78 **2016, and stalking in the first degree under section 565.225 beginning January 1, 2017;**
- 79           **(36) Invasion of privacy in the first degree under section 565.252 until December**  
80 **31, 2016, and invasion of privacy under section 565.252 beginning January 1, 2017;**
- 81           **(37) Invasion of privacy in the second degree under section 565.253 until December**  
82 **31, 2016;**
- 83           **(38) Infanticide under section 565.300;**
- 84           **(39) Tampering with a prescription or a prescription drug order under section**  
85 **565.350 until December 31, 2016, and section 579.090 beginning January 1, 2017;**
- 86           **(40) Forcible rape under section 566.030 as it existed prior to August 28, 2013, and**  
87 **rape in the first degree under section 566.030;**
- 88           **(41) Statutory sodomy or attempted statutory sodomy in the first degree under**  
89 **section 566.032;**
- 90           **(42) Forcible sodomy under section 566.060 as it existed prior to August 28, 2013,**  
91 **and sodomy in the first degree under section 566.060;**
- 92           **(43) Statutory sodomy or attempted statutory sodomy in the first degree under**  
93 **section 566.062;**
- 94           **(44) Child molestation in the first degree under section 566.067;**
- 95           **(45) Child molestation in the second degree under section 566.068;**
- 96           **(46) Sexual misconduct involving a child under section 566.083;**
- 97           **(47) Sexual abuse under section 566.100 as it existed prior to August 28, 2013, and**  
98 **sexual abuse in the first degree under section 566.100;**
- 99           **(48) Sexual abuse in the second degree under section 566.101;**
- 100           **(49) Sexual contact with a prisoner or offender under section 566.145;**
- 101           **(50) Abusing an individual through forced labor under section 566.203;**
- 102           **(51) Trafficking under section 566.206;**
- 103           **(52) Trafficking under section 566.209;**
- 104           **(53) Sexual trafficking of a child under section 566.212 until December 31, 2016,**  
105 **and section 566.211 beginning January 1, 2017;**
- 106           **(54) Sexual trafficking of a child under section 566.213 until December 31, 2016,**  
107 **and section 566.210 beginning January 1, 2017;**
- 108           **(55) Contributing to human trafficking under section 566.215;**
- 109           **(56) Promoting prostitution in the first degree under section 567.050;**
- 110           **(57) Promoting prostitution in the second degree under section 567.060;**
- 111           **(58) Incest under section 568.020;**
- 112           **(59) Endangering the welfare of a child in the first degree under section 568.045;**

- 113           **(60) Endangering the welfare of a child in the second degree under section 568.050;**  
114           **(61) Abuse or neglect of a child under section 568.060;**  
115           **(62) Genital mutilation under section 568.065;**  
116           **(63) Use of a child in a sexual performance under section 568.080 until December**  
117 **31, 2016, and section 573.200 beginning January 1, 2017;**  
118           **(64) Trafficking in children under section 568.175;**  
119           **(65) Robbery in the first degree under section 569.020 until December 31, 2016, and**  
120 **section 570.023 beginning January 1, 2017;**  
121           **(66) Pharmacy robbery in the first degree under section 569.025 until December**  
122 **31, 2016;**  
123           **(67) Robbery in the second degree under section 569.030 until December 31, 2016,**  
124 **and section 570.025 beginning January 1, 2017;**  
125           **(68) Pharmacy robbery in the second degree under section 569.035 until December**  
126 **31, 2016;**  
127           **(69) Arson in the first degree under section 569.040;**  
128           **(70) Arson in the second degree under section 569.050;**  
129           **(71) Knowingly burning or exploding under section 569.055;**  
130           **(72) Causing a catastrophe under section 569.070 until December 31, 2016, and**  
131 **section 574.080 beginning January 1, 2017;**  
132           **(73) Water contamination under section 569.072 until December 31, 2016, and**  
133 **section 577.078 beginning January 1, 2017;**  
134           **(74) Property damage in the first degree under section 569.100;**  
135           **(75) Burglary in the first degree under section 569.160;**  
136           **(76) Burglary in the second degree under section 569.170;**  
137           **(77) Stealing under section 570.030 when the actor physically takes the property**  
138 **from the person of the victim;**  
139           **(78) Receiving stolen property under section 570.080 when the property has been**  
140 **physically taken from the person of the victim until December 31, 2016;**  
141           **(79) Financial exploitation of an elderly or disabled person under section 570.145**  
142 **when the exploitation is by intimidation or force;**  
143           **(80) Disrupting a house of worship under section 574.035;**  
144           **(81) Promoting civil disorder in the first degree under section 574.070;**  
145           **(82) Making a terrorist threat under section 574.115;**  
146           **(83) Hindering prosecution under section 575.030 when it is by means of force or**  
147 **intimidation;**  
148           **(84) Resisting or interfering with arrest, detention, or stop under section 575.150;**

- 149           **(85) Disarming a peace officer or correctional officer under section 575.153;**  
150           **(86) Escape from commitment under section 575.195;**  
151           **(87) Escape or attempted escape from confinement under section 575.210;**  
152           **(88) Aiding escape of a prisoner under section 575.230;**  
153           **(89) Tampering with a judicial proceeding under section 575.260;**  
154           **(90) Tampering with a witness or victim tampering under section 575.270;**  
155           **(91) Killing or disabling a police animal under section 575.350 until December 31,**  
156 **2016;**  
157           **(92) Treason under section 576.070;**  
158           **(93) Agroterrorism under section 578.008 until December 31, 2016, and section**  
159 **574.130 beginning January 1, 2017;**  
160           **(94) Animal abuse under section 578.012;**  
161           **(95) Bus hijacking under section 578.305 until December 31, 2016, and section**  
162 **577.703 beginning January 1, 2017;**  
163           **(96) Bombing or planting or placing any bomb or other explosive material or thing**  
164 **in, upon, or near any terminal or bus under section 578.310 until December 31, 2016, and**  
165 **section 577.706 beginning January 1, 2017; and**  
166           **(97) Hazing under section 578.365.**  
167           **4. Any person who has been convicted of a violent felony as defined in subsection**  
168 **3 of this section and who has been deprived of his or her civil right to ship, transport,**  
169 **possess, or receive a firearm as a result of such conviction may file a petition in the circuit**  
170 **court of the county in which he or she was convicted or in the county in which he or she**  
171 **resides to restore such person's civil right to ship, transport, possess, or receive a firearm.**  
172 **The court may grant the relief sought if the person shows good cause to do so, the person**  
173 **has been discharged from confinement, probation, or parole, whichever occurred later, the**  
174 **conviction occurred three or more years before the filing of the petition, and the person has**  
175 **not been convicted at any other time for a felony under the laws of this state or of a crime**  
176 **under the laws of any state or of the United States which, if committed within this state,**  
177 **would be a felony. If the petition is denied, the person shall not file another petition until**  
178 **three years have elapsed without the permission of the court. If the petition is granted, the**  
179 **petitioner's civil right to ship, transport, possess, or receive a firearm shall be restored and**  
180 **the court's order shall so provide.**

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