

SECOND REGULAR SESSION

HOUSE BILL NO. 1557

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE EVANS.

4004H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 488.029, 513.605, 556.046, 556.061, 557.036, 558.019, 558.021, 558.041, 558.046, 559.100, 559.115, 559.117, 565.252, 566.010, 566.030, 566.032, 566.060, 566.062, 566.086, 566.125, 571.070, 575.150, 575.200, 577.010, 589.407, 589.414, and 610.140, RSMo, and to enact in lieu thereof twenty-seven new sections relating to criminal offenses, with penalty provisions.

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

Section A. Sections 488.029, 513.605, 556.046, 556.061, 557.036, 558.019, 558.021, 2 558.041, 558.046, 559.100, 559.115, 559.117, 565.252, 566.010, 566.030, 566.032, 566.060, 3 566.062, 566.086, 566.125, 571.070, 575.150, 575.200, 577.010, 589.407, 589.414, and 610.140, 4 RSMo, are repealed and twenty-seven new sections enacted in lieu thereof, to be known as 5 sections 488.029, 513.605, 556.046, 556.061, 557.036, 558.019, 558.021, 558.041, 558.046, 6 559.100, 559.115, 559.117, 565.252, 566.010, 566.030, 566.032, 566.060, 566.062, 566.086, 7 566.123, 566.124, 571.070, 575.150, 577.010, 589.407, 589.414, and 610.140, to read as 8 follows:

488.029. There shall be assessed and collected a surcharge of one hundred fifty dollars 2 in all criminal cases for any violation of chapter ~~[195]~~ **579** in which a crime laboratory makes 3 analysis of a controlled substance, but no such surcharge shall be assessed when the costs are 4 waived or are to be paid by the state or when a criminal proceeding or the defendant has been 5 dismissed by the court. The moneys collected by clerks of the courts pursuant to the provisions 6 of this section shall be collected and disbursed as provided by sections 488.010 to 488.020. All 7 such moneys shall be payable to the director of revenue, who shall deposit all amounts collected

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.

8 pursuant to this section to the credit of the state forensic laboratory account to be administered
9 by the department of public safety pursuant to section 650.105.

2 513.605. As used in sections 513.600 to 513.645, unless the context clearly indicates
3 otherwise, the following terms mean:

4 (1) (a) "Beneficial interest":

5 a. The interest of a person as a beneficiary under any other trust arrangement pursuant
6 to which a trustee holds legal or record title to real property for the benefit of such person; or

7 b. The interest of a person under any other form of express fiduciary arrangement
8 pursuant to which any other person holds legal or record title to real property for the benefit of
9 such person;

10 (b) "Beneficial interest" does not include the interest of a stockholder in a corporation
11 or the interest of a partner in either a general partnership or limited partnership. A beneficial
12 interest shall be deemed to be located where the real property owned by the trustee is located;

13 (2) "Civil proceeding", any civil suit commenced by an investigative agency under any
14 provision of sections 513.600 to 513.645;

15 (3) "Criminal activity" is the commission, attempted commission, conspiracy to commit,
16 or the solicitation, coercion or intimidation of another person to commit any crime which is
17 chargeable by indictment or information under the following Missouri laws:

18 (a) Chapter [495] **579**, relating to drug regulations;

19 (b) Chapter 565, relating to offenses against the person;

20 (c) Chapter 566, relating to sexual offenses;

21 (d) Chapter 568, relating to offenses against the family;

22 (e) Chapter 569, relating to robbery, arson, burglary and related offenses;

23 (f) Chapter 570, relating to stealing and related offenses;

24 (g) Chapter 567, relating to prostitution;

25 (h) Chapter 573, relating to pornography and related offenses;

26 (i) Chapter 574, relating to offenses against public order;

27 (j) Chapter 575, relating to offenses against the administration of justice;

28 (k) Chapter 491, relating to witnesses;

29 (l) Chapter 572, relating to gambling;

30 (m) Chapter 311, but relating only to felony violations of this chapter committed by
31 persons not duly licensed by the supervisor of liquor control;

32 (n) Chapter 571, relating to weapons offenses;

33 (o) Chapter 409, relating to regulation of securities;

(p) Chapter 301, relating to registration and licensing of motor vehicles;

34 (4) "Criminal proceeding", any criminal prosecution commenced by an investigative
 35 agency under any criminal law of this state;

36 (5) "Investigative agency", the attorney general's office, or the office of any prosecuting
 37 attorney or circuit attorney;

38 (6) "Pecuniary value":

39 (a) Anything of value in the form of money, a negotiable instrument, a commercial
 40 interest, or anything else the primary significance of which is economic advantage; or

41 (b) Any other property or service that has a value in excess of one hundred dollars;

42 (7) "Real property", any estate or legal or equitable interest in land situated in this state
 43 or any interest in such real property, including, but not limited to, any lease or deed of trust upon
 44 such real property;

45 (8) "Seizing agency", the agency which is the primary employer of the officer or agent
 46 seizing the property, including any agency in which one or more of the employees acting on
 47 behalf of the seizing agency is employed by the state of Missouri or any political subdivision of
 48 this state;

49 (9) "Seizure", the point at which any law enforcement officer or agent discovers and
 50 exercises any control over property that an officer or agent has reason to believe was used or
 51 intended for use in the course of, derived from, or realized through criminal activity. Seizure
 52 includes but is not limited to preventing anyone found in possession of the property from leaving
 53 the scene of the investigation while in possession of the property;

54 (10) (a) "Trustee":

55 a. Any person who holds legal or record title to real property for which any other person
 56 has a beneficial interest; or

57 b. Any successor trustee or trustees to any of the foregoing persons;

58 (b) "Trustee" does not include the following:

59 a. Any person appointed or acting as a personal representative under chapter 475 or
 60 under chapter 473;

61 b. Any person appointed or acting as a trustee of any testamentary trust or as trustee of
 62 any indenture of trust under which any bonds are or are to be issued.

556.046. 1. A person may be convicted of an offense included in an offense charged in
 2 the indictment or information. An offense is so included when:

3 (1) It is established by proof of the same or less than all the [facts] **elements** required to
 4 establish the commission of the offense charged; or

5 (2) It is specifically denominated by statute as a lesser degree of the offense charged; or

6 (3) It consists of an attempt to commit the offense charged or to commit an offense
 7 otherwise included therein.

8 2. The court shall ~~[not]~~ be obligated to charge the jury with respect to an included
9 offense ~~[unless]~~ **only if:**

10 **(1) The offense is established by proof of the same or less than all the elements**
11 **required to establish the commission of the charged offense;**

12 **(2) There is a rational basis in the evidence for a verdict acquitting the person of the**
13 **offense charged and convicting him or her of the included offense; and**

14 **(3) Either party requests the court to charge the jury with respect to a specific**
15 **included offense.**

16 **3. Failure of the defendant or defense counsel to request the court to charge the**
17 **jury with respect to a specific included offense shall not be a basis for plain-error review**
18 **on direct appeal or for postconviction relief.**

19 **4. It shall be the trial court's duty to determine if a rational basis in the evidence**
20 **for a verdict exists.**

21 **5. An offense is charged for purposes of this section if:**

22 (1) It is in an indictment or information; or

23 (2) It is an offense submitted to the jury because there is a **rational basis in the evidence**
24 **for a verdict acquitting the person of the offense charged and convicting the person of the**
25 **included offense.**

26 ~~[3. The court shall be obligated to instruct the jury with respect to a particular included~~
27 ~~offense only if there is a basis in the evidence for acquitting the person of the immediately higher~~
28 ~~included offense and there is a basis in the evidence for convicting the person of that particular~~
29 ~~included offense.]~~

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

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

6 (2) "Affirmative defense":

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

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

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

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

13 and

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

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

21 (5) "Computer", the box that houses the central processing unit (CPU), along with any
22 internal storage devices, such as internal hard drives, and internal communication devices, such
23 as internal modems capable of sending or receiving electronic mail or fax cards, along with any
24 other hardware stored or housed internally. Thus, computer refers to hardware, software and data
25 contained in the main unit. Printers, external modems attached by cable to the main unit,
26 monitors, and other external attachments will be referred to collectively as peripherals and
27 discussed individually when appropriate. When the computer and all peripherals are referred to
28 as a package, the term "computer system" is used. Information refers to all the information on
29 a computer system including both software applications and data;

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

32 (7) "Computer hardware", all equipment which can collect, analyze, create, display,
33 convert, store, conceal or transmit electronic, magnetic, optical or similar computer impulses or
34 data. Hardware includes, but is not limited to, any data processing devices, such as central
35 processing units, memory typewriters and self-contained laptop or notebook computers; internal
36 and peripheral storage devices, transistor-like binary devices and other memory storage devices,
37 such as floppy disks, removable disks, compact disks, digital video disks, magnetic tape, hard
38 drive, optical disks and digital memory; local area networks, such as two or more computers
39 connected together to a central computer server via cable or modem; peripheral input or output
40 devices, such as keyboards, printers, scanners, plotters, video display monitors and optical
41 readers; and related communication devices, such as modems, cables and connections, recording
42 equipment, RAM or ROM units, acoustic couplers, automatic dialers, speed dialers,
43 programmable telephone dialing or signaling devices and electronic tone-generating devices; as
44 well as any devices, mechanisms or parts that can be used to restrict access to computer
45 hardware, such as physical keys and locks;

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

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

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

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

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

59 (13) "Confinement":

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

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

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

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

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

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

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

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

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

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

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

81 (15) "Controlled substance", a drug, substance, or immediate precursor in schedules I
82 through V as defined in chapter 195;

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

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

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

90 (19) "Dangerous felony", the felonies of arson in the first degree, assault in the first
91 degree, attempted rape in the first degree if physical injury results, attempted forcible rape if
92 physical injury results, attempted sodomy in the first degree if physical injury results, attempted
93 forcible sodomy if physical injury results, rape in the first degree, forcible rape, sodomy in the
94 first degree, forcible sodomy, assault in the second degree if the victim of such assault is a
95 special victim as defined in subdivision (14) of section 565.002, kidnapping in the first degree,
96 kidnapping, murder in the second degree, assault of a law enforcement officer in the first degree,
97 domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree,
98 statutory rape in the first degree when the victim is a child less than twelve years of age at the
99 time of the commission of the act giving rise to the offense, statutory sodomy in the first degree
100 when the victim is a child less than twelve years of age at the time of the commission of the act
101 giving rise to the offense, child molestation in the first or second degree, abuse of a child if the
102 child dies as a result of injuries sustained from conduct chargeable under section 568.060, child
103 kidnapping, parental kidnapping committed by detaining or concealing the whereabouts of the
104 child for not less than one hundred twenty days under section 565.153, and an
105 "intoxication-related traffic offense" or "intoxication-related boating offense" if the person is
106 found ~~[to be a "habitual offender" or "habitual boating offender" as such terms are defined in~~
107 ~~section 577.001]~~ **guilty of or pleads guilty to a class A or B felony in violation of section**
108 **577.010, 577.012, 577.013, or 577.014;**

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

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

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

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

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

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

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

128 (27) "Forcible compulsion" either:

129 (a) Physical force that overcomes reasonable resistance; or

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

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

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

138 (30) "Inhabitable structure", a vehicle, vessel or structure:

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

140 (b) Where people assemble for purposes of business, government, education, religion,
141 entertainment, or public transportation; or

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

143

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

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

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

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

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

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

158 (34) "Of another", property that any entity, including but not limited to any natural
159 person, corporation, limited liability company, partnership, association, governmental
160 subdivision or instrumentality, other than the actor, has a possessory or proprietary interest
161 therein, except that property shall not be deemed property of another who has only a security
162 interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or
163 other security arrangement;

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

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

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

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

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

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

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

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

188 (43) "Serious emotional injury", an injury that creates a substantial risk of temporary or
189 permanent medical or psychological damage, manifested by impairment of a behavioral,
190 cognitive or physical condition. Serious emotional injury shall be established by testimony of

191 qualified experts upon the reasonable expectation of probable harm to a reasonable degree of
192 medical or psychological certainty;

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

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

199 (46) "Sexual orientation", male or female heterosexuality, homosexuality or bisexuality
200 by inclination, practice, identity or expression, or having a self-image or identity not traditionally
201 associated with one's gender;

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

204 (48) "Vessel", any boat or craft propelled by a motor or by machinery, whether or not
205 such motor or machinery is a principal source of propulsion used or capable of being used as a
206 means of transportation on water, or any boat or craft more than twelve feet in length which is
207 powered by sail alone or by a combination of sail and machinery, and used or capable of being
208 used as a means of transportation on water, but not any boat or craft having, as the only means
209 of propulsion, a paddle or oars;

210 (49) "Voluntary act":

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

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

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

557.036. 1. Upon a finding of guilt, the court shall decide the extent or duration of
2 sentence or other disposition to be imposed under all the circumstances, having regard to the
3 nature and circumstances of the offense and the history and character of the defendant and render
4 judgment accordingly.

5 2. Where an offense is submitted to the jury, the trial shall proceed in two stages. At the
6 first stage, the jury shall decide only whether the defendant is guilty or not guilty of any
7 submitted offense. The issue of punishment shall not be submitted to the jury at the first stage.

8 3. If the jury at the first stage of a trial finds the defendant guilty of the submitted
9 offense, the second stage of the trial shall proceed. The issue at the second stage of the trial shall
10 be the punishment to be assessed and declared. Evidence supporting or mitigating punishment
11 may be presented. Such evidence may include, within the discretion of the court, evidence
12 concerning the impact of the offense upon the victim, the victim's family and others, the nature
13 and circumstances of the offense, and the history and character of the defendant. Rebuttal and
14 surrebuttal evidence may be presented. The state shall be the first to proceed. The court shall
15 instruct the jury as to the range of punishment authorized by statute for each submitted offense.
16 The attorneys may argue the issue of punishment to the jury, and the state shall have the right to
17 open and close the argument. The jury shall assess and declare the punishment as authorized by
18 statute.

19 4. A second stage of the trial shall not proceed and the court, and not the jury, shall
20 assess punishment if:

21 (1) The defendant requests in writing, prior to voir dire, that the court assess the
22 punishment in case of a finding of guilt; or

23 (2) The state pleads and proves the defendant is a prior offender, persistent offender,
24 dangerous offender, or persistent misdemeanor offender as defined in section 558.016~~], or a~~
25 ~~persistent sexual offender or predatory sexual offender as defined in section 566.125].~~ If the jury
26 cannot agree on the punishment to be assessed, the court shall proceed as provided in subsection
27 1 of this section. If, after due deliberation by the jury, the court finds the jury cannot agree on
28 punishment, then the court may instruct the jury that if it cannot agree on punishment that the
29 court will assess punishment.

30 5. If the jury returns a verdict of guilty in the first stage and declares a term of
31 imprisonment in the second stage, the court shall proceed as provided in subsection 1 of this
32 section except that any term of imprisonment imposed cannot exceed the term declared by the
33 jury unless the term declared by the jury is less than the authorized lowest term for the offense,
34 in which event the court cannot impose a term of imprisonment greater than the lowest term
35 provided for the offense.

36 6. If the defendant is found to be a prior offender, persistent offender, dangerous offender
37 or persistent misdemeanor offender as defined in section 558.016:

38 (1) If he **or she** has been found guilty of an offense, the court shall proceed as provided
39 in section 558.016; or

40 (2) If he **or she** has been found guilty of a class A felony, the court may impose any
41 sentence authorized for the class A felony.

42 7. The court shall not seek an advisory verdict from the jury in cases of prior offenders,
43 persistent offenders, **or** dangerous offenders [~~persistent sexual offenders or predatory sexual~~
44 ~~offenders~~]; if an advisory verdict is rendered, the court shall not deem it advisory, but shall
45 consider it as mere surplusage.

558.019. 1. This section shall not be construed to affect the powers of the governor
2 under Article IV, Section 7, of the Missouri Constitution. This statute shall not affect those
3 provisions of section 565.020, section [~~566.125~~] **566.123**, or section 571.015, which set
4 minimum terms of sentences, or the provisions of section 559.115, relating to probation.

5 2. The provisions of subsections 2 to 5 of this section shall only be applicable to the
6 offenses contained in sections 565.021, 565.023, 565.024, 565.027, 565.050, 565.052, 565.054,
7 565.072, 565.073, 565.074, 565.090, 565.110, 565.115, 565.120, 565.153, 565.156, 565.225,
8 565.300, 566.030, 566.031, 566.032, 566.034, 566.060, 566.061, 566.062, 566.064, 566.067,
9 566.068, 566.069, 566.071, 566.083, 566.086, 566.100, 566.101, 566.103, 566.111, 566.115,
10 566.145, 566.151, 566.153, 566.203, 566.206, 566.209, 566.210, 566.211, 566.215, 568.030,
11 568.045, 568.060, 568.065, 568.175, 569.040, 569.160, 570.023, 570.025, 570.030 when
12 punished as a class A, B, or C felony, 570.145 when punished as a class A or B felony, 570.223
13 when punished as a class B or C felony, 571.020, 571.030, 571.070, 573.023, 573.025, 573.035,
14 573.037, 573.200, 573.205, 574.070, 574.080, 574.115, 575.030, 575.150, 575.153, 575.155,
15 575.157[~~575.200~~] when punished as a class A felony, 575.210, 575.230 when punished as a
16 class B felony, 575.240 when punished as a class B felony, 576.070, 576.080, 577.010, 577.013,
17 577.078, 577.703, 577.706, 579.065, and 579.068 when punished as a class A or B felony. For
18 the purposes of this section, "prison commitment" means and is the receipt by the department
19 of corrections of an offender after sentencing. For purposes of this section, prior prison
20 commitments to the department of corrections shall not include an offender's first incarceration
21 prior to release on probation under section 217.362 or 559.115. Other provisions of the law to
22 the contrary notwithstanding, any offender who has been found guilty of a felony other than a
23 dangerous felony as defined in section 556.061 and is committed to the department of corrections
24 shall be required to serve the following minimum prison terms:

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

29 (2) If the offender has two previous prison commitments to the department of corrections
30 for felonies unrelated to the present offense, the minimum prison term which the offender must

31 serve shall be fifty percent of his or her sentence or until the offender attains seventy years of
32 age, and has served at least forty percent of the sentence imposed, whichever occurs first;

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

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

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

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

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

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

52 6. An offender who was convicted of, or pled guilty to, a felony offense other than those
53 offenses listed in subsection 2 of this section prior to August 28, 2019, shall no longer be subject
54 to the minimum prison term provisions under subsection 2 of this section, and shall be eligible
55 for parole, conditional release, or other early release by the department of corrections according
56 to the rules and regulations of the department.

57 7. (1) A sentencing advisory commission is hereby created to consist of eleven
58 members. One member shall be appointed by the speaker of the house. One member shall be
59 appointed by the president pro tem of the senate. One member shall be the director of the
60 department of corrections. Six members shall be appointed by and serve at the pleasure of the
61 governor from among the following: the public defender commission; private citizens; a private
62 member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members
63 shall be appointed by the supreme court, one from a metropolitan area and one from a rural area.
64 All members shall be appointed to a four-year term. All members of the sentencing commission
65 appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory
66 commission at the pleasure of the governor.

67 (2) The commission shall study sentencing practices in the circuit courts throughout the
68 state for the purpose of determining whether and to what extent disparities exist among the
69 various circuit courts with respect to the length of sentences imposed and the use of probation
70 for offenders convicted of the same or similar offenses and with similar criminal histories. The
71 commission shall also study and examine whether and to what extent sentencing disparity among
72 economic and social classes exists in relation to the sentence of death and if so, the reasons
73 therefor, if sentences are comparable to other states, if the length of the sentence is appropriate,
74 and the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw
75 conclusions, and perform other duties relevant to the research and investigation of disparities in
76 death penalty sentencing among economic and social classes.

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

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

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

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

90 8. Courts shall retain discretion to lower or exceed the sentence recommended by the
91 commission as otherwise allowable by law, and to order restorative justice methods, when
92 applicable.

93 9. If the imposition or execution of a sentence is suspended, the court may order any or
94 all of the following restorative justice methods, or any other method that the court finds just or
95 appropriate:

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

98 (2) Offender treatment programs;

99 (3) Mandatory community service;

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

101 (5) Community-based residential and nonresidential programs.

102 10. Pursuant to subdivision (1) of subsection 9 of this section, the court may order the
103 assessment and payment of a designated amount of restitution to a county law enforcement
104 restitution fund established by the county commission pursuant to section 50.565. Such
105 contribution shall not exceed three hundred dollars for any charged offense. Any restitution
106 moneys deposited into the county law enforcement restitution fund pursuant to this section shall
107 only be expended pursuant to the provisions of section 50.565.

108 11. A judge may order payment to a restitution fund only if such fund had been created
109 by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall
110 not have any direct supervisory authority or administrative control over any fund to which the
111 judge is ordering a person to make payment.

112 12. A person who fails to make a payment to a county law enforcement restitution fund
113 may not have his or her probation revoked solely for failing to make such payment unless the
114 judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence
115 that the person either willfully refused to make the payment or that the person willfully,
116 intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources
117 to pay.

118 13. Nothing in this section shall be construed to allow the sentencing advisory
119 commission to issue recommended sentences in specific cases pending in the courts of this state.

558.021. 1. The court shall find the defendant to be a prior offender, persistent offender,
2 **or** dangerous offender~~[-persistent sexual offender or predatory sexual offender]~~ if:

3 (1) The indictment or information, original or amended, or the information in lieu of an
4 indictment pleads all essential facts warranting a finding that the defendant is a prior offender,
5 persistent offender, **or** dangerous offender~~[-persistent sexual offender or predatory sexual~~
6 ~~offender]~~; and

7 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding
8 beyond a reasonable doubt that the defendant is a prior offender, persistent offender, **or**
9 dangerous offender~~[-persistent sexual offender or predatory sexual offender]~~; and

10 (3) The court makes findings of fact that warrant a finding beyond a reasonable doubt
11 by the court that the defendant is a prior offender, persistent offender, **or** dangerous offender~~[-~~
12 ~~persistent sexual offender or predatory sexual offender]~~.

13 2. In a jury trial, the facts shall be pleaded, established and found prior to submission to
14 the jury outside of its hearing, except the facts required by subdivision (1) of subsection 4 of
15 section 558.016 may be established and found at a later time, but prior to sentencing, and may
16 be established by judicial notice of prior testimony before the jury.

17 3. In a trial without a jury or upon a plea of guilty, the court may defer the proof and
18 findings of such facts to a later time, but prior to sentencing. The facts required by subdivision

19 (1) of subsection 4 of section 558.016 may be established by judicial notice of prior testimony
20 or the plea of guilty.

21 4. The defendant shall be accorded full rights of confrontation and cross-examination,
22 with the opportunity to present evidence, at such hearings.

23 5. The defendant may waive proof of the facts alleged.

24 6. Nothing in this section shall prevent the use of presentence investigations or
25 commitments under sections 557.026 and 557.031.

26 7. At the sentencing hearing both the state and the defendant shall be permitted to present
27 additional information bearing on the issue of sentence.

558.041. 1. Any offender committed to the department of corrections, except those
2 persons committed pursuant to subsection 7 of section 558.016, or subsection [3] 2 of section
3 [566.125] **566.123**, may receive additional credit in terms of days spent in confinement upon
4 recommendation for such credit by the offender's institutional superintendent when the offender
5 meets the requirements for such credit as provided in subsections 3 and 4 of this section. Good
6 time credit may be rescinded by the director or his or her designee pursuant to the divisional
7 policy issued pursuant to subsection 3 of this section.

8 2. Any credit extended to an offender shall only apply to the sentence which the offender
9 is currently serving.

10 3. The director of the department of corrections shall issue a policy for awarding credit.
11 The policy may reward an inmate who has served his or her sentence in an orderly and peaceable
12 manner and has taken advantage of the rehabilitation programs available to him or her. Any
13 violation of institutional rules or the laws of this state may result in the loss of all or a portion
14 of any credit earned by the inmate pursuant to this section.

15 4. The department shall cause the policy to be published in the code of state regulations.

16 5. No rule or portion of a rule promulgated under the authority of this chapter shall
17 become effective unless it has been promulgated pursuant to the provisions of section 536.024.

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

4 (1) The convicted person was:

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

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

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

9 (3) The convicted person is not:

10 (a) A prior offender, a persistent offender, a dangerous offender or a persistent
11 misdemeanor offender as defined by section 558.016; or

12 (b) A **predatory sexual offender as defined in section 566.123 or a prior sexual**
13 **offender or a** persistent sexual offender as defined in section [~~566.125~~] **566.124**; or

14 (c) A prior offender, a persistent offender, or a class X offender as [~~defined~~] **described**
15 in section 558.019.

559.100. 1. The circuit courts of this state shall have power, herein provided, to place
2 on probation or to parole persons convicted of any offense over which they have jurisdiction,
3 except as otherwise provided in section 559.115, section 565.020, sections 566.030, 566.060,
4 566.067, [~~566.125~~] **566.123**, 566.151, and 566.210, section 571.015, section 579.170, and
5 subsection 3 of section 589.425.

6 2. The circuit court shall have the power to revoke the probation or parole previously
7 granted under section 559.036 and commit the person to the department of corrections. The
8 circuit court shall determine any conditions of probation or parole for the defendant that it deems
9 necessary to ensure the successful completion of the probation or parole term, including the
10 extension of any term of supervision for any person while on probation or parole. The circuit
11 court may require that the defendant pay restitution for his or her offense. The probation or
12 parole may be revoked under section 559.036 for failure to pay restitution or for failure to
13 conform his or her behavior to the conditions imposed by the circuit court. The circuit court
14 may, in its discretion, credit any period of probation or parole as time served on a sentence.

15 3. Restitution, whether court-ordered as provided in subsection 2 of this section or
16 agreed to by the parties, or as enforced under section 558.019, shall be paid through the office
17 of the prosecuting attorney or circuit attorney. Nothing in this section shall prohibit the
18 prosecuting attorney or circuit attorney from contracting with or utilizing another entity for the
19 collection of restitution and costs under this section. When ordered by the court, interest shall
20 be allowed under subsection 2 of section 408.040. In addition to all other costs and fees allowed
21 by law, each prosecuting attorney or circuit attorney who takes any action to collect restitution
22 shall collect from the person paying restitution an administrative handling cost. The cost shall
23 be twenty-five dollars for restitution of less than one hundred dollars and fifty dollars for
24 restitution of at least one hundred dollars but less than two hundred fifty dollars. For restitution
25 of two hundred fifty dollars or more an additional fee of ten percent of the total restitution shall
26 be assessed, with a maximum fee for administrative handling costs not to exceed seventy-five
27 dollars total. Notwithstanding the provisions of sections 50.525 to 50.745, the costs provided
28 for in this subsection shall be deposited by the county treasurer into a separate interest-bearing
29 fund to be expended by the prosecuting attorney or circuit attorney. This fund shall be known
30 as the "Administrative Handling Cost Fund", and it shall be the fund for deposits under this

31 section and under section 570.120. The funds shall be expended, upon warrants issued by the
32 prosecuting attorney or circuit attorney directing the treasurer to issue checks thereon, only for
33 purposes related to that authorized by subsection 4 of this section.

34 4. The moneys deposited in the fund may be used by the prosecuting attorney or circuit
35 attorney for office supplies, postage, books, training, office equipment, capital outlay, expenses
36 of trial and witness preparation, additional employees for the staff of the prosecuting or circuit
37 attorney, employees' salaries, and for other lawful expenses incurred by the prosecuting or circuit
38 attorney in the operation of that office.

39 5. This fund may be audited by the state auditor's office or the appropriate auditing
40 agency.

41 6. If the moneys collected and deposited into this fund are not totally expended annually,
42 then the unexpended balance shall remain in the fund and the balance shall be kept in the fund
43 to accumulate from year to year.

44 7. Nothing in this section shall be construed to prohibit a crime victim from pursuing
45 other lawful remedies against a defendant for restitution.

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

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

12 3. The court may recommend placement of an offender in a department of corrections
13 one hundred twenty-day program under this subsection or order such placement under subsection
14 4 of section 559.036. Upon the recommendation or order of the court, the department of
15 corrections shall assess each offender to determine the appropriate one hundred twenty-day
16 program in which to place the offender, which may include placement in the shock incarceration
17 program or institutional treatment program. When the court recommends and receives placement
18 of an offender in a department of corrections one hundred twenty-day program, the offender shall
19 be released on probation if the department of corrections determines that the offender has
20 successfully completed the program except as follows. Upon successful completion of a
21 program under this subsection, the board of probation and parole shall advise the sentencing

22 court of an offender's probationary release date thirty days prior to release. The court shall
23 follow the recommendation of the department unless the court determines that probation is not
24 appropriate. If the court determines that probation is not appropriate, the court may order the
25 execution of the offender's sentence only after conducting a hearing on the matter within ninety
26 to one hundred twenty days from the date the offender was delivered to the department of
27 corrections. If the department determines the offender has not successfully completed a one
28 hundred twenty-day program under this subsection, the offender shall be removed from the
29 program and the court shall be advised of the removal. The department shall report on the
30 offender's participation in the program and may provide recommendations for terms and
31 conditions of an offender's probation. The court shall then have the power to grant probation or
32 order the execution of the offender's sentence.

33 4. If the court is advised that an offender is not eligible for placement in a one hundred
34 twenty-day program under subsection 3 of this section, the court shall consider other authorized
35 dispositions. If the department of corrections one hundred twenty-day program under subsection
36 3 of this section is full, the court may place the offender in a private program approved by the
37 department of corrections or the court, the expenses of such program to be paid by the offender,
38 or in an available program offered by another organization. If the offender is convicted of a class
39 C, class D, or class E nonviolent felony, the court may order probation while awaiting
40 appointment to treatment.

41 5. Except when the offender has been found to be a predatory sexual offender pursuant
42 to section ~~[566.125]~~ **566.123**, the court shall request the department of corrections to conduct a
43 sexual offender assessment if the defendant has been found guilty of sexual abuse when
44 classified as a class B felony. Upon completion of the assessment, the department shall provide
45 to the court a report on the offender and may provide recommendations for terms and conditions
46 of an offender's probation. The assessment shall not be considered a one hundred twenty-day
47 program as provided under subsection 3 of this section. The process for granting probation to
48 an offender who has completed the assessment shall be as provided under subsections 2 and 6
49 of this section.

50 6. Unless the offender is being granted probation pursuant to successful completion of
51 a one hundred twenty-day program the circuit court shall notify the state in writing when the
52 court intends to grant probation to the offender pursuant to the provisions of this section. The
53 state may, in writing, request a hearing within ten days of receipt of the court's notification that
54 the court intends to grant probation. Upon the state's request for a hearing, the court shall grant
55 a hearing as soon as reasonably possible. If the state does not respond to the court's notice in
56 writing within ten days, the court may proceed upon its own motion to grant probation.

57 7. An offender's first incarceration under this section prior to release on probation shall
58 not be considered a previous prison commitment for the purpose of determining a minimum
59 prison term under the provisions of section 558.019.

60 8. Notwithstanding any other provision of law, probation may not be granted pursuant
61 to this section to offenders who have been convicted of murder in the second degree pursuant
62 to section 565.021; forcible rape pursuant to section 566.030 as it existed prior to August 28,
63 2013; rape in the first degree under section 566.030; forcible sodomy pursuant to section 566.060
64 as it existed prior to August 28, 2013; sodomy in the first degree under section 566.060; statutory
65 rape in the first degree pursuant to section 566.032; statutory sodomy in the first degree pursuant
66 to section 566.062; child molestation in the first degree pursuant to section 566.067 when
67 classified as a class A felony; abuse **or neglect** of a child pursuant to section 568.060 when
68 classified as a class A felony; or an offender who has been found to be a predatory sexual
69 offender pursuant to section [566.125] **566.123**; or any offense in which there exists a statutory
70 prohibition against either probation or parole.

 559.117. 1. The director of the department of corrections is authorized to establish, as
2 a three-year pilot program, a mental health assessment process.

3 2. Only upon a motion filed by the prosecutor in a criminal case, the judge who is
4 hearing the criminal case in a participating county may request that an offender be placed in the
5 department of corrections for one hundred twenty days for a mental health assessment and for
6 treatment if it appears that the offender has a mental disorder or mental illness such that the
7 offender may qualify for probation including community psychiatric rehabilitation (CPR)
8 programs and such probation is appropriate and not inconsistent with public safety. Before the
9 judge rules upon the motion, the victim shall be given notice of such motion and the opportunity
10 to be heard. Upon recommendation of the court, the department shall determine the offender's
11 eligibility for the mental health assessment process.

12 3. Following this assessment and treatment period, an assessment report shall be sent to
13 the sentencing court and the sentencing court may, if appropriate, release the offender on
14 probation. The offender shall be supervised on probation by a state probation and parole officer,
15 who shall work cooperatively with the department of mental health to enroll eligible offenders
16 in community psychiatric rehabilitation (CPR) programs.

17 4. Notwithstanding any other provision of law, probation shall not be granted under this
18 section to offenders who:

19 (1) Have been found guilty of, or plead guilty to, murder in the second degree under
20 section 565.021;

21 (2) Have been found guilty of, or plead guilty to, rape in the first degree under section
22 566.030 or forcible rape under section 566.030 as it existed prior to August 28, 2013;

23 (3) Have been found guilty of, or plead guilty to, statutory rape in the first degree under
24 section 566.032;

25 (4) Have been found guilty of, or plead guilty to, sodomy in the first degree under section
26 566.060 or forcible sodomy under section 566.060 as it existed prior to August 28, 2013;

27 (5) Have been found guilty of, or plead guilty to, statutory sodomy in the first degree
28 under section 566.062;

29 (6) Have been found guilty of, or plead guilty to, child molestation in the first degree
30 under section 566.067 when classified as a class A felony;

31 (7) Have been found to be a predatory sexual offender under section [~~566.125~~] **566.123**;
32 or

33 (8) Have been found guilty of, or plead guilty to, any offense for which there exists a
34 statutory prohibition against either probation or parole.

35 5. At the end of the three-year pilot, the director of the department of corrections and the
36 director of the department of mental health shall jointly submit recommendations to the governor
37 and to the general assembly by December 31, 2015, on whether to expand the process statewide.

565.252. 1. A person commits the offense of invasion of privacy if he or she knowingly:

2 (1) **Views**, photographs, films, videotapes, produces, or otherwise creates an image of
3 another person, without the person's consent, while the person is in a state of full or partial nudity
4 and is in a place where one would have a reasonable expectation of privacy; or

5 (2) **Views**, photographs, films, videotapes, produces, or otherwise creates an image of
6 another person under or through the clothing worn by that other person for the purpose of
7 viewing the body of or the undergarments worn by that other person without that person's
8 consent.

9 2. Invasion of privacy is a class A misdemeanor unless:

10 (1) A person who creates an image in violation of this section distributes the image to
11 another or transmits the image in a manner that allows access to that image via computer;

12 (2) A person disseminates or permits the dissemination by any means, to another person,
13 of a videotape, photograph, or film obtained in violation of this section;

14 (3) More than one person is viewed, photographed, filmed or videotaped during the same
15 course of conduct; or

16 (4) The offense was committed by a person who has previously been found guilty of
17 invasion of privacy,

18
19 in which case invasion of privacy is a class E felony.

20 3. Prior findings of guilt shall be pleaded and proven in the same manner required by the
21 provisions of section 558.021.

22 4. As used in this section, "same course of conduct" means more than one person has
 23 been viewed, photographed, filmed, or videotaped under the same or similar circumstances
 24 pursuant to one scheme or course of conduct, whether at the same or different times.

566.010. As used in this chapter and chapter 568, the following terms mean:

2 (1) "Aggravated sexual offense", any sexual offense, in the course of which, the actor:

3 (a) Inflicts serious physical injury on the victim;

4 (b) Displays a deadly weapon or dangerous instrument in a threatening manner;

5 (c) Subjects the victim to sexual intercourse or deviate sexual intercourse with more than
 6 one person;

7 (d) Had previously been found guilty of an offense under this chapter or under section
 8 573.200, child used in sexual performance; section 573.205, promoting sexual performance by
 9 a child; section 573.023, sexual exploitation of a minor; section 573.025, promoting child
 10 pornography in the first degree; section 573.035, promoting child pornography in the second
 11 degree; section 573.037, possession of child pornography; or section 573.040, furnishing
 12 pornographic materials to minors; or has previously been found guilty of an offense in another
 13 jurisdiction which would constitute an offense under this chapter or said sections;

14 (e) Commits the offense as part of an act or series of acts performed by two or more
 15 persons as part of an established or prescribed pattern of activity; or

16 (f) Engages in the act that constitutes the offense with a person the actor knows to be,
 17 without regard to legitimacy, the actor's:

18 a. Ancestor or descendant by blood or adoption;

19 b. Stepchild while the marriage creating that relationship exists;

20 c. Brother or sister of the whole or half blood; or

21 d. Uncle, aunt, nephew, or niece of the whole blood;

22 (2) "Commercial sex act", any sex act on account of which anything of value is given
 23 to or received by any person;

24 (3) "Deviate sexual intercourse", any act involving the genitals of one person and the
 25 hand, mouth, tongue, or anus of another person or a sexual act involving the penetration,
 26 however slight, of the penis, female genitalia, or the anus by a finger, instrument or object done
 27 for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of
 28 terrorizing the victim;

29 (4) "Forced labor", a condition of servitude induced by means of:

30 (a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that,
 31 if the person does not enter into or continue the servitude, such person or another person will
 32 suffer substantial bodily harm or physical restraint; or

33 (b) The abuse or threatened abuse of the legal process;

34 (5) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;

35 (6) "Sexual contact", any touching of another person with the genitals or any touching
36 of the genitals or anus of another person, or the breast of a female person, or such touching
37 through the clothing, **or causing semen, seminal fluid, or other ejaculate to come into contact**
38 **with another person**, for the purpose of arousing or gratifying the sexual desire of any person
39 or for the purpose of terrorizing the victim;

40 (7) "Sexual intercourse", any penetration, however slight, of the female genitalia by the
41 penis.

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

7 2. The offense of rape in the first degree or an attempt to commit rape in the first degree
8 is a felony for which the authorized term of imprisonment is life imprisonment or a term of years
9 not less than five years, unless:

10 (1) The offense is an aggravated sexual offense, in which case the authorized term of
11 imprisonment is life imprisonment or a term of years not less than fifteen years;

12 (2) The person is **a prior sexual offender or a persistent sexual offender as defined**
13 **in section 566.124 or a predatory sexual offender as defined in section [566.125] 566.123** and
14 subjected to an extended term of imprisonment under said section;

15 (3) The victim is a child less than twelve years of age, in which case the required term
16 of imprisonment is life imprisonment without eligibility for probation or parole until the offender
17 has served not less than thirty years of such sentence or unless the offender has reached the age
18 of seventy-five years and has served at least fifteen years of such sentence, unless such rape in
19 the first degree is described under subdivision (4) of this subsection; or

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

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

28 4. No person found guilty of rape in the first degree or an attempt to commit rape in the
29 first degree shall be granted a suspended imposition of sentence or suspended execution of
30 sentence.

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

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

6 (1) The offense is an aggravated sexual offense, or the victim is less than twelve years
7 of age in which case the authorized term of imprisonment is life imprisonment or a term of years
8 not less than ten years; or

9 (2) The person is **a prior sexual offender or a persistent sexual offender as defined**
10 **in section 566.124** or a predatory sexual offender as defined in section ~~[566.125 and subjected~~
11 ~~to an extended term of imprisonment under said section]~~ **566.123.**

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

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

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

12 (2) The person is **a prior sexual offender or a persistent sexual offender as defined**
13 **in section 566.124** or a predatory sexual offender as defined in section ~~[566.125 and subjected~~
14 ~~to an extended term of imprisonment under said section]~~ **566.123;**

15 (3) The victim is a child less than twelve years of age, in which case the required term
16 of imprisonment is life imprisonment without eligibility for probation or parole until the offender
17 has served not less than thirty years of such sentence or unless the offender has reached the age
18 of seventy-five years and has served at least fifteen years of such sentence, unless such sodomy
19 in the first degree is described under subdivision (4) of this subsection; or

20 (4) The victim is a child less than twelve years of age and such sodomy in the first degree
21 or attempt to commit sodomy in the first degree was outrageously or wantonly vile, horrible or

22 inhumane, in that it involved torture or depravity of mind, in which case the required term of
 23 imprisonment is life imprisonment without eligibility for probation, parole or conditional release.

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

28 4. No person found guilty of sodomy in the first degree or an attempt to commit sodomy
 29 in the first degree shall be granted a suspended imposition of sentence or suspended execution
 30 of sentence.

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

3 2. The offense of statutory sodomy in the first degree or an attempt to commit statutory
 4 sodomy in the first degree is a felony for which the authorized term of imprisonment is life
 5 imprisonment or a term of years not less than five years, unless:

6 (1) The offense is an aggravated sexual offense or the victim is less than twelve years
 7 of age, in which case the authorized term of imprisonment is life imprisonment or a term of years
 8 not less than ten years; or

9 (2) The person is **a prior sexual offender or a persistent sexual offender as defined**
 10 **in section 566.124 or a predatory sexual offender as defined in section [566.125 and subjected**
 11 **to an extended term of imprisonment under said section] 566.123.**

566.086. 1. A person commits the offense of sexual contact with a student if he or she
 2 has sexual contact with a student of the school and is:

3 (1) A teacher, as that term is defined in subdivisions (4), (5), and (7) of section 168.104;

4 (2) A student teacher; [øø]

5 (3) An employee of the school; [øø]

6 (4) A volunteer of the school or of an organization working with the school on a project
 7 or program who is not a student at the school; [øø]

8 (5) An elected or appointed official of the school district; [øø]

9 (6) A person employed by an entity that contracts with the school or school district to
 10 provide services; or

11 (7) **A coach, assistant coach, director, or other adult with a school-aged team, club,**
 12 **or ensemble, regardless of whether such team, club, or ensemble is connected to a school**
 13 **or scholastic association. For purposes of this subdivision, "school-aged team, club, or**
 14 **ensemble" means any group organized for individual or group competition for the**
 15 **performance of sports activities or any group organized for individual or group**
 16 **presentation for fine or performing arts by any child under eighteen years of age.**

17 2. For the purposes of this section, "school" shall mean any public or private school in
18 this state serving kindergarten through grade twelve or any school bus used by the school district.

19 3. The offense of sexual contact with a student is a class E felony.

20 4. It is not a defense to prosecution for a violation of this section that the student
21 consented to the sexual contact.

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

2 (1) **"Predatory sexual offender", any person who has been found guilty of**
3 **committing or attempting to commit a predatory sexual offense and who has, prior to that**
4 **finding:**

5 (a) **Committed another act that would constitute a predatory sexual offense,**
6 **regardless of whether the other act was charged or resulted in a finding of guilt; or**

7 (b) **Committed an act or acts against more than one victim that would constitute**
8 **a predatory sexual offense, whether the defendant was charged with an additional offense**
9 **or offenses as a result of such act or acts;**

10 (2) **"Predatory sexual offense", statutory rape in the first degree, statutory sodomy**
11 **in the first degree, rape in the first degree, sodomy in the first degree, forcible rape,**
12 **forcible sodomy, rape, sodomy, child molestation in the first degree when classified as a**
13 **class A or B felony, child molestation in the second degree when classified as a class A or**
14 **B felony, sexual abuse when classified as a class B felony, sexual abuse in the first degree**
15 **when classified as a class B felony, or an attempt to commit any of these offenses, or the**
16 **commission of an offense in another jurisdiction that if committed in this state would**
17 **constitute the commission of any of the listed offenses.**

18 2. **The court shall sentence a person to life without eligibility for probation or**
19 **parole if it finds the defendant is a predatory sexual offender. Subsection 4 of section**
20 **558.019 shall not apply to any person imprisoned under this subsection for the purposes**
21 **of determining the minimum prison term or the length of sentence as defined or used in**
22 **such subsection. Notwithstanding any other provision of law, in no event shall a person**
23 **found to be a predatory sexual offender receive a final discharge from parole.**

24 3. **Notwithstanding any provision of law, the department of corrections, or any**
25 **division thereof, shall not furlough an individual found to be and sentenced as a prior**
26 **sexual offender or a persistent sexual offender as defined in section 566.124 or a predatory**
27 **sexual offender as defined in this section.**

28 4. **The punishment imposed under this section shall be in addition to any**
29 **punishment provided by law for the offense, of which the defendant has been previously**
30 **found guilty, or the act that would constitute an offense, whether the act was charged or**
31 **resulted in a finding of guilt.**

32 **5. In determining whether a defendant is a predatory sexual offender:**

33 **(1) Prior findings of guilt shall be pleaded and proven in the same manner required**
34 **by the provisions of section 558.021;**

35 **(2) Acts that would constitute an offense that were not charged or did not result in**
36 **a finding of guilt shall be pleaded and proven as follows:**

37 **(a) In a trial without a jury or upon a plea of guilty, the acts shall be pleaded and**
38 **proven in the same manner required under section 558.021. The court may defer the proof**
39 **and findings establishing the defendant is a predatory sexual offender to a later time, but**
40 **prior to sentencing. The facts required to prove the defendant is a predatory sexual**
41 **offender may be established by judicial notice of prior testimony or the plea of guilty;**

42 **(b) Notwithstanding any other provision of law, if an offense is submitted to the**
43 **jury, the trial shall proceed in multiple stages. If the jury at the first stage of a trial finds**
44 **the defendant guilty of the submitted offense, the second stage of the trial shall proceed.**
45 **The issue at the second stage of the trial shall be whether the defendant is a predatory**
46 **sexual offender. The state shall be the first to proceed. The court shall instruct the jury.**
47 **The attorneys may argue the issue of whether the defendant is a predatory sexual offender**
48 **to the jury, and the state shall have the right to open and close the argument. The jury**
49 **shall determine whether the defendant is a predatory sexual offender beyond a reasonable**
50 **doubt. If the jury determines that the defendant is a predatory sexual offender, the court**
51 **shall not seek an advisory verdict from the jury. If the jury determines that the defendant**
52 **is not a predatory sexual offender, a third stage of the trial shall proceed, unless jury**
53 **sentencing is removed under section 557.036. The issue at the third stage of the trial shall**
54 **be the punishment to be assessed and declared. The third stage of the trial shall proceed**
55 **in the same manner required under section 557.036. The parties may present additional**
56 **evidence in this stage and may argue evidence presented at the first stage or the second**
57 **stage.**

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

2 **(1) "Persistent sexual offender", a person who has been found guilty of two or more**
3 **sexual offenses;**

4 **(2) "Prior sexual offender", a person who has been found guilty of one sexual**
5 **offense;**

6 **(3) "Sexual offense", any offense under chapter 566, or an attempt to commit any**
7 **of these offenses, or the commission of an offense in another jurisdiction that if committed**
8 **in this state would constitute the commission of any of the listed offenses, or any offense**
9 **that requires registration under section 589.400.**

10 **2. No court shall suspend the imposition of sentence as to a prior or persistent**
11 **sexual offender under this section nor sentence such person to pay a fine in lieu of a term**
12 **of imprisonment, section 557.011 to the contrary notwithstanding, nor shall such person**
13 **be eligible for parole or probation until such person has served a minimum of three years'**
14 **imprisonment.**

15 **3. The court shall find the defendant to be a prior sexual offender or persistent**
16 **sexual offender if:**

17 **(1) The indictment or information, original or amended, or the information in lieu**
18 **of an indictment pleads all essential facts warranting a finding that the defendant is a prior**
19 **sexual offender or persistent sexual offender;**

20 **(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a**
21 **finding beyond a reasonable doubt the defendant is a prior sexual offender or persistent**
22 **sexual offender; and**

23 **(3) The court makes findings of fact that warrant a finding beyond a reasonable**
24 **doubt that the defendant is a prior sexual offender or persistent sexual offender.**

25 **4. In a jury trial, such facts shall be pleaded, established, and found prior to**
26 **submission to the jury outside of its hearing.**

27 **5. In a trial without a jury or upon a plea of guilty, the court may defer the proof**
28 **in findings of such facts to a later time, but prior to sentencing.**

29 **6. The defendant shall be accorded full rights of confrontation and**
30 **cross-examination, with the opportunity to present evidence, at such hearings.**

31 **7. The defendant may waive proof of the facts alleged.**

32 **8. Nothing in this section shall prevent the use of presentence investigations or**
33 **commitments.**

34 **9. At the sentencing hearing, both the state and the defendant shall be permitted**
35 **to present additional information bearing on the issue of sentence.**

36 **10. The findings of guilt shall be prior to the date of commission of the present**
37 **offense.**

38 **11. The court shall not instruct the jury as to the range of punishment or allow the**
39 **jury, upon a finding of guilt, to assess and declare the punishment as part of its verdict in**
40 **cases of prior sexual offenders or persistent sexual offenders.**

41 **12. Evidence of prior findings of guilt shall be heard and determined by the trial**
42 **court out of the hearing of the jury prior to the submission of the case to the jury and shall**
43 **include, but not be limited to, evidence of findings of guilt received by a search of the**
44 **records of the Missouri uniform law enforcement system maintained by the Missouri state**
45 **highway patrol. After hearing the evidence, the court shall enter its findings thereon.**

46 **13. The court shall sentence a person who has been found to be a prior sexual**
 47 **offender to the authorized term of imprisonment for the class one class step higher than**
 48 **the offense for which the person was found guilty.**

49 **14. The court shall sentence a person who has been found to be a persistent sexual**
 50 **offender to the authorized term of imprisonment for the class two steps higher than the**
 51 **offense for which the person was found guilty. A person found to be a persistent sexual**
 52 **offender who is found guilty of a class B felony shall be sentenced to the authorized term**
 53 **of imprisonment for a class A felony. A person found to be a prior or persistent sexual**
 54 **offender who is found guilty of a class A felony or a felony for which the maximum**
 55 **punishment is thirty years or more shall be sentenced to life imprisonment without the**
 56 **eligibility for probation or parole.**

 571.070. 1. A person commits the offense 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. **For purposes of this section,**
 8 **"fugitive from justice" means any person who has fled from the jurisdiction of any court**
 9 **of record to avoid prosecution for any felony offense. The term shall also include any**
 10 **person who has pled guilty to or been convicted of any felony offense and has fled to avoid**
 11 **case disposition.**

12 2. Unlawful possession of a firearm is a class D felony.

13 3. The provisions of subdivision (1) of subsection 1 of this section shall not apply to the
 14 possession of an antique firearm.

 575.150. 1. A person commits the offense of resisting ~~[or]~~ , interfering with ~~[arrest,~~
 2 ~~detention, or stop]~~ , **or escaping from custody** if he or she knows or reasonably should know
 3 that a law enforcement officer is ~~[making an arrest or attempting to lawfully detain or stop]~~
 4 **attempting to obtain custody of** an individual or vehicle, and for the purpose of preventing the
 5 officer from ~~[effecting the]~~ **obtaining such custody or maintaining custody after an** arrest,
 6 stop, or detention, he or she:

7 (1) Resists the ~~[arrest, stop or detention]~~ **officer's attempted custody** of such person by
 8 using or threatening the use of violence or physical force or by fleeing from such officer; ~~[or]~~

9 (2) **While being held in custody after a stop, detention, or an arrest has been made,**
 10 **escapes or attempts to escape from such custody; or**

11 (3) Interferes with ~~[the arrest, stop or detention]~~ **a law enforcement officer's attempt**
12 **to obtain custody** of another person by using or threatening the use of violence, physical force
13 or physical interference.

14 2. This section applies to:

15 (1) ~~[Arrests, stops, or detentions]~~ **Attempts to obtain custody**, with or without warrants;

16 (2) ~~[Arrests, stops, or detentions]~~ **Attempts to obtain custody or actual custody**, for
17 any offense, infraction, or ordinance violation; and

18 (3) ~~[Arrests]~~ **Attempts to obtain custody** for warrants issued by a court or a probation
19 and parole officer.

20 3. A person is presumed to be fleeing ~~[a vehicle stop]~~ **an attempt to obtain custody** if
21 he or she continues to operate a motor vehicle after he or she has seen or should have seen clearly
22 visible emergency lights or has heard or should have heard an audible signal emanating from the
23 law enforcement vehicle pursuing him or her.

24 4. It is no defense to a prosecution pursuant to subsection 1 of this section that the law
25 enforcement officer was acting unlawfully in ~~[making the arrest]~~ **attempting to obtain custody**.
26 However, nothing in this section shall be construed to bar civil suits for unlawful arrest.

27 5. The offense of resisting or interfering with an ~~[arrest]~~ **attempt to obtain custody,**
28 **escaping from or attempting to escape from an attempt to obtain custody, or escaping or**
29 **attempting to escape from custody** is a class E felony for an ~~[arrest]~~ **attempt to obtain custody**
30 **or from custody** for a:

31 (1) Felony;

32 (2) Warrant issued for failure to appear on a felony case; or

33 (3) Warrant issued for a probation violation on a felony case,

34

35 **unless a person is escaping or attempting to escape while in custody for any offense by**
36 **means of a deadly weapon or dangerous instrument or by holding any person hostage, in**
37 **which case it is a class A felony.**

38 6. The offense of resisting **or interfering with an** ~~[arrest, detention or stop]~~ **attempt to**
39 **obtain custody or escaping from custody for a misdemeanor or an infraction** in violation
40 of subdivision (1) or (2) of subsection 1 of this section is a class A misdemeanor, unless the
41 person fleeing creates a substantial risk of serious physical injury or death to any person, in
42 which case it is a class E felony.

43 7. **As used in this section, "custody" means physical restraint of a person, or control**
44 **by or submission to the authority of the law enforcement officer attempting to obtain such**
45 **custody.**

- 577.010. 1. A person commits the offense of driving while intoxicated if he or she
2 operates a vehicle while in an intoxicated condition.
- 3 2. The offense of driving while intoxicated is:
- 4 (1) A class B misdemeanor;
- 5 (2) A class A misdemeanor if:
- 6 (a) The defendant is a prior offender; or
- 7 (b) A person less than seventeen years of age is present in the vehicle;
- 8 (3) A class E felony if:
- 9 (a) The defendant is a persistent offender; or
- 10 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
11 physical injury to another person;
- 12 (4) A class D felony if:
- 13 (a) The defendant is an aggravated offender;
- 14 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
15 physical injury to a law enforcement officer or emergency personnel; or
- 16 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
17 serious physical injury to another person;
- 18 (5) A class C felony if:
- 19 (a) The defendant is a chronic offender;
- 20 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
21 serious physical injury to a law enforcement officer or emergency personnel; or
- 22 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
23 the death of another person;
- 24 (6) A class B felony if:
- 25 (a) The defendant is a habitual offender;
- 26 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
27 the death of a law enforcement officer or emergency personnel;
- 28 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
29 the death of any person not a passenger in the vehicle operated by the defendant, including the
30 death of an individual that results from the defendant's vehicle leaving a highway, as defined in
31 section 301.010, or the highway's right-of-way;
- 32 (d) While driving while intoxicated, the defendant acts with criminal negligence to cause
33 the death of two or more persons; or
- 34 (e) While driving while intoxicated, the defendant acts with criminal negligence to cause
35 the death of any person while he or she has a blood alcohol content of at least eighteen-
36 hundredths of one percent by weight of alcohol in such person's blood;

37 (7) A class A felony if the defendant has previously been found guilty of an offense
38 under paragraphs (a) to (e) of subdivision (6) of this subsection and is found guilty of a
39 subsequent violation of such paragraphs.

40 3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty
41 of the offense of driving while intoxicated as a first offense shall not be granted a suspended
42 imposition of sentence:

43 (1) Unless such person shall be placed on probation for a minimum of two years; or

44 (2) In a circuit where a DWI court or docket created under section 478.007 or other
45 court-ordered treatment program is available, and where the offense was committed with fifteen-
46 hundredths of one percent or more by weight of alcohol in such person's blood, unless the
47 individual participates and successfully completes a program under such DWI court or docket
48 or other court-ordered treatment program.

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

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

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

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

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

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

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

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

70 (b) The offender participates in and successfully completes a program established under
71 section 478.007 or other court-ordered treatment program, if available, and as part of either

72 program, the offender performs at least thirty days of community service under the supervision
73 of the court;

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

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

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

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

85 (5) As [~~a chronic or habitual offender~~] **an offender guilty of a class B or C felony** shall
86 not be eligible for parole or probation until he or she has served a minimum of two years
87 imprisonment; and

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

589.407. 1. Any registration pursuant to sections 589.400 to 589.425 shall consist of
2 completion of an offender registration form developed by the Missouri state highway patrol or
3 other format approved by the Missouri state highway patrol. Such form shall consist of a
4 statement, including the signature of the offender, and shall include, but is not limited to, the
5 following:

6 (1) A statement in writing signed by the person, giving the name, address, date of birth,
7 Social Security number, and phone number of the person, the license plate number and vehicle
8 description, including the year, make, model, and color of each vehicle owned or operated by the
9 offender, any online identifiers, as defined in section 43.651, used by the person, the place of
10 employment of such person, enrollment within any institutions of higher education, the crime
11 which requires registration, whether the person was sentenced as a **prior sexual offender or a**
12 **persistent sexual offender under section 566.124** or a predatory **sexual** offender pursuant to
13 section [~~566.125~~] **566.123**, the date, place, and a brief description of such crime, the date and
14 place of the conviction or plea regarding such crime, the age and gender of the victim at the time
15 of the offense and whether the person successfully completed the Missouri sexual offender
16 program pursuant to section 589.040, if applicable;

17 (2) The fingerprints and palm prints of the person;

18 (3) Unless the offender's appearance has not changed significantly, a photograph of such
 19 offender as follows:

20 (a) Quarterly if a tier III sex offender under section 589.414. Such photograph shall be
 21 taken every ninety days beginning in the month of the person's birth;

22 (b) Semiannually if a tier II sex offender. Such photograph shall be taken in the month
 23 of the person's birth and six months thereafter; and

24 (c) Yearly if a tier I sex offender. Such photograph shall be taken in the month of the
 25 person's birth; and

26 (4) A DNA sample from the individual, if a sample has not already been obtained.

27 2. The offender shall provide positive identification and documentation to substantiate
 28 the accuracy of the information completed on the offender registration form, including but not
 29 limited to the following:

30 (1) A photocopy of a valid driver's license or nondriver's identification card;

31 (2) A document verifying proof of the offender's residency; and

32 (3) A photocopy of the vehicle registration for each of the offender's vehicles.

33 3. The Missouri state highway patrol shall maintain all required registration information
 34 in digitized form.

35 4. Upon receipt of any changes to an offender's registration information contained in this
 36 section, the Missouri state highway patrol shall immediately notify all other jurisdictions in
 37 which the offender is either registered or required to register.

38 5. The offender shall be responsible for reviewing his or her existing registration
 39 information for accuracy at every regular in-person appearance and, if any inaccuracies are
 40 found, provide proof of the information in question.

41 6. The signed offender registration form shall serve as proof that the individual
 42 understands his or her duty to register as a sexual offender under sections 589.400 to 589.425
 43 and a statement to this effect shall be included on the form that the individual is required to sign
 44 at each registration.

589.414. 1. Any person required by sections 589.400 to 589.425 to register shall, within
 2 three business days, appear in person to the chief law enforcement officer of the county or city
 3 not within a county if there is a change to any of the following information:

4 (1) Name;

5 (2) Residence;

6 (3) Employment, including status as a volunteer or intern;

7 (4) Student status; or

8 (5) A termination to any of the items listed in this subsection.

9 2. Any person required to register under sections 589.400 to 589.425 shall, within three
10 business days, notify the chief law enforcement official of the county or city not within a county
11 of any changes to the following information:

12 (1) Vehicle information;

13 (2) Temporary lodging information;

14 (3) Temporary residence information;

15 (4) Email addresses, instant messaging addresses, and any other designations used in
16 internet communications, postings, or telephone communications; or

17 (5) Telephone or other cellular number, including any new forms of electronic
18 communication.

19 3. The chief law enforcement official in the county or city not within a county shall
20 immediately forward the registration changes described under subsections 1 and 2 of this section
21 to the Missouri state highway patrol within three business days.

22 4. If any person required by sections 589.400 to 589.425 to register changes such
23 person's residence or address to a different county or city not within a county, the person shall
24 appear in person and shall inform both the chief law enforcement official with whom the person
25 last registered and the chief law enforcement official of the county or city not within a county
26 having jurisdiction over the new residence or address in writing within three business days of
27 such new address and phone number, if the phone number is also changed. If any person
28 required by sections 589.400 to 589.425 to register changes his or her state, territory, the District
29 of Columbia, or foreign country, or federal, tribal, or military jurisdiction of residence, the person
30 shall appear in person and shall inform both the chief law enforcement official with whom the
31 person was last registered and the chief law enforcement official of the area in the new state,
32 territory, the District of Columbia, or foreign country, or federal, tribal, or military jurisdiction
33 having jurisdiction over the new residence or address within three business days of such new
34 address. Whenever a registrant changes residence, the chief law enforcement official of the
35 county or city not within a county where the person was previously registered shall inform the
36 Missouri state highway patrol of the change within three business days. When the registrant is
37 changing the residence to a new state, territory, the District of Columbia, or foreign country, or
38 federal, tribal, or military jurisdiction, the Missouri state highway patrol shall inform the
39 responsible official in the new state, territory, the District of Columbia, or foreign country, or
40 federal, tribal, or military jurisdiction of residence within three business days.

41 5. Tier I sexual offenders, in addition to the requirements of subsections 1 to 4 of this
42 section, shall report in person to the chief law enforcement official annually in the month of their
43 birth to verify the information contained in their statement made pursuant to section 589.407.

44 Tier I sexual offenders include:

- 45 (1) Any offender who has been adjudicated for the offense of:
46 (a) Sexual abuse in the first degree under section 566.100 if the victim is eighteen years
47 of age or older;
48 (b) Sexual misconduct involving a child under section 566.083 if it is a first offense and
49 the punishment is less than one year;
50 (c) Sexual abuse in the second degree under section 566.101 if the punishment is less
51 than a year;
52 (d) Kidnapping in the second degree under section 565.120 with sexual motivation;
53 (e) Kidnapping in the third degree under section 565.130;
54 (f) Sexual conduct with a nursing facility resident or vulnerable person in the first degree
55 under section 566.115 if the punishment is less than one year;
56 (g) Sexual conduct under section 566.116 with a nursing facility resident or vulnerable
57 person;
58 (h) Sexual [~~contact~~] **conduct** with a prisoner or offender under section 566.145 if the
59 victim is eighteen years of age or older;
60 (i) Sex with an animal under section 566.111;
61 (j) Trafficking for the purpose of sexual exploitation under section 566.209 if the victim
62 is eighteen years of age or older;
63 (k) Possession of child pornography under section 573.037;
64 (l) Sexual misconduct in the first degree under section 566.093;
65 (m) Sexual misconduct in the second degree under section 566.095;
66 (n) Child molestation in the second degree under section 566.068 as it existed prior to
67 January 1, 2017, if the punishment is less than one year; or
68 (o) Invasion of privacy under section 565.252 if the victim is less than eighteen years of
69 age;
- 70 (2) Any offender who is or has been adjudicated in any other state, territory, the District
71 of Columbia, or foreign country, or under federal, tribal, or military jurisdiction of an offense of
72 a sexual nature or with a sexual element that is comparable to the tier I sexual offenses listed in
73 this subsection or, if not comparable to those in this subsection, comparable to those described
74 as tier I offenses under the Sex Offender Registration and Notification Act, Title I of the Adam
75 Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248.
- 76 6. Tier II sexual offenders, in addition to the requirements of subsections 1 to 4 of this
77 section, shall report semiannually in person in the month of their birth and six months thereafter
78 to the chief law enforcement official to verify the information contained in their statement made
79 pursuant to section 589.407. Tier II sexual offenders include:
- 80 (1) Any offender who has been adjudicated for the offense of:

81 (a) Statutory sodomy in the second degree under section 566.064 if the victim is sixteen
82 to seventeen years of age;

83 (b) Child molestation in the third degree under section 566.069 if the victim is between
84 thirteen and fourteen years of age;

85 (c) Sexual contact with a student under section 566.086 if the victim is thirteen to
86 seventeen years of age;

87 (d) Enticement of a child under section 566.151;

88 (e) Abuse of a child under section 568.060 if the offense is of a sexual nature and the
89 victim is thirteen to seventeen years of age;

90 (f) Sexual exploitation of a minor under section 573.023;

91 (g) Promoting child pornography in the first degree under section 573.025;

92 (h) Promoting child pornography in the second degree under section 573.035;

93 (i) Patronizing prostitution under section 567.030;

94 (j) Sexual contact with a prisoner or offender under section 566.145 if the victim is
95 thirteen to seventeen years of age;

96 (k) Child molestation in the fourth degree under section 566.071 if the victim is thirteen
97 to seventeen years of age;

98 (l) Sexual misconduct involving a child under section 566.083 if it is a first offense and
99 the penalty is a term of imprisonment of more than a year; or

100 (m) Age misrepresentation with intent to solicit a minor under section 566.153;

101 (2) Any person who is adjudicated of an offense comparable to a tier I offense listed in
102 this section or failure to register offense under section 589.425 or comparable out-of-state failure
103 to register offense and who is already required to register as a tier I offender due to having been
104 adjudicated of a tier I offense on a previous occasion; or

105 (3) Any person who is or has been adjudicated in any other state, territory, the District
106 of Columbia, or foreign country, or under federal, tribal, or military jurisdiction for an offense
107 of a sexual nature or with a sexual element that is comparable to the tier II sexual offenses listed
108 in this subsection or, if not comparable to those in this subsection, comparable to those described
109 as tier II offenses under the Sex Offender Registration and Notification Act, Title I of the Adam
110 Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248.

111 7. Tier III sexual offenders, in addition to the requirements of subsections 1 to 4 of this
112 section, shall report in person to the chief law enforcement official every ninety days to verify
113 the information contained in their statement made under section 589.407. Tier III sexual
114 offenders include:

115 (1) Any offender registered as a predatory sexual offender as defined in section 566.123
116 or **a prior sexual offender** or a persistent sexual offender as defined in section 566.124;

- 117 (2) Any offender who has been adjudicated for the crime of:
118 (a) Rape in the first degree under section 566.030;
119 (b) Statutory rape in the first degree under section 566.032;
120 (c) Rape in the second degree under section 566.031;
121 (d) Endangering the welfare of a child in the first degree under section 568.045 if the
122 offense is sexual in nature;
123 (e) Sodomy in the first degree under section 566.060;
124 (f) Statutory sodomy under section 566.062;
125 (g) Statutory sodomy under section 566.064 if the victim is under sixteen years of age;
126 (h) Sodomy in the second degree under section 566.061;
127 (i) Sexual misconduct involving a child under section 566.083 if the offense is a second
128 or subsequent offense;
129 (j) Sexual abuse in the first degree under section 566.100 if the victim is under thirteen
130 years of age;
131 (k) Kidnapping in the first degree under section 565.110 if the victim is under eighteen
132 years of age, excluding kidnapping by a parent or guardian;
133 (l) Child kidnapping under section 565.115;
134 (m) Sexual conduct with a nursing facility resident or vulnerable person in the first
135 degree under section 566.115 if the punishment is greater than a year;
136 (n) Incest under section 568.020;
137 (o) Endangering the welfare of a child in the first degree under section 568.045 with
138 sexual intercourse or deviate sexual intercourse with a victim under eighteen years of age;
139 (p) Child molestation in the first degree under section 566.067;
140 (q) Child molestation in the second degree under section 566.068;
141 (r) Child molestation in the third degree under section 566.069 if the victim is under
142 thirteen years of age;
143 (s) Promoting prostitution in the first degree under section 567.050 if the victim is under
144 eighteen years of age;
145 (t) Promoting prostitution in the second degree under section 567.060 if the victim is
146 under eighteen years of age;
147 (u) Promoting prostitution in the third degree under section 567.070 if the victim is under
148 eighteen years of age;
149 (v) Promoting travel for prostitution under section 567.085 if the victim is under
150 eighteen years of age;
151 (w) Trafficking for the purpose of sexual exploitation under section 566.209 if the victim
152 is under eighteen years of age;

- 153 (x) Sexual trafficking of a child in the first degree under section 566.210;
154 (y) Sexual trafficking of a child in the second degree under section 566.211;
155 (z) Genital mutilation of a female child under section 568.065;
156 (aa) Statutory rape in the second degree under section 566.034;
157 (bb) Child molestation in the fourth degree under section 566.071 if the victim is under
158 thirteen years of age;
159 (cc) Sexual abuse in the second degree under section 566.101 if the penalty is a term of
160 imprisonment of more than a year;
161 (dd) Patronizing prostitution under section 567.030 if the offender is a persistent
162 offender;
163 (ee) Abuse of a child under section 568.060 if the offense is of a sexual nature and the
164 victim is under thirteen years of age;
165 (ff) Sexual [~~contact~~] **conduct** with a prisoner or offender under section 566.145 if the
166 victim is under thirteen years of age;
167 (gg) Sexual [~~intercourse~~] **conduct** with a prisoner or offender under section 566.145;
168 (hh) Sexual contact with a student under section 566.086 if the victim is under thirteen
169 years of age;
170 (ii) Use of a child in a sexual performance under section 573.200; or
171 (jj) Promoting a sexual performance by a child under section 573.205;
172 (3) Any offender who is adjudicated for a crime comparable to a tier I or tier II offense
173 listed in this section or failure to register offense under section 589.425, or other comparable
174 out-of-state failure to register offense, who has been or is already required to register as a tier II
175 offender because of having been adjudicated for a tier II offense, two tier I offenses, or
176 combination of a tier I offense and failure to register offense, on a previous occasion;
177 (4) Any offender who is adjudicated in any other state, territory, the District of
178 Columbia, or foreign country, or under federal, tribal, or military jurisdiction for an offense of
179 a sexual nature or with a sexual element that is comparable to a tier III offense listed in this
180 section or a tier III offense under the Sex Offender Registration and Notification Act, Title I of
181 the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248; or
182 (5) Any offender who is adjudicated in Missouri for any offense of a sexual nature
183 requiring registration under sections 589.400 to 589.425 that is not classified as a tier I or tier II
184 offense in this section.
- 185 8. In addition to the requirements of subsections 1 to 7 of this section, all Missouri
186 registrants who work, including as a volunteer or unpaid intern, or attend any school whether
187 public or private, including any secondary school, trade school, professional school, or institution
188 of higher education, on a full-time or part-time basis or have a temporary residence in this state

189 shall be required to report in person to the chief law enforcement officer in the area of the state
190 where they work, including as a volunteer or unpaid intern, or attend any school or training and
191 register in that state. "Part-time" in this subsection means for more than seven days in any
192 twelve-month period.

193 9. If a person who is required to register as a sexual offender under sections 589.400 to
194 589.425 changes or obtains a new online identifier as defined in section 43.651, the person shall
195 report such information in the same manner as a change of residence before using such online
196 identifier.

610.140. 1. Notwithstanding any other provision of law and subject to the provisions
2 of this section, any person may apply to any court in which such person was charged or found
3 guilty of any offenses, violations, or infractions for an order to expunge records of such arrest,
4 plea, trial, or conviction. Subject to the limitations of subsection 12 of this section, a person may
5 apply to have one or more offenses, violations, or infractions expunged if such offense, violation,
6 or infraction occurred within the state of Missouri and was prosecuted under the jurisdiction of
7 a Missouri municipal, associate circuit, or circuit court, so long as such person lists all the
8 offenses, violations, and infractions he or she is seeking to have expunged in the petition and so
9 long as all such offenses, violations, and infractions are not excluded under subsection 2 of this
10 section. If the offenses, violations, or infractions were charged as counts in the same indictment
11 or information or were committed as part of the same course of criminal conduct, the person may
12 include all the related offenses, violations, and infractions in the petition, regardless of the limits
13 of subsection 12 of this section, and the petition shall only count as a petition for expungement
14 of the highest level violation or offense contained in the petition for the purpose of determining
15 future eligibility for expungement.

16 2. The following offenses, violations, and infractions shall not be eligible for
17 expungement under this section:

18 (1) Any class A felony offense;

19 (2) Any dangerous felony as that term is defined in section 556.061;

20 (3) Any offense that requires registration as a sex offender;

21 (4) Any felony offense where death is an element of the offense;

22 (5) Any felony offense of assault; misdemeanor or felony offense of domestic assault;
23 or felony offense of kidnapping;

24 (6) Any offense listed, or previously listed, in chapter 566 or section 105.454, 105.478,
25 115.631, 130.028, 188.030, 188.080, 191.677, 194.425, 217.360, 217.385, 334.245, 375.991,
26 389.653, 455.085, 455.538, 557.035, 565.084, 565.085, 565.086, 565.095, 565.120, 565.130,
27 565.156, 565.200, 565.214, 566.093, 566.111, 566.115, 568.020, 568.030, 568.032, 568.045,
28 568.060, 568.065, 568.080, 568.090, 568.175, 569.030, 569.035, 569.040, 569.050, 569.055,

29 569.060, 569.065, 569.067, 569.072, 569.160, 570.025, 570.090, 570.180, 570.223, 570.224,
30 570.310, 571.020, 571.060, 571.063, 571.070, 571.072, 571.150, 574.070, 574.105, 574.115,
31 574.120, 574.130, 575.040, 575.095, 575.153, 575.155, 575.157, 575.159, 575.195, ~~[575.200,]~~
32 575.210, 575.220, 575.230, 575.240, 575.350, 575.353, 577.078, 577.703, 577.706, 578.008,
33 578.305, 578.310, or 632.520;

34 (7) Any offense eligible for expungement under section 577.054 or 610.130;

35 (8) Any intoxication-related traffic or boating offense as defined in section 577.001, or
36 any offense of operating an aircraft with an excessive blood alcohol content or while in an
37 intoxicated condition;

38 (9) Any ordinance violation that is the substantial equivalent of any offense that is not
39 eligible for expungement under this section;

40 (10) Any violation of any state law or county or municipal ordinance regulating the
41 operation of motor vehicles when committed by an individual who has been issued a commercial
42 driver's license or is required to possess a commercial driver's license issued by this state or any
43 other state; and

44 (11) Any offense of section 571.030, except any offense under subdivision (1) of
45 subsection 1 of section 571.030 where the person was convicted or found guilty prior to January
46 1, 2017.

47 3. The petition shall name as defendants all law enforcement agencies, courts,
48 prosecuting or circuit attorneys, municipal prosecuting attorneys, central state repositories of
49 criminal records, or others who the petitioner has reason to believe may possess the records
50 subject to expungement for each of the offenses, violations, and infractions listed in the petition.
51 The court's order of expungement shall not affect any person or entity not named as a defendant
52 in the action.

53 4. The petition shall include the following information:

54 (1) The petitioner's:

55 (a) Full name;

56 (b) Sex;

57 (c) Race;

58 (d) Driver's license number, if applicable; and

59 (e) Current address;

60 (2) Each offense, violation, or infraction for which the petitioner is requesting
61 expungement;

62 (3) The approximate date the petitioner was charged for each offense, violation, or
63 infraction; and

64 (4) The name of the county where the petitioner was charged for each offense, violation,
65 or infraction and if any of the offenses, violations, or infractions occurred in a municipality, the
66 name of the municipality for each offense, violation, or infraction; and

67 (5) The case number and name of the court for each offense.

68 5. The clerk of the court shall give notice of the filing of the petition to the office of the
69 prosecuting attorney, circuit attorney, or municipal prosecuting attorney that prosecuted the
70 offenses, violations, or infractions listed in the petition. If the prosecuting attorney, circuit
71 attorney, or municipal prosecuting attorney objects to the petition for expungement, he or she
72 shall do so in writing within thirty days after receipt of service. Unless otherwise agreed upon
73 by the parties, the court shall hold a hearing within sixty days after any written objection is filed,
74 giving reasonable notice of the hearing to the petitioner. If no objection has been filed within
75 thirty days after receipt of service, the court may set a hearing on the matter and shall give
76 reasonable notice of the hearing to each entity named in the petition. At any hearing, the court
77 may accept evidence and hear testimony on, and may consider, the following criteria for each of
78 the offenses, violations, or infractions listed in the petition for expungement:

79 (1) At the time the petition is filed, it has been at least seven years if the offense is a
80 felony, or at least three years if the offense is a misdemeanor, municipal offense, or infraction,
81 from the date the petitioner completed any authorized disposition imposed under section 557.011
82 for each offense, violation, or infraction listed in the petition;

83 (2) The person has not been found guilty of any other misdemeanor or felony, not
84 including violations of the traffic regulations provided under chapters 304 and 307, during the
85 time period specified for the underlying offense, violation, or infraction in subdivision (1) of this
86 subsection;

87 (3) The person has satisfied all obligations relating to any such disposition, including the
88 payment of any fines or restitution;

89 (4) The person does not have charges pending;

90 (5) The petitioner's habits and conduct demonstrate that the petitioner is not a threat to
91 the public safety of the state; and

92 (6) The expungement is consistent with the public welfare and the interests of justice
93 warrant the expungement.

94

95 A pleading by the petitioner that such petitioner meets the requirements of subdivisions (5) and
96 (6) of this subsection shall create a rebuttable presumption that the expungement is warranted
97 so long as the criteria contained in subdivisions (1) to (4) of this subsection are otherwise
98 satisfied. The burden shall shift to the prosecuting attorney, circuit attorney, or municipal
99 prosecuting attorney to rebut the presumption. A victim of an offense, violation, or infraction

100 listed in the petition shall have an opportunity to be heard at any hearing held under this section,
101 and the court may make a determination based solely on such victim's testimony.

102 6. A petition to expunge records related to an arrest for an eligible offense, violation, or
103 infraction may be made in accordance with the provisions of this section to a court of competent
104 jurisdiction in the county where the petitioner was arrested no earlier than three years from the
105 date of arrest; provided that, during such time, the petitioner has not been charged and the
106 petitioner has not been found guilty of any misdemeanor or felony offense.

107 7. If the court determines that such person meets all the criteria set forth in subsection
108 5 of this section for each of the offenses, violations, or infractions listed in the petition for
109 expungement, the court shall enter an order of expungement. In all cases under this section, the
110 court shall issue an order of expungement or dismissal within six months of the filing of the
111 petition. A copy of the order of expungement shall be provided to the petitioner and each entity
112 possessing records subject to the order, and, upon receipt of the order, each entity shall close any
113 record in its possession relating to any offense, violation, or infraction listed in the petition, in
114 the manner established by section 610.120. The records and files maintained in any
115 administrative or court proceeding in a municipal, associate, or circuit court for any offense,
116 infraction, or violation ordered expunged under this section shall be confidential and only
117 available to the parties or by order of the court for good cause shown. The central repository
118 shall request the Federal Bureau of Investigation to expunge the records from its files.

119 8. The order shall not limit any of the petitioner's rights that were restricted as a collateral
120 consequence of such person's criminal record, and such rights shall be restored upon issuance
121 of the order of expungement. Except as otherwise provided under this section, the effect of such
122 order shall be to restore such person to the status he or she occupied prior to such arrests, pleas,
123 trials, or convictions as if such events had never taken place. No person as to whom such order
124 has been entered shall be held thereafter under any provision of law to be guilty of perjury or
125 otherwise giving a false statement by reason of his or her failure to recite or acknowledge such
126 arrests, pleas, trials, convictions, or expungement in response to an inquiry made of him or her
127 and no such inquiry shall be made for information relating to an expungement, except the
128 petitioner shall disclose the expunged offense, violation, or infraction to any court when asked
129 or upon being charged with any subsequent offense, violation, or infraction. The expunged
130 offense, violation, or infraction may be considered a prior offense in determining a sentence to
131 be imposed for any subsequent offense that the person is found guilty of committing.

132 9. Notwithstanding the provisions of subsection 8 of this section to the contrary, a person
133 granted an expungement shall disclose any expunged offense, violation, or infraction when the
134 disclosure of such information is necessary to complete any application for:

135 (1) A license, certificate, or permit issued by this state to practice such individual's
136 profession;

137 (2) Any license issued under chapter 313 or permit issued under chapter 571;

138 (3) Paid or unpaid employment with an entity licensed under chapter 313, any
139 state-operated lottery, or any emergency services provider, including any law enforcement
140 agency;

141 (4) Employment with any federally insured bank or savings institution or credit union
142 or an affiliate of such institution or credit union for the purposes of compliance with 12 U.S.C.
143 Section 1829 and 12 U.S.C. Section 1785;

144 (5) Employment with any entity engaged in the business of insurance or any insurer for
145 the purpose of complying with 18 U.S.C. Section 1033, 18 U.S.C. Section 1034, or other similar
146 law which requires an employer engaged in the business of insurance to exclude applicants with
147 certain criminal convictions from employment; or

148 (6) Employment with any employer that is required to exclude applicants with certain
149 criminal convictions from employment due to federal or state law, including corresponding rules
150 and regulations.

151

152 An employer shall notify an applicant of the requirements under subdivisions (4) to (6) of this
153 subsection. Notwithstanding any provision of law to the contrary, an expunged offense,
154 violation, or infraction shall not be grounds for automatic disqualification of an applicant, but
155 may be a factor for denying employment, or a professional license, certificate, or permit; except
156 that, an offense, violation, or infraction expunged under the provisions of this section may be
157 grounds for automatic disqualification if the application is for employment under subdivisions
158 (4) to (6) of this subsection.

159 10. A person who has been granted an expungement of records pertaining to a
160 misdemeanor or felony offense, an ordinance violation, or an infraction may answer "no" to an
161 employer's inquiry into whether the person has ever been convicted of a crime if, after the
162 granting of the expungement, the person has no public record of a misdemeanor or felony
163 offense, an ordinance violation, or an infraction. The person, however, shall answer such an
164 inquiry affirmatively and disclose his or her criminal convictions, including any offense or
165 violation expunged under this section or similar law, if the employer is required to exclude
166 applicants with certain criminal convictions from employment due to federal or state law,
167 including corresponding rules and regulations.

168 11. If the court determines that the petitioner has not met the criteria for any of the
169 offenses, violations, or infractions listed in the petition for expungement or the petitioner has
170 knowingly provided false information in the petition, the court shall enter an order dismissing

171 the petition. Any person whose petition for expungement has been dismissed by the court for
 172 failure to meet the criteria set forth in subsection 5 of this section may not refile another petition
 173 until a year has passed since the date of filing for the previous petition.

174 12. A person may be granted more than one expungement under this section provided
 175 that during his or her lifetime, the total number of offenses, violations, or infractions for which
 176 orders of expungement are granted to the person shall not exceed the following limits:

177 (1) Not more than two misdemeanor offenses or ordinance violations that have an
 178 authorized term of imprisonment; and

179 (2) Not more than one felony offense.

180

181 A person may be granted expungement under this section for any number of infractions. Nothing
 182 in this section shall prevent the court from maintaining records to ensure that an individual has
 183 not exceeded the limitations of this subsection. Nothing in this section shall be construed to
 184 limit or impair in any way the subsequent use of any record expunged under this section of any
 185 arrests or findings of guilt by a law enforcement agency, criminal justice agency, prosecuting
 186 attorney, circuit attorney, or municipal prosecuting attorney, including its use as a prior offense,
 187 violation, or infraction.

188 13. The court shall make available a form for pro se petitioners seeking expungement,
 189 which shall include the following statement: "I declare under penalty of perjury that the
 190 statements made herein are true and correct to the best of my knowledge, information, and
 191 belief."

192 14. Nothing in this section shall be construed to limit or restrict the availability of
 193 expungement to any person under any other law.

~~2 [566.125. 1. The court shall sentence a person to an extended term of
 3 imprisonment if it finds the defendant is a persistent sexual offender and has been
 4 found guilty of attempting to commit or committing the following offenses:~~

~~4 (1) Statutory rape in the first degree or statutory sodomy in the first
 5 degree;~~

~~6 (2) Rape in the first degree or sodomy in the first degree;~~

~~7 (3) Foreible rape;~~

~~8 (4) Forcible sodomy;~~

~~9 (5) Rape;~~

~~10 (6) Sodomy.~~

~~11 2. A "persistent sexual offender" is one who has previously been found
 12 guilty of attempting to commit or committing any of the offenses listed in
 13 subsection 1 of this section or one who has previously been found guilty of an
 14 offense in any other jurisdiction which would constitute any of the offenses listed
 15 in subsection 1 of this section.~~

16 ~~3. The term of imprisonment for one found to be a persistent sexual~~
 17 ~~offender shall be imprisonment for life without eligibility for probation or parole.~~
 18 ~~Subsection 4 of section 558.019 shall not apply to any person imprisoned under~~
 19 ~~this subsection, and "imprisonment for life" shall mean imprisonment for the~~
 20 ~~duration of the person's natural life.~~

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

27 ~~5. For purposes of this section, a "predatory sexual offender" is a person~~
 28 ~~who:~~

29 ~~(1) Has previously been found guilty of committing or attempting to~~
 30 ~~commit any of the offenses listed in subsection 1 of this section, or committing~~
 31 ~~child molestation in the first or second degree, or sexual abuse when classified~~
 32 ~~as a class B felony; or~~

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

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

40 ~~6. A person found to be a predatory sexual offender shall be imprisoned~~
 41 ~~for life with eligibility for parole, however subsection 4 of section 558.019 shall~~
 42 ~~not apply to persons found to be predatory sexual offenders for the purposes of~~
 43 ~~determining the minimum prison term or the length of sentence as defined or~~
 44 ~~used in such subsection. Notwithstanding any other provision of law, in no event~~
 45 ~~shall a person found to be a predatory sexual offender receive a final discharge~~
 46 ~~from parole.~~

47 ~~7. Notwithstanding any other provision of law, the court shall set the~~
 48 ~~minimum time required to be served before a predatory sexual offender is eligible~~
 49 ~~for parole, conditional release or other early release by the department of~~
 50 ~~corrections. The minimum time to be served by a person found to be a predatory~~
 51 ~~sexual offender who:~~

52 ~~(1) Has previously been found guilty of committing or attempting to~~
 53 ~~commit any of the offenses listed in subsection 1 of this section and is found~~
 54 ~~guilty of committing or attempting to commit any of the offenses listed in~~
 55 ~~subsection 1 of this section shall be any number of years but not less than thirty~~
 56 ~~years;~~

57 ~~(2) Has previously been found guilty of child molestation in the first or~~
 58 ~~second degree, or sexual abuse when classified as a class B felony and is found~~

59 ~~guilty of attempting to commit or committing any of the offenses listed in~~
60 ~~subsection 1 of this section shall be any number of years but not less than fifteen~~
61 ~~years;~~

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

66 ~~(4) Has previously been found guilty of child molestation in the first~~
67 ~~degree or second degree, or sexual abuse when classified as a class B felony, and~~
68 ~~is found guilty of child molestation in the first or second degree, or sexual abuse~~
69 ~~when classified as a class B felony shall be any number of years but not less than~~
70 ~~fifteen years;~~

71 ~~(5) Is found to be a predatory sexual offender pursuant to subdivision (2)~~
72 ~~or (3) of subsection 5 of this section shall be any number of years within the~~
73 ~~range to which the person could have been sentenced pursuant to the applicable~~
74 ~~law if the person was not found to be a predatory sexual offender.~~

75 ~~8. Notwithstanding any provision of law to the contrary, the department~~
76 ~~of corrections, or any division thereof, may not furlough an individual found to~~
77 ~~be and sentenced as a persistent sexual offender or a predatory sexual offender.]~~
78

~~[575.200. 1. A person commits the offense of escape from custody or~~
2 ~~attempted escape from custody if, while being held in custody after arrest for any~~
3 ~~crime, he or she escapes or attempts to escape from custody.~~

4 ~~2. The offense of escape or attempted escape from custody is a class A~~
5 ~~misdemeanor unless:~~

6 ~~(1) The person escaping or attempting to escape is under arrest for a~~
7 ~~felony, in which case it is a class E felony; or~~

8 ~~(2) The offense is committed by means of a deadly weapon or dangerous~~
9 ~~instrument or by holding any person as hostage, in which case it is a class A~~
10 ~~felony.]~~

✓