

SECOND REGULAR SESSION

# SENATE BILL NO. 663

98TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR DIXON.

Pre-filed December 1, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4336S.011

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## AN ACT

To repeal sections 192.2260, 192.2405, 217.360, 301.559, 339.100, 400.9-501, 565.030, 565.032, 565.040, 571.020, 571.030, 571.060, 571.063, 571.070, 571.072, 578.005, 578.007, 578.011, and 632.520, RSMo, section 192.2410 as enacted by house revision bill no. 1299 merged with senate bill no. 491, ninety-seventh general assembly, second regular session, section 198.070 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session and section 198.070 as enacted by senate bills nos. 556 & 311, ninety-second general assembly, first regular session, section 221.111 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 565.188 as enacted by senate bills nos. 556 & 311, ninety-second general assembly, first regular session, section 565.225 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 565.225 as enacted by senate bills nos. 818 & 795, ninety-fourth general assembly, second regular session, section 577.001 as enacted by senate bill no. 254, ninety-eighth general assembly, first regular session, and section 577.037 as enacted by house bill no. 1371, ninety-seventh general assembly, second regular session, and to enact in lieu thereof twenty-six new sections relating to the sole purpose of restructuring the Missouri criminal code, with penalty provisions, and an effective date.

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

Section A. Sections 192.2260, 192.2405, 217.360, 301.559, 339.100, 400.9-  
2 501, 565.030, 565.032, 565.040, 571.020, 571.030, 571.060, 571.063, 571.070,  
3 571.072, 578.005, 578.007, 578.011, and 632.520, RSMo, section 192.2410 as  
4 enacted by house revision bill no. 1299 merged with senate bill no. 491, ninety-

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

5 seventh general assembly, second regular session, section 198.070 as enacted by  
6 senate bill no. 491, ninety-seventh general assembly, second regular session and  
7 section 198.070 as enacted by senate bills nos. 556 & 311, ninety-second general  
8 assembly, first regular session, section 221.111 as enacted by senate bill no. 491,  
9 ninety-seventh general assembly, second regular session, section 565.188 as  
10 enacted by senate bills nos. 556 & 311, ninety-second general assembly, first  
11 regular session, section 565.225 as enacted by senate bill no. 491, ninety-seventh  
12 general assembly, second regular session, section 565.225 as enacted by senate  
13 bills nos. 818 & 795, ninety-fourth general assembly, second regular session,  
14 section 577.001 as enacted by senate bill no. 254, ninety-eighth general assembly,  
15 first regular session, and section 577.037 as enacted by house bill no. 1371,  
16 ninety-seventh general assembly, second regular session, are repealed and  
17 twenty-six new sections enacted in lieu thereof, to be known as sections 192.2260,  
18 192.2405, 192.2410, 198.070, 217.360, 221.111, 301.559, 339.100, 400.9-501,  
19 565.030, 565.032, 565.040, 565.188, 565.225, 571.020, 571.030, 571.060, 571.063,  
20 571.070, 571.072, 577.001, 577.037, 578.005, 578.007, 578.040, and 632.520, to  
21 read as follows:

192.2260. 1. Any person who violates any provision of sections 192.2200  
2 to 192.2260, or who, for himself or for any other person, makes materially false  
3 statements in order to obtain a certificate or license, or the renewal thereof,  
4 issued pursuant to sections 192.2200 to 192.2260, shall be guilty of a class A  
5 misdemeanor. Any person violating this subsection wherein abuse or neglect of  
6 a participant of the program has occurred is guilty of a class [D] E felony.

7 2. Any person who is convicted pursuant to this section shall, in addition  
8 to all other penalties provided by law, have any license issued to him under  
9 sections 192.2200 to 192.2260 revoked, and shall not operate, nor hold any license  
10 to operate, any adult day care program, or other entity governed by the provisions  
11 of sections 192.2200 to 192.2260 for a period of three years after such conviction.

192.2405. 1. The following persons shall be required to immediately  
2 report or cause a report to be made to the department under sections 192.2400  
3 to 192.2470:

4 (1) Any person having reasonable cause to suspect that an eligible adult  
5 presents a likelihood of suffering serious physical harm and is in need of  
6 protective services; and

7 (2) Any adult day care worker, chiropractor, Christian Science  
8 practitioner, coroner, dentist, embalmer, employee of the departments of social

9 services, mental health, or health and senior services, employee of a local area  
10 agency on aging or an organized area agency on aging program, funeral director,  
11 home health agency, home health agency employee, hospital and clinic personnel  
12 engaged in the care or treatment of others, in-home services owner or provider,  
13 in-home services operator or employee, law enforcement officer, long-term care  
14 facility administrator or employee, medical examiner, medical resident or intern,  
15 mental health professional, minister, nurse, nurse practitioner, optometrist, other  
16 health practitioner, peace officer, pharmacist, physical therapist, physician,  
17 physician's assistant, podiatrist, probation or parole officer, psychologist, social  
18 worker, or other person with the responsibility for the care of [a person sixty  
19 years of age or older] **an eligible adult** who has reasonable cause to suspect  
20 that [such a person] **the eligible adult** has been subjected to abuse or neglect  
21 or observes [such a person] **the eligible adult** being subjected to conditions or  
22 circumstances which would reasonably result in abuse or  
23 neglect. Notwithstanding any other provision of this section, a duly ordained  
24 minister, clergy, religious worker, or Christian Science practitioner while  
25 functioning in his or her ministerial capacity shall not be required to report  
26 concerning a privileged communication made to him or her in his or her  
27 professional capacity.

28         2. Any other person who becomes aware of circumstances that may  
29 reasonably be expected to be the result of, or result in, abuse or neglect of [a  
30 person sixty years of age or older] **an eligible adult** may report to the  
31 department.

32         3. The penalty for failing to report as required under subdivision (2) of  
33 subsection 1 of this section is provided under section 565.188.

192.2410. 1. A report made under section 192.2405 shall be made orally  
2 or in writing. It shall include, if known:

3         (1) The name, age, and address of the eligible adult [or person subjected  
4 to abuse or neglect];

5         (2) The name and address of any person responsible for care of the eligible  
6 adult [or person subjected to abuse or neglect];

7         (3) The nature and extent of the condition of the eligible adult [or person  
8 subjected to abuse or neglect]; and

9         (4) Other relevant information.

10         2. Reports regarding persons determined not to be eligible adults as  
11 defined in section 192.2400 shall be referred to the appropriate state or local

12 authorities.

13           3. The department shall maintain a statewide toll-free phone number for  
14 receipt of reports.

          198.070. 1. When any adult day care worker; chiropractor; Christian  
2 Science practitioner; coroner; dentist; embalmer; employee of the departments of  
3 social services, mental health, or health and senior services; employee of a local  
4 area agency on aging or an organized area agency on aging program; funeral  
5 director; home health agency or home health agency employee; hospital and clinic  
6 personnel engaged in examination, care, or treatment of persons; in-home services  
7 owner, provider, operator, or employee; law enforcement officer; long-term care  
8 facility administrator or employee; medical examiner; medical resident or intern;  
9 mental health professional; minister; nurse; nurse practitioner; optometrist; other  
10 health practitioner; peace officer; pharmacist; physical therapist; physician;  
11 physician's assistant; podiatrist; probation or parole officer; psychologist; social  
12 worker; or other person with the care of a person sixty years of age or older or an  
13 eligible adult has reasonable cause to believe that a resident of a facility has been  
14 abused or neglected, he or she shall immediately report or cause a report to be  
15 made to the department.

16           2. **(1)** The report shall contain the name and address of the facility, the  
17 name of the resident, information regarding the nature of the abuse or neglect,  
18 the name of the complainant, and any other information which might be helpful  
19 in an investigation.

20           **(2) In the event of suspected sexual assault of the resident, in**  
21 **addition to the report to be made to the department, a report shall be**  
22 **made to local law enforcement in accordance with federal law under**  
23 **the provisions of 42 U.S.C. 1320b-25.**

24           3. Any person required in subsection 1 of this section to report or cause  
25 a report to be made to the department who knowingly fails to make a report  
26 within a reasonable time after the act of abuse or neglect as required in this  
27 subsection is guilty of a class A misdemeanor.

28           4. In addition to the penalties imposed by this section, any administrator  
29 who knowingly conceals any act of abuse or neglect resulting in death or serious  
30 physical injury, as defined in section 556.061, is guilty of a class E felony.

31           5. In addition to those persons required to report pursuant to subsection  
32 1 of this section, any other person having reasonable cause to believe that a  
33 resident has been abused or neglected may report such information to the

34 department.

35           6. Upon receipt of a report, the department shall initiate an investigation  
36 within twenty-four hours and, as soon as possible during the course of the  
37 investigation, shall notify the resident's next of kin or responsible party of the  
38 report and the investigation and further notify them whether the report was  
39 substantiated or unsubstantiated unless such person is the alleged perpetrator  
40 of the abuse or neglect. As provided in section 192.2425, substantiated reports  
41 of elder abuse shall be promptly reported by the department to the appropriate  
42 law enforcement agency and prosecutor.

43           7. If the investigation indicates possible abuse or neglect of a resident, the  
44 investigator shall refer the complaint together with the investigator's report to  
45 the department director or the director's designee for appropriate action. If,  
46 during the investigation or at its completion, the department has reasonable  
47 cause to believe that immediate removal is necessary to protect the resident from  
48 abuse or neglect, the department or the local prosecuting attorney may, or the  
49 attorney general upon request of the department shall, file a petition for  
50 temporary care and protection of the resident in a circuit court of competent  
51 jurisdiction. The circuit court in which the petition is filed shall have equitable  
52 jurisdiction to issue an ex parte order granting the department authority for the  
53 temporary care and protection of the resident, for a period not to exceed thirty  
54 days.

55           8. Reports shall be confidential, as provided pursuant to section 192.2500.

56           9. Anyone, except any person who has abused or neglected a resident in  
57 a facility, who makes a report pursuant to this section or who testifies in any  
58 administrative or judicial proceeding arising from the report shall be immune  
59 from any civil or criminal liability for making such a report or for testifying  
60 except for liability for perjury, unless such person acted negligently, recklessly,  
61 in bad faith or with malicious purpose. It is a crime under section 565.189 for  
62 any person to knowingly file a false report of elder abuse or neglect.

63           10. Within five working days after a report required to be made pursuant  
64 to this section is received, the person making the report shall be notified in  
65 writing of its receipt and of the initiation of the investigation.

66           11. No person who directs or exercises any authority in a facility shall  
67 evict, harass, dismiss or retaliate against a resident or employee because such  
68 resident or employee or any member of such resident's or employee's family has  
69 made a report of any violation or suspected violation of laws, ordinances or

70 regulations applying to the facility which the resident, the resident's family or an  
71 employee has reasonable cause to believe has been committed or has  
72 occurred. Through the existing department information and referral telephone  
73 contact line, residents, their families and employees of a facility shall be able to  
74 obtain information about their rights, protections and options in cases of eviction,  
75 harassment, dismissal or retaliation due to a report being made pursuant to this  
76 section.

77       12. Any person who abuses or neglects a resident of a facility is subject  
78 to criminal prosecution under section 565.184.

79       13. The department shall maintain the employee disqualification list and  
80 place on the employee disqualification list the names of any persons who are or  
81 have been employed in any facility and who have been finally determined by the  
82 department pursuant to section 192.2490 to have knowingly or recklessly abused  
83 or neglected a resident. For purposes of this section only, "knowingly" and  
84 "recklessly" shall have the meanings that are ascribed to them in this section. A  
85 person acts "knowingly" with respect to the person's conduct when a reasonable  
86 person should be aware of the result caused by his or her conduct. A person acts  
87 "recklessly" when the person consciously disregards a substantial and  
88 unjustifiable risk that the person's conduct will result in serious physical injury  
89 and such disregard constitutes a gross deviation from the standard of care that  
90 a reasonable person would exercise in the situation.

91       14. The timely self-reporting of incidents to the central registry by a  
92 facility shall continue to be investigated in accordance with department policy,  
93 and shall not be counted or reported by the department as a hot-line call but  
94 rather a self-reported incident. If the self-reported incident results in a  
95 regulatory violation, such incident shall be reported as a substantiated report.

198.070. 1. When any adult day care worker; chiropractor; Christian  
2 Science practitioner; coroner; dentist; embalmer; employee of the departments of  
3 social services, mental health, or health and senior services; employee of a local  
4 area agency on aging or an organized area agency on aging program; funeral  
5 director; home health agency or home health agency employee; hospital and clinic  
6 personnel engaged in examination, care, or treatment of persons; in-home services  
7 owner, provider, operator, or employee; law enforcement officer; long-term care  
8 facility administrator or employee; medical examiner; medical resident or intern;  
9 mental health professional; minister; nurse; nurse practitioner; optometrist; other  
10 health practitioner; peace officer; pharmacist; physical therapist; physician;

11 physician's assistant; podiatrist; probation or parole officer; psychologist; social  
12 worker; or other person with the care of a person sixty years of age or older or an  
13 eligible adult has reasonable cause to believe that a resident of a facility has been  
14 abused or neglected, he or she shall immediately report or cause a report to be  
15 made to the department.

16       2. **(1)** The report shall contain the name and address of the facility, the  
17 name of the resident, information regarding the nature of the abuse or neglect,  
18 the name of the complainant, and any other information which might be helpful  
19 in an investigation.

20       **(2) In the event of suspected sexual assault of the resident, in**  
21 **addition to the report to be made to the department, a report shall be**  
22 **made to local law enforcement in accordance with federal law under**  
23 **the provisions of 42 U.S.C. 1320b-25.**

24       3. Any person required in subsection 1 of this section to report or cause  
25 a report to be made to the department who knowingly fails to make a report  
26 within a reasonable time after the act of abuse or neglect as required in this  
27 subsection is guilty of a class A misdemeanor.

28       4. In addition to the penalties imposed by this section, any administrator  
29 who knowingly conceals any act of abuse or neglect resulting in death or serious  
30 physical injury, as defined in section 565.002, is guilty of a class D felony.

31       5. In addition to those persons required to report pursuant to subsection  
32 1 of this section, any other person having reasonable cause to believe that a  
33 resident has been abused or neglected may report such information to the  
34 department.

35       6. Upon receipt of a report, the department shall initiate an investigation  
36 within twenty-four hours and, as soon as possible during the course of the  
37 investigation, shall notify the resident's next of kin or responsible party of the  
38 report and the investigation and further notify them whether the report was  
39 substantiated or unsubstantiated unless such person is the alleged perpetrator  
40 of the abuse or neglect. As provided in section 565.186, substantiated reports of  
41 elder abuse shall be promptly reported by the department to the appropriate law  
42 enforcement agency and prosecutor.

43       7. If the investigation indicates possible abuse or neglect of a resident, the  
44 investigator shall refer the complaint together with the investigator's report to  
45 the department director or the director's designee for appropriate action. If,  
46 during the investigation or at its completion, the department has reasonable

47 cause to believe that immediate removal is necessary to protect the resident from  
48 abuse or neglect, the department or the local prosecuting attorney may, or the  
49 attorney general upon request of the department shall, file a petition for  
50 temporary care and protection of the resident in a circuit court of competent  
51 jurisdiction. The circuit court in which the petition is filed shall have equitable  
52 jurisdiction to issue an ex parte order granting the department authority for the  
53 temporary care and protection of the resident, for a period not to exceed thirty  
54 days.

55 8. Reports shall be confidential, as provided pursuant to section 660.320.

56 9. Anyone, except any person who has abused or neglected a resident in  
57 a facility, who makes a report pursuant to this section or who testifies in any  
58 administrative or judicial proceeding arising from the report shall be immune  
59 from any civil or criminal liability for making such a report or for testifying  
60 except for liability for perjury, unless such person acted negligently, recklessly,  
61 in bad faith or with malicious purpose. It is a crime pursuant to section 565.186  
62 and 565.188 for any person to purposely file a false report of elder abuse or  
63 neglect.

64 10. Within five working days after a report required to be made pursuant  
65 to this section is received, the person making the report shall be notified in  
66 writing of its receipt and of the initiation of the investigation.

67 11. No person who directs or exercises any authority in a facility shall  
68 evict, harass, dismiss or retaliate against a resident or employee because such  
69 resident or employee or any member of such resident's or employee's family has  
70 made a report of any violation or suspected violation of laws, ordinances or  
71 regulations applying to the facility which the resident, the resident's family or an  
72 employee has reasonable cause to believe has been committed or has  
73 occurred. Through the existing department information and referral telephone  
74 contact line, residents, their families and employees of a facility shall be able to  
75 obtain information about their rights, protections and options in cases of eviction,  
76 harassment, dismissal or retaliation due to a report being made pursuant to this  
77 section.

78 12. Any person who abuses or neglects a resident of a facility is subject  
79 to criminal prosecution under section 565.180, 565.182, or 565.184.

80 13. The department shall maintain the employee disqualification list and  
81 place on the employee disqualification list the names of any persons who are or  
82 have been employed in any facility and who have been finally determined by the

83 department pursuant to section 660.315 to have knowingly or recklessly abused  
84 or neglected a resident. For purposes of this section only, "knowingly" and  
85 "recklessly" shall have the meanings that are ascribed to them in this section. A  
86 person acts "knowingly" with respect to the person's conduct when a reasonable  
87 person should be aware of the result caused by his or her conduct. A person acts  
88 "recklessly" when the person consciously disregards a substantial and  
89 unjustifiable risk that the person's conduct will result in serious physical injury  
90 and such disregard constitutes a gross deviation from the standard of care that  
91 a reasonable person would exercise in the situation.

92 14. The timely self-reporting of incidents to the central registry by a  
93 facility shall continue to be investigated in accordance with department policy,  
94 and shall not be counted or reported by the department as a hot-line call but  
95 rather a self-reported incident. If the self-reported incident results in a  
96 regulatory violation, such incident shall be reported as a substantiated report.

217.360. 1. It shall be an offense for any person to knowingly deliver,  
2 attempt to deliver, have in his possession, deposit or conceal in or about the  
3 premises of any correctional center, or city or county jail, or private prison or jail:

4 (1) Any controlled substance as that term is defined by law, except upon  
5 the written prescription of a licensed physician, dentist, or veterinarian;

6 (2) Any other alkaloid of any controlled substance, any spirituous or malt  
7 liquor, or any intoxicating liquor as defined in section 311.020;

8 (3) Any article or item of personal property which an offender is  
9 prohibited by law or by rule and regulation of the division from receiving or  
10 possessing;

11 (4) Any gun, knife, weapon, or other article or item of personal property  
12 that may be used in such manner as to endanger the safety or security of the  
13 correctional center, or city or county jail, or private prison or jail or as to  
14 endanger the life or limb of any offender or employee of such a center;

15 **(5) Any two-way telecommunications device or its component**  
16 **parts.**

17 2. The violation of subdivision (1) of subsection 1 of this section shall be  
18 a class C felony; the violation of subdivision (2) **or (5)** of subsection 1 of this  
19 section shall be a class D felony; the violation of subdivision (3) of subsection 1  
20 of this section shall be a class A misdemeanor; and the violation of subdivision  
21 (4) of subsection 1 of this section shall be a class B felony.

22 3. Any person who has been found guilty of or has pled guilty to a

23 violation of subdivision (2) of subsection 1 of this section involving any alkaloid  
24 shall be entitled to expungement of the record of the violation. The procedure to  
25 expunge the record shall be pursuant to section 610.123. The record of any  
26 person shall not be expunged if such person has been found guilty of or has pled  
27 guilty to knowingly delivering, attempting to deliver, having in his possession, or  
28 depositing or concealing any alkaloid of any controlled substance in or about the  
29 premises of any correctional center, or city or county jail, or private prison or jail.

30 **4. Subdivision (5) of subsection 1 of this section shall not apply**  
31 **to:**

32 **(1) Any law enforcement officer employed by a state, federal**  
33 **agency, or political subdivision lawfully engaged in his or her duties as**  
34 **a law enforcement officer; or**

35 **(2) Any other person who is authorized by the correctional**  
36 **center, city or county jail, or private prison to possess or use a two-way**  
37 **telecommunications device in the correctional center, or city or county**  
38 **jail, or private prison or jail.**

221.111. 1. A person commits the offense of possession of unlawful items  
2 in a prison or jail if such person knowingly delivers, attempts to deliver,  
3 possesses, deposits, or conceals in or about the premises of any correctional center  
4 as the term "correctional center" is defined under section 217.010, or any city,  
5 county, or private jail:

6 (1) Any controlled substance as that term is defined by law, except upon  
7 the written prescription of a licensed physician, dentist, or veterinarian;

8 (2) Any other alkaloid of any kind or any intoxicating liquor as the term  
9 intoxicating liquor is defined in section 311.020;

10 (3) Any article or item of personal property which a prisoner is prohibited  
11 by law, by rule made pursuant to section 221.060, or by regulation of the  
12 department of corrections from receiving or possessing, except as herein provided;

13 (4) Any gun, knife, weapon, or other article or item of personal property  
14 that may be used in such manner as to endanger the safety or security of the  
15 institution or as to endanger the life or limb of any prisoner or employee thereof;

16 **(5) Any two-way telecommunications device or its component**  
17 **parts.**

18 2. The violation of subdivision (1) of subsection 1 of this section shall be  
19 a class D felony; the violation of subdivision (2) **or (5) of subsection 1** of this  
20 section shall be a class E felony; the violation of subdivision (3) **of subsection**

21 1 of this section shall be a class A misdemeanor; and the violation of subdivision  
22 (4) of subsection 1 of this section shall be a class B felony.

23 3. The chief operating officer of a county or city jail or other correctional  
24 facility or the administrator of a private jail may deny visitation privileges to or  
25 refer to the county prosecuting attorney for prosecution any person who  
26 knowingly delivers, attempts to deliver, possesses, deposits, or conceals in or  
27 about the premises of such jail or facility any personal item which is prohibited  
28 by rule or regulation of such jail or facility. Such rules or regulations, including  
29 a list of personal items allowed in the jail or facility, shall be prominently posted  
30 for viewing both inside and outside such jail or facility in an area accessible to  
31 any visitor, and shall be made available to any person requesting such rule or  
32 regulation. Violation of this subsection shall be an infraction if not covered by  
33 other statutes.

34 4. Any person who has been found guilty of a violation of subdivision (2)  
35 of subsection 1 of this section involving any alkaloid shall be entitled to  
36 expungement of the record of the violation. The procedure to expunge the record  
37 shall be pursuant to section 610.123. The record of any person shall not be  
38 expunged if such person has been found guilty of knowingly delivering,  
39 attempting to deliver, possessing, depositing, or concealing any alkaloid of any  
40 controlled substance in or about the premises of any correctional center, or city  
41 or county jail, or private prison or jail.

42 5. **Subdivision (5) of subsection 1 of this section shall not apply**  
43 **to:**

44 **(1) Any law enforcement officer employed by a state, federal**  
45 **agency, or political subdivision lawfully engaged in his or her duties as**  
46 **a law enforcement officer; or**

47 **(2) Any other person who is authorized by the correctional**  
48 **center, or city, county, or private jail to possess or use a two-way**  
49 **telecommunications device in the correctional center, or city, county,**  
50 **or private jail.**

301.559. 1. It shall be unlawful for any person to engage in business as  
2 or act as a motor vehicle dealer, boat dealer, manufacturer, boat manufacturer,  
3 public motor vehicle auction, wholesale motor vehicle auction or wholesale motor  
4 vehicle dealer without first obtaining a license from the department as required  
5 in sections 301.550 to 301.573. Any person who maintains or operates any  
6 business wherein a license is required pursuant to the provisions of sections

7 301.550 to 301.573, without such license, is guilty of a class A misdemeanor. Any  
8 person committing a second violation of sections 301.550 to 301.573 shall be  
9 guilty of a class [D] E felony.

10 2. All dealer licenses shall expire on December thirty-first of the  
11 designated license period. The department shall notify each person licensed  
12 under sections 301.550 to 301.573 of the date of license expiration and the  
13 amount of the fee required for renewal. The notice shall be mailed at least ninety  
14 days before the date of license expiration to the licensee's last known business  
15 address. The director shall have the authority to issue licenses valid for a period  
16 of up to two years and to stagger the license periods for administrative efficiency  
17 and equalization of workload, at the sole discretion of the director.

18 3. Every manufacturer, boat manufacturer, motor vehicle dealer,  
19 wholesale motor vehicle dealer, wholesale motor vehicle auction, boat dealer or  
20 public motor vehicle auction shall make application to the department for  
21 issuance of a license. The application shall be on forms prescribed by the  
22 department and shall be issued under the terms and provisions of sections  
23 301.550 to 301.573 and require all applicants, as a condition precedent to the  
24 issuance of a license, to provide such information as the department may deem  
25 necessary to determine that the applicant is bona fide and of good moral  
26 character, except that every application for a license shall contain, in addition to  
27 such information as the department may require, a statement to the following  
28 facts:

29 (1) The name and business address, not a post office box, of the applicant  
30 and the fictitious name, if any, under which he intends to conduct his business;  
31 and if the applicant be a partnership, the name and residence address of each  
32 partner, an indication of whether the partner is a limited or general partner and  
33 the name under which the partnership business is to be conducted. In the event  
34 that the applicant is a corporation, the application shall list the names of the  
35 principal officers of the corporation and the state in which it is  
36 incorporated. Each application shall be verified by the oath or affirmation of the  
37 applicant, if an individual, or in the event an applicant is a partnership or  
38 corporation, then by a partner or officer;

39 (2) Whether the application is being made for registration as a  
40 manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor  
41 vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor  
42 vehicle auction or a public motor vehicle auction;

43 (3) When the application is for a new motor vehicle franchise dealer, the  
44 application shall be accompanied by a copy of the franchise agreement in the  
45 registered name of the dealership setting out the appointment of the applicant as  
46 a franchise holder and it shall be signed by the manufacturer, or his authorized  
47 agent, or the distributor, or his authorized agent, and shall include a description  
48 of the make of all motor vehicles covered by the franchise. The department shall  
49 not require a copy of the franchise agreement to be submitted with each renewal  
50 application unless the applicant is now the holder of a franchise from a different  
51 manufacturer or distributor from that previously filed, or unless a new term of  
52 agreement has been entered into;

53 (4) When the application is for a public motor vehicle auction, that the  
54 public motor vehicle auction has met the requirements of section 301.561.

55 4. No insurance company, finance company, credit union, savings and loan  
56 association, bank or trust company shall be required to obtain a license from the  
57 department in order to sell any motor vehicle, trailer or vessel repossessed or  
58 purchased by the company on the basis of total destruction or theft thereof when  
59 the sale of the motor vehicle, trailer or vessel is in conformance with applicable  
60 title and registration laws of this state.

61 5. No person shall be issued a license to conduct a public motor vehicle  
62 auction or wholesale motor vehicle auction if such person has a violation of  
63 sections 301.550 to 301.573 or other violations of chapter 301, sections 407.511  
64 to 407.556, or section 578.120 which resulted in a felony conviction or finding of  
65 guilt or a violation of any federal motor vehicle laws which resulted in a felony  
66 conviction or finding of guilt.

339.100. 1. The commission may, upon its own motion, and shall upon  
2 receipt of a written complaint filed by any person, investigate any real  
3 estate-related activity of a licensee licensed under sections 339.010 to 339.180  
4 and sections 339.710 to 339.860 or an individual or entity acting as or  
5 representing themselves as a real estate licensee. In conducting such  
6 investigation, if the questioned activity or written complaint involves an affiliated  
7 licensee, the commission may forward a copy of the information received to the  
8 affiliated licensee's designated broker. The commission shall have the power to  
9 hold an investigatory hearing to determine whether there is a probability of a  
10 violation of sections 339.010 to 339.180 and sections 339.710 to 339.860. The  
11 commission shall have the power to issue a subpoena to compel the production of  
12 records and papers bearing on the complaint. The commission shall have the

13 power to issue a subpoena and to compel any person in this state to come before  
14 the commission to offer testimony or any material specified in the  
15 subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section  
16 shall be served in the same manner as subpoenas in a criminal case. The fees  
17 and mileage of witnesses shall be the same as that allowed in the circuit court in  
18 civil cases.

19         2. The commission may cause a complaint to be filed with the  
20 administrative hearing commission as provided by the provisions of chapter 621  
21 against any person or entity licensed under this chapter or any licensee who has  
22 failed to renew or has surrendered his or her individual or entity license for any  
23 one or any combination of the following acts:

24             (1) Failure to maintain and deposit in a special account, separate and  
25 apart from his or her personal or other business accounts, all moneys belonging  
26 to others entrusted to him or her while acting as a real estate broker or as the  
27 temporary custodian of the funds of others, until the transaction involved is  
28 consummated or terminated, unless all parties having an interest in the funds  
29 have agreed otherwise in writing;

30             (2) Making substantial misrepresentations or false promises or  
31 suppression, concealment or omission of material facts in the conduct of his or her  
32 business or pursuing a flagrant and continued course of misrepresentation  
33 through agents, salespersons, advertising or otherwise in any transaction;

34             (3) Failing within a reasonable time to account for or to remit any moneys,  
35 valuable documents or other property, coming into his or her possession, which  
36 belongs to others;

37             (4) Representing to any lender, guaranteeing agency, or any other  
38 interested party, either verbally or through the preparation of false documents,  
39 an amount in excess of the true and actual sale price of the real estate or terms  
40 differing from those actually agreed upon;

41             (5) Failure to timely deliver a duplicate original of any and all  
42 instruments to any party or parties executing the same where the instruments  
43 have been prepared by the licensee or under his or her supervision or are within  
44 his or her control, including, but not limited to, the instruments relating to the  
45 employment of the licensee or to any matter pertaining to the consummation of  
46 a lease, listing agreement or the purchase, sale, exchange or lease of property, or  
47 any type of real estate transaction in which he or she may participate as a  
48 licensee;

49 (6) Acting for more than one party in a transaction without the knowledge  
50 of all parties for whom he or she acts, or accepting a commission or valuable  
51 consideration for services from more than one party in a real estate transaction  
52 without the knowledge of all parties to the transaction;

53 (7) Paying a commission or valuable consideration to any person for acts  
54 or services performed in violation of sections 339.010 to 339.180 and sections  
55 339.710 to 339.860;

56 (8) Guaranteeing or having authorized or permitted any licensee to  
57 guarantee future profits which may result from the resale of real property;

58 (9) Having been finally adjudicated and been found guilty of the violation  
59 of any state or federal statute which governs the sale or rental of real property  
60 or the conduct of the real estate business as defined in subsection 1 of section  
61 339.010;

62 (10) Obtaining a certificate or registration of authority, permit or license  
63 for himself or herself or anyone else by false or fraudulent representation, fraud  
64 or deceit;

65 (11) Representing a real estate broker other than the broker with whom  
66 associated without the express written consent of the broker with whom  
67 associated;

68 (12) Accepting a commission or valuable consideration for the performance  
69 of any of the acts referred to in section 339.010 from any person except the broker  
70 with whom associated at the time the commission or valuable consideration was  
71 earned;

72 (13) Using prizes, money, gifts or other valuable consideration as  
73 inducement to secure customers or clients to purchase, lease, sell or list property  
74 when the awarding of such prizes, money, gifts or other valuable consideration  
75 is conditioned upon the purchase, lease, sale or listing; or soliciting, selling or  
76 offering for sale real property by offering free lots, or conducting lotteries or  
77 contests, or offering prizes for the purpose of influencing a purchaser or  
78 prospective purchaser of real property;

79 (14) Placing a sign on or advertising any property offering it for sale or  
80 rent without the written consent of the owner or his or her duly authorized agent;

81 (15) Violation of, or attempting to violate, directly or indirectly, or  
82 assisting or enabling any person to violate, any provision of sections 339.010 to  
83 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant  
84 to sections 339.010 to 339.180 and sections 339.710 to 339.860;

85 (16) Committing any act which would otherwise be grounds for the  
86 commission to refuse to issue a license under section 339.040;

87 (17) Failure to timely inform seller of all written offers unless otherwise  
88 instructed in writing by the seller;

89 (18) Been finally adjudicated and found guilty[, or entered a plea of guilty  
90 or nolo contendere,] in a criminal prosecution under the laws of this state or any  
91 other state or of the United States, for any offense reasonably related to the  
92 qualifications, functions or duties of any profession licensed or regulated under  
93 this chapter, for any offense an essential element of which is fraud, dishonesty  
94 or an act of violence, or for any offense involving moral turpitude, whether or not  
95 sentence is imposed;

96 (19) Any other conduct which constitutes untrustworthy, improper or  
97 fraudulent business dealings, demonstrates bad faith or incompetence,  
98 misconduct, or gross negligence;

99 (20) Disciplinary action against the holder of a license or other right to  
100 practice any profession regulated under sections 339.010 to 339.180 and sections  
101 339.710 to 339.860 granted by another state, territory, federal agency, or country  
102 upon grounds for which revocation, suspension, or probation is authorized in this  
103 state;

104 (21) Been found by a court of competent jurisdiction of having used any  
105 controlled substance, as defined in chapter 195, to the extent that such use  
106 impairs a person's ability to perform the work of any profession licensed or  
107 regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860;

108 (22) Been finally adjudged insane or incompetent by a court of competent  
109 jurisdiction;

110 (23) Assisting or enabling any person to practice or offer to practice any  
111 profession licensed or regulated under sections 339.010 to 339.180 and sections  
112 339.710 to 339.860 who is not registered and currently eligible to practice under  
113 sections 339.010 to 339.180 and sections 339.710 to 339.860;

114 (24) Use of any advertisement or solicitation which is knowingly false,  
115 misleading or deceptive to the general public or persons to whom the  
116 advertisement or solicitation is primarily directed;

117 (25) Making any material misstatement, misrepresentation, or omission  
118 with regard to any application for licensure or license renewal. As used in this  
119 section, "material" means important information about which the commission  
120 should be informed and which may influence a licensing decision;

121 (26) Engaging in, committing, or assisting any person in engaging in or  
122 committing mortgage fraud, as defined in section 443.930.

123 3. After the filing of such complaint, the proceedings will be conducted in  
124 accordance with the provisions of law relating to the administrative hearing  
125 commission. A finding of the administrative hearing commissioner that the  
126 licensee has performed or attempted to perform one or more of the foregoing acts  
127 shall be grounds for the suspension or revocation of his license by the  
128 commission, or the placing of the licensee on probation on such terms and  
129 conditions as the real estate commission shall deem appropriate, or the  
130 imposition of a civil penalty by the commission not to exceed two thousand five  
131 hundred dollars for each offense. Each day of a continued violation shall  
132 constitute a separate offense.

133 4. The commission may prepare a digest of the decisions of the  
134 administrative hearing commission which concern complaints against licensed  
135 brokers or salespersons and cause such digests to be mailed to all licensees  
136 periodically. Such digests may also contain reports as to new or changed rules  
137 adopted by the commission and other information of significance to licensees.

138 5. Notwithstanding other provisions of this section, a broker or  
139 salesperson's license shall be revoked, or in the case of an applicant, shall not be  
140 issued, if the licensee or applicant has pleaded guilty to, entered a plea of nolo  
141 contendere to, or been found guilty of any of the following offenses or offenses of  
142 a similar nature established under the laws of this, any other state, the United  
143 States, or any other country, notwithstanding whether sentence is imposed:

144 (1) Any dangerous felony as defined under section 556.061 or murder in  
145 the first degree;

146 (2) Any of the following sexual offenses: rape in the first degree, forcible  
147 rape, rape, statutory rape in the first degree, statutory rape in the second degree,  
148 rape in the second degree, sexual assault, sodomy in the first degree, forcible  
149 sodomy, statutory sodomy in the first degree, statutory sodomy in the second  
150 degree, child molestation in the first degree, child molestation in the second  
151 degree, sodomy in the second degree, deviate sexual assault, sexual misconduct  
152 involving a child, sexual misconduct in the first degree under section 566.090 as  
153 it existed prior to August 28, 2013, sexual abuse under section 566.100 as it  
154 existed prior to August 28, 2013, sexual abuse in the first or second degree,  
155 enticement of a child, or attempting to entice a child;

156 (3) Any of the following offenses against the family and related offenses:

157 incest, abandonment of a child in the first degree, abandonment of a child in the  
158 second degree, endangering the welfare of a child in the first degree, abuse of a  
159 child, using a child in a sexual performance, promoting sexual performance by a  
160 child, or trafficking in children;

161 (4) Any of the following offenses involving child pornography and related  
162 offenses: promoting obscenity in the first degree, promoting obscenity in the  
163 second degree when the penalty is enhanced to a class [D] E felony, promoting  
164 child pornography in the first degree, promoting child pornography in the second  
165 degree, possession of child pornography in the first degree, possession of child  
166 pornography in the second degree, furnishing child pornography to a minor,  
167 furnishing pornographic materials to minors, or coercing acceptance of obscene  
168 material; and

169 (5) Mortgage fraud as defined in section 570.310.

170 6. A person whose license was revoked under subsection 5 of this section  
171 may appeal such revocation to the administrative hearing commission. Notice of  
172 such appeal must be received by the administrative hearing commission within  
173 ninety days of mailing, by certified mail, the notice of revocation. Failure of a  
174 person whose license was revoked to notify the administrative hearing  
175 commission of his or her intent to appeal waives all rights to appeal the  
176 revocation. Upon notice of such person's intent to appeal, a hearing shall be held  
177 before the administrative hearing commission.

400.9-501. (a) Except as otherwise provided in subsection (b), if the local  
2 law of this state governs perfection of a security interest or agricultural lien, the  
3 office in which to file a financing statement to perfect the security interest or  
4 agricultural lien is:

5 (1) The office designated for the filing or recording of a record of a  
6 mortgage on the related real property, if:

7 (A) The collateral is as-extracted collateral or timber to be cut; or

8 (B) The financing statement is filed as a fixture filing and the collateral  
9 is goods that are or are to become fixtures; or

10 (2) The office of the secretary of state in all other cases, including a case  
11 in which the collateral is goods that are or are to become fixtures and the  
12 financing statement is not filed as a fixture filing.

13 (b) The office in which to file a financing statement to perfect a security  
14 interest in collateral, including fixtures, of a transmitting utility is the office of  
15 the secretary of state. The financing statement also constitutes a fixture filing

16 as to the collateral indicated in the financing statement which is or is to become  
17 fixtures.

18 (c) A person shall not knowingly or intentionally file, attempt to file, or  
19 record any document related to real property with a recorder of deeds under  
20 chapter 59 or a financing statement with the secretary of state under subdivision  
21 (2) of subsection (a) or subsection (b) of this section, with the intent that such  
22 document or statement be used to harass or defraud any other person or  
23 knowingly or intentionally file, attempt to file, or record such a document or  
24 statement that is materially false or fraudulent.

25 (1) A person who violates this subsection shall be guilty of a class [D] E  
26 felony.

27 (2) If a person is convicted of a violation under this subsection, the court  
28 may order restitution.

29 (d) In the alternative to the provisions of sections 428.105 through  
30 428.135, if a person files a false or fraudulent financing statement with the  
31 secretary of state under subdivision (2) of subsection (a) or subsection (b) of this  
32 section, a debtor named in that financing statement may file an action against  
33 the person that filed the financing statement seeking appropriate equitable relief,  
34 actual damages, or punitive damages, including, but not limited to, reasonable  
35 attorney fees.

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

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

15 3. If murder in the first degree is submitted and the death penalty was  
16 not waived but the trier finds the defendant guilty of a lesser homicide, a second

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

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

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

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

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

48 (4) If the trier decides under all of the circumstances not to assess and  
49 declare the punishment at death. If the trier is a jury it shall be so instructed.  
50 If the trier assesses and declares the punishment at death it shall, in its findings  
51 or verdict, set out in writing the aggravating circumstance or circumstances listed  
52 in subsection 2 of section 565.032 which it found beyond a reasonable doubt. If

53 the trier is a jury it shall be instructed before the case is submitted that if it is  
54 unable to decide or agree upon the punishment the court shall assess and declare  
55 the punishment at life imprisonment without eligibility for probation, parole, or  
56 release except by act of the governor or death. The court shall follow the same  
57 procedure as set out in this section whenever it is required to determine  
58 punishment for murder in the first degree.

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

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

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

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

4 (1) Whether a statutory aggravating circumstance or circumstances  
5 enumerated in subsection 2 of this section is established by the evidence beyond  
6 a reasonable doubt; and

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

17 of punishment, but shall be instructed that each juror shall consider any evidence  
18 which he **or she** considers to be aggravating or mitigating.

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

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

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

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

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

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

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

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

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

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

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

53 (11) The murder in the first degree was committed while the defendant  
54 was engaged in the perpetration or was aiding or encouraging another person to  
55 perpetrate or attempt to perpetrate a felony of any degree of rape, sodomy,  
56 burglary, robbery, kidnapping, or any felony offense in chapter 195 **or 579**;

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

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

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

66 (15) The murder was committed for the purpose of concealing or  
67 attempting to conceal any felony offense defined in chapter 195 **or 579**;

68 (16) The murder was committed for the purpose of causing or attempting  
69 to cause a person to refrain from initiating or aiding in the prosecution of a felony  
70 offense defined in chapter 195 **or 579**;

71 (17) The murder was committed during the commission of [a crime] **an**  
72 **offense** which is part of a pattern of criminal street gang activity as defined in  
73 section 578.421.

74 3. Statutory mitigating circumstances shall include the following:

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

76 (2) The murder in the first degree was committed while the defendant was  
77 under the influence of extreme mental or emotional disturbance;

78 (3) The victim was a participant in the defendant's conduct or consented  
79 to the act;

80 (4) The defendant was an accomplice in the murder in the first degree  
81 committed by another person and his **or her** participation was relatively minor;

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

84 (6) The capacity of the defendant to appreciate the criminality of his **or**  
85 **her** conduct or to conform his **or her** conduct to the requirements of law was  
86 substantially impaired;

87 (7) The age of the defendant at the time of the [crime] **offense**.

565.040. 1. In the event that the death penalty provided in this chapter

2 is held to be unconstitutional, any person convicted of murder in the first degree  
3 shall be sentenced by the court to life imprisonment without eligibility for  
4 probation, parole, or release except by act of the governor, with the exception that  
5 when a specific aggravating circumstance found in a case is held to be  
6 unconstitutional or invalid for another reason, the supreme court of Missouri is  
7 further authorized to remand the case for resentencing or retrial of the  
8 punishment pursuant to subsection 5 of section [565.036] **565.035**.

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

565.188. 1. When any adult day care worker; chiropractor; Christian  
2 Science practitioner; coroner; dentist; embalmer; employee of the departments of  
3 social services, mental health, or health and senior services; employee of a local  
4 area agency on aging or an organized area agency on aging program; funeral  
5 director; home health agency or home health agency employee; hospital and clinic  
6 personnel engaged in examination, care, or treatment of persons; in-home services  
7 owner, provider, operator, or employee; law enforcement officer; long-term care  
8 facility administrator or employee; medical examiner; medical resident or intern;  
9 mental health professional; minister; nurse; nurse practitioner; optometrist; other  
10 health practitioner; peace officer; pharmacist; physical therapist; physician;  
11 physician's assistant; podiatrist; probation or parole officer; psychologist; social  
12 worker; or other person with responsibility for the care of [a person sixty years  
13 of age or older] **an eligible adult as defined under section 192.2400** has  
14 reasonable cause to suspect that [such a person] **the eligible adult** has been  
15 subjected to abuse or neglect or observes [such a person] **the eligible adult**  
16 being subjected to conditions or circumstances which would reasonably result in  
17 abuse or neglect, he or she shall immediately report or cause a report to be made  
18 to the department in accordance with the provisions of sections 192.2400 to  
19 192.2470. Any other person who becomes aware of circumstances which may  
20 reasonably be expected to be the result of or result in abuse or neglect may report

21 to the department.

22           2. Any person who knowingly fails to make a report as required in  
23 subsection 1 of this section is guilty of a class A misdemeanor.

24           3. Any person who purposely files a false report of elder abuse or neglect  
25 is guilty of a class A misdemeanor.

26           4. Every person who has been previously convicted of or pled guilty to  
27 making a false report to the department and who is subsequently convicted of  
28 making a false report under subsection 3 of this section is guilty of a class D  
29 felony.

30           5. Evidence of prior convictions of false reporting shall be heard by the  
31 court, out of the hearing of the jury, prior to the submission of the case to the  
32 jury, and the court shall determine the existence of the prior convictions.

          565.225. 1. As used in this section and section 565.227, the term  
2 "disturbs" shall mean to engage in a course of conduct directed at a specific  
3 person that serves no legitimate purpose and that would cause a reasonable  
4 person under the circumstances to be frightened, intimidated, or emotionally  
5 distressed.

6           2. A person commits the offense of stalking in the first degree if he or she  
7 purposely, through his or her course of conduct, disturbs or follows with the  
8 intent of disturbing another person and:

9           (1) Makes a threat communicated with the intent to cause the person who  
10 is the target of the threat to reasonably fear for his or her safety, the safety of his  
11 or her family or household member, or the safety of domestic animals or livestock  
12 as defined in section 276.606 kept at such person's residence or on such person's  
13 property. The threat shall be against the life of, or a threat to cause physical  
14 injury to, or the kidnapping of the person, the person's family or household  
15 members, or the person's domestic animals or livestock as defined in section  
16 276.606 kept at such person's residence or on such person's property; or

17           (2) At least one of the acts constituting the course of conduct is in  
18 violation of an order of protection and the person has received actual notice of  
19 such order; or

20           (3) At least one of the actions constituting the course of conduct is in  
21 violation of a condition of probation, parole, pretrial release, or release on bond  
22 pending appeal; or

23           (4) At any time during the course of conduct, the other person is  
24 seventeen years of age or younger and the person disturbing the other person is

25 twenty-one years of age or older; or

26 (5) He or she has previously been found guilty of domestic assault,  
27 violation of an order of protection, or any other crime where the other person was  
28 the victim; or

29 **(6) At any time during the course of conduct, the other person is**  
30 **a participant of the address confidentiality program under sections**  
31 **589.660 to 589.681, and the person disturbing the other person**  
32 **knowingly accesses or attempts to access the address of the other**  
33 **person.**

34 3. Any law enforcement officer may arrest, without a warrant, any person  
35 he or she has probable cause to believe has violated the provisions of this section.

36 4. This section shall not apply to activities of federal, state, county, or  
37 municipal law enforcement officers conducting investigations of any violation of  
38 federal, state, county, or municipal law.

39 5. The offense of stalking in the first degree is a class E felony, unless the  
40 defendant has previously been found guilty of a violation of this section or section  
41 565.227, or any offense committed in another jurisdiction which, if committed in  
42 this state, would be chargeable or indictable as a violation of any offense listed  
43 in this section or section 565.227, in which case stalking in the first degree is a  
44 class D felony.

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

2 (1) "Course of conduct", a pattern of conduct composed of two or more acts,  
3 which may include communication by any means, over a period of time, however  
4 short, evidencing a continuity of purpose. Constitutionally protected activity is  
5 not included within the meaning of course of conduct. Such constitutionally  
6 protected activity includes picketing or other organized protests;

7 (2) "Credible threat", a threat communicated with the intent to cause the  
8 person who is the target of the threat to reasonably fear for his or her safety, or  
9 the safety of his or her family, or household members or domestic animals or  
10 livestock as defined in section 276.606 kept at such person's residence or on such  
11 person's property. The threat must be against the life of, or a threat to cause  
12 physical injury to, or the kidnapping of, the person, the person's family, or the  
13 person's household members or domestic animals or livestock as defined in  
14 section 276.606 kept at such person's residence or on such person's property;

15 (3) "Harasses", to engage in a course of conduct directed at a specific  
16 person that serves no legitimate purpose, that would cause a reasonable person

17 under the circumstances to be frightened, intimidated, or emotionally distressed.

18           2. A person commits the crime of stalking if he or she purposely, through  
19 his or her course of conduct, harasses or follows with the intent of harassing  
20 another person.

21           3. A person commits the crime of aggravated stalking if he or she  
22 purposely, through his or her course of conduct, harasses or follows with the  
23 intent of harassing another person, and:

24           (1) Makes a credible threat; or

25           (2) At least one of the acts constituting the course of conduct is in  
26 violation of an order of protection and the person has received actual notice of  
27 such order; or

28           (3) At least one of the actions constituting the course of conduct is in  
29 violation of a condition of probation, parole, pretrial release, or release on bond  
30 pending appeal; or

31           (4) At any time during the course of conduct, the other person is  
32 seventeen years of age or younger and the person harassing the other person is  
33 twenty-one years of age or older; or

34           (5) He or she has previously pleaded guilty to or been found guilty of  
35 domestic assault, violation of an order of protection, or any other crime where the  
36 other person was the victim; or

37           **(6) At any time during the course of conduct, the other person is**  
38 **a participant of the address confidentiality program under sections**  
39 **589.660 to 589.681, and the person harassing the other person**  
40 **knowingly accesses or attempts to access the address of the other**  
41 **person.**

42           4. The crime of stalking shall be a class A misdemeanor unless the person  
43 has previously pleaded guilty to or been found guilty of a violation of this section,  
44 or of any offense committed in violation of any county or municipal ordinance in  
45 any state, any state law, any federal law, or any military law which, if committed  
46 in this state, would be chargeable or indictable as a violation of any offense listed  
47 in this section, in which case stalking shall be a class D felony.

48           5. The crime of aggravated stalking shall be a class D felony unless the  
49 person has previously pleaded guilty to or been found guilty of a violation of this  
50 section, or of any offense committed in violation of any county or municipal  
51 ordinance in any state, any state law, any federal law, or any military law which,  
52 if committed in this state, would be chargeable or indictable as a violation of any

53 offense listed in this section, aggravated stalking shall be a class C felony.

54           6. Any law enforcement officer may arrest, without a warrant, any person  
55 he or she has probable cause to believe has violated the provisions of this section.

56           7. This section shall not apply to activities of federal, state, county, or  
57 municipal law enforcement officers conducting investigations of violation of  
58 federal, state, county, or municipal law.

          571.020. 1. A person commits [a crime] **an offense** if such person  
2 knowingly possesses, manufactures, transports, repairs, or sells:

3           (1) An explosive weapon;

4           (2) An explosive, incendiary or poison substance or material with the  
5 purpose to possess, manufacture or sell an explosive weapon;

6           (3) A gas gun;

7           (4) A bullet or projectile which explodes or detonates upon impact because  
8 of an independent explosive charge after having been shot from a firearm; or

9           (5) Knuckles; or

10          (6) Any of the following in violation of federal law:

11           (a) A machine gun;

12           (b) A short-barreled rifle or shotgun;

13           (c) A firearm silencer; or

14           (d) A switchblade knife.

15          2. A person does not commit [a crime] **an offense** pursuant to this  
16 section if his **or her** conduct involved any of the items in subdivisions (1) to (5)  
17 of subsection 1, the item was possessed in conformity with any applicable federal  
18 law, and the conduct:

19           (1) Was incident to the performance of official duty by the Armed Forces,  
20 National Guard, a governmental law enforcement agency, or a penal institution;  
21 or

22           (2) Was incident to engaging in a lawful commercial or business  
23 transaction with an organization enumerated in subdivision (1) of this section; or

24           (3) Was incident to using an explosive weapon in a manner reasonably  
25 related to a lawful industrial or commercial enterprise; or

26           (4) Was incident to displaying the weapon in a public museum or  
27 exhibition; or

28           (5) Was incident to using the weapon in a manner reasonably related to  
29 a lawful dramatic performance.

30          3. [A crime] **An offense** pursuant to subdivision (1), (2), (3) or (6) of

31 subsection 1 of this section is a class [C] **D** felony; a crime pursuant to  
32 subdivision (4) or (5) of subsection 1 of this section is a class A misdemeanor.

571.030. 1. A person commits the [crime] **offense** of unlawful use of  
2 weapons if he or she knowingly:

3 (1) Carries concealed upon or about his or her person a knife, a firearm,  
4 a blackjack or any other weapon readily capable of lethal use; or

5 (2) Sets a spring gun; or

6 (3) Discharges or shoots a firearm into a dwelling house, a railroad train,  
7 boat, aircraft, or motor vehicle as defined in section 302.010, or any building or  
8 structure used for the assembling of people; or

9 (4) Exhibits, in the presence of one or more persons, any weapon readily  
10 capable of lethal use in an angry or threatening manner; or

11 (5) Has a firearm or projectile weapon readily capable of lethal use on his  
12 or her person, while he or she is intoxicated, and handles or otherwise uses such  
13 firearm or projectile weapon in either a negligent or unlawful manner or  
14 discharges such firearm or projectile weapon unless acting in self-defense; or

15 (6) Discharges a firearm within one hundred yards of any occupied  
16 schoolhouse, courthouse, or church building; or

17 (7) Discharges or shoots a firearm at a mark, at any object, or at random,  
18 on, along or across a public highway or discharges or shoots a firearm into any  
19 outbuilding; or

20 (8) Carries a firearm or any other weapon readily capable of lethal use  
21 into any church or place where people have assembled for worship, or into any  
22 election precinct on any election day, or into any building owned or occupied by  
23 any agency of the federal government, state government, or political subdivision  
24 thereof; or

25 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined  
26 in section 301.010, discharges or shoots a firearm at any person, or at any other  
27 motor vehicle, or at any building or habitable structure, unless the person was  
28 lawfully acting in self-defense; or

29 (10) Carries a firearm, whether loaded or unloaded, or any other weapon  
30 readily capable of lethal use into any school, onto any school bus, or onto the  
31 premises of any function or activity sponsored or sanctioned by school officials or  
32 the district school board; or

33 (11) Possesses a firearm while also knowingly in possession of a controlled  
34 substance that is sufficient for a felony violation of section 195.202.

35           2. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not  
36 apply to the persons described in this subsection, regardless of whether such uses  
37 are reasonably associated with or are necessary to the fulfillment of such person's  
38 official duties except as otherwise provided in this subsection. Subdivisions (3),  
39 (4), (6), (7), and (9) of subsection 1 of this section shall not apply to or affect any  
40 of the following persons, when such uses are reasonably associated with or are  
41 necessary to the fulfillment of such person's official duties, except as otherwise  
42 provided in this subsection:

43           (1) All state, county and municipal peace officers who have completed the  
44 training required by the police officer standards and training commission  
45 pursuant to sections 590.030 to 590.050 and who possess the duty and power of  
46 arrest for violation of the general criminal laws of the state or for violation of  
47 ordinances of counties or municipalities of the state, whether such officers are on  
48 or off duty, and whether such officers are within or outside of the law  
49 enforcement agency's jurisdiction, or all qualified retired peace officers, as defined  
50 in subsection 12 of this section, and who carry the identification defined in  
51 subsection 13 of this section, or any person summoned by such officers to assist  
52 in making arrests or preserving the peace while actually engaged in assisting  
53 such officer;

54           (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails  
55 and other institutions for the detention of persons accused or convicted of crime;

56           (3) Members of the Armed Forces or National Guard while performing  
57 their official duty;

58           (4) Those persons vested by Article V, Section 1 of the Constitution of  
59 Missouri with the judicial power of the state and those persons vested by Article  
60 III of the Constitution of the United States with the judicial power of the United  
61 States, the members of the federal judiciary;

62           (5) Any person whose bona fide duty is to execute process, civil or  
63 criminal;

64           (6) Any federal probation officer or federal flight deck officer as defined  
65 under the federal flight deck officer program, 49 U.S.C. Section 44921 regardless  
66 of whether such officers are on duty, or within the law enforcement agency's  
67 jurisdiction;

68           (7) Any state probation or parole officer, including supervisors and  
69 members of the board of probation and parole;

70           (8) Any corporate security advisor meeting the definition and fulfilling the

71 requirements of the regulations established by the department of public safety  
72 under section 590.750;

73 (9) Any coroner, deputy coroner, medical examiner, or assistant medical  
74 examiner;

75 (10) Any prosecuting attorney or assistant prosecuting attorney, circuit  
76 attorney or assistant circuit attorney, or any person appointed by a court to be  
77 a special prosecutor who has completed the firearms safety training course  
78 required under subsection 2 of section 571.111;

79 (11) Any member of a fire department or fire protection district who is  
80 employed on a full-time basis as a fire investigator and who has a valid concealed  
81 carry endorsement issued prior to August 28, 2013, or a valid concealed carry  
82 permit under section 571.111 when such uses are reasonably associated with or  
83 are necessary to the fulfillment of such person's official duties; and

84 (12) Upon the written approval of the governing body of a fire department  
85 or fire protection district, any paid fire department or fire protection district chief  
86 who is employed on a full-time basis and who has a valid concealed carry  
87 endorsement issued prior to August 28, 2013, or a valid concealed carry permit,  
88 when such uses are reasonably associated with or are necessary to the fulfillment  
89 of such person's official duties.

90 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not  
91 apply when the actor is transporting such weapons in a nonfunctioning state or  
92 in an unloaded state when ammunition is not readily accessible or when such  
93 weapons are not readily accessible. Subdivision (1) of subsection 1 of this section  
94 does not apply to any person nineteen years of age or older or eighteen years of  
95 age or older and a member of the United States Armed Forces, or honorably  
96 discharged from the United States Armed Forces, transporting a concealable  
97 firearm in the passenger compartment of a motor vehicle, so long as such  
98 concealable firearm is otherwise lawfully possessed, nor when the actor is also in  
99 possession of an exposed firearm or projectile weapon for the lawful pursuit of  
100 game, or is in his or her dwelling unit or upon premises over which the actor has  
101 possession, authority or control, or is traveling in a continuous journey peaceably  
102 through this state. Subdivision (10) of subsection 1 of this section does not apply  
103 if the firearm is otherwise lawfully possessed by a person while traversing school  
104 premises for the purposes of transporting a student to or from school, or  
105 possessed by an adult for the purposes of facilitation of a school-sanctioned  
106 firearm-related event or club event.

107           4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not  
108 apply to any person who has a valid concealed carry permit issued pursuant to  
109 sections 571.101 to 571.121, a valid concealed carry endorsement issued before  
110 August 28, 2013, or a valid permit or endorsement to carry concealed firearms  
111 issued by another state or political subdivision of another state.

112           5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this  
113 section shall not apply to persons who are engaged in a lawful act of defense  
114 pursuant to section 563.031.

115           6. Notwithstanding any provision of this section to the contrary, the state  
116 shall not prohibit any state employee from having a firearm in the employee's  
117 vehicle on the state's property provided that the vehicle is locked and the firearm  
118 is not visible. This subsection shall only apply to the state as an employer when  
119 the state employee's vehicle is on property owned or leased by the state and the  
120 state employee is conducting activities within the scope of his or her  
121 employment. For the purposes of this subsection, "state employee" means an  
122 employee of the executive, legislative, or judicial branch of the government of the  
123 state of Missouri.

124           7. Nothing in this section shall make it unlawful for a student to actually  
125 participate in school-sanctioned gun safety courses, student military or ROTC  
126 courses, or other school-sponsored or club-sponsored firearm-related events,  
127 provided the student does not carry a firearm or other weapon readily capable of  
128 lethal use into any school, onto any school bus, or onto the premises of any other  
129 function or activity sponsored or sanctioned by school officials or the district  
130 school board.

131           8. Unlawful use of weapons is a class **[D] E** felony unless committed  
132 pursuant to subdivision (6), (7), or (8) of subsection 1 of this section, in which  
133 cases it is a class B misdemeanor, or subdivision (5) or (10) of subsection 1 of this  
134 section, in which case it is a class A misdemeanor if the firearm is unloaded and  
135 a class **[D] E** felony if the firearm is loaded, or subdivision (9) of subsection 1 of  
136 this section, in which case it is a class B felony, except that if the violation of  
137 subdivision (9) of subsection 1 of this section results in injury or death to another  
138 person, it is a class A felony.

139           9. Violations of subdivision (9) of subsection 1 of this section shall be  
140 punished as follows:

141           (1) For the first violation a person shall be sentenced to the maximum  
142 authorized term of imprisonment for a class B felony;

143 (2) For any violation by a prior offender as defined in section 558.016, a  
144 person shall be sentenced to the maximum authorized term of imprisonment for  
145 a class B felony without the possibility of parole, probation or conditional release  
146 for a term of ten years;

147 (3) For any violation by a persistent offender as defined in section  
148 558.016, a person shall be sentenced to the maximum authorized term of  
149 imprisonment for a class B felony without the possibility of parole, probation, or  
150 conditional release;

151 (4) For any violation which results in injury or death to another person,  
152 a person shall be sentenced to an authorized disposition for a class A felony.

153 10. Any person knowingly aiding or abetting any other person in the  
154 violation of subdivision (9) of subsection 1 of this section shall be subject to the  
155 same penalty as that prescribed by this section for violations by other persons.

156 11. Notwithstanding any other provision of law, no person who pleads  
157 guilty to or is found guilty of a felony violation of subsection 1 of this section shall  
158 receive a suspended imposition of sentence if such person has previously received  
159 a suspended imposition of sentence for any other firearms- or weapons-related  
160 felony offense.

161 12. As used in this section "qualified retired peace officer" means an  
162 individual who:

163 (1) Retired in good standing from service with a public agency as a peace  
164 officer, other than for reasons of mental instability;

165 (2) Before such retirement, was authorized by law to engage in or  
166 supervise the prevention, detection, investigation, or prosecution of, or the  
167 incarceration of any person for, any violation of law, and had statutory powers of  
168 arrest;

169 (3) Before such retirement, was regularly employed as a peace officer for  
170 an aggregate of fifteen years or more, or retired from service with such agency,  
171 after completing any applicable probationary period of such service, due to a  
172 service-connected disability, as determined by such agency;

173 (4) Has a nonforfeitable right to benefits under the retirement plan of the  
174 agency if such a plan is available;

175 (5) During the most recent twelve-month period, has met, at the expense  
176 of the individual, the standards for training and qualification for active peace  
177 officers to carry firearms;

178 (6) Is not under the influence of alcohol or another intoxicating or

179 hallucinatory drug or substance; and

180 (7) Is not prohibited by federal law from receiving a firearm.

181 13. The identification required by subdivision (1) of subsection 2 of this  
182 section is:

183 (1) A photographic identification issued by the agency from which the  
184 individual retired from service as a peace officer that indicates that the individual  
185 has, not less recently than one year before the date the individual is carrying the  
186 concealed firearm, been tested or otherwise found by the agency to meet the  
187 standards established by the agency for training and qualification for active peace  
188 officers to carry a firearm of the same type as the concealed firearm; or

189 (2) A photographic identification issued by the agency from which the  
190 individual retired from service as a peace officer; and

191 (3) A certification issued by the state in which the individual resides that  
192 indicates that the individual has, not less recently than one year before the date  
193 the individual is carrying the concealed firearm, been tested or otherwise found  
194 by the state to meet the standards established by the state for training and  
195 qualification for active peace officers to carry a firearm of the same type as the  
196 concealed firearm.

571.060. 1. A person commits the **[crime] offense** of unlawful transfer  
2 of weapons if he:

3 (1) Knowingly sells, leases, loans, gives away or delivers a firearm or  
4 ammunition for a firearm to any person who, under the provisions of section  
5 571.070, is not lawfully entitled to possess such;

6 (2) Knowingly sells, leases, loans, gives away or delivers a blackjack to a  
7 person less than eighteen years old without the consent of the child's custodial  
8 parent or guardian, or recklessly, as defined in section 562.016, sells, leases,  
9 loans, gives away or delivers any firearm to a person less than eighteen years old  
10 without the consent of the child's custodial parent or guardian; provided, that this  
11 does not prohibit the delivery of such weapons to any peace officer or member of  
12 the Armed Forces or National Guard while performing his official duty; or

13 (3) Recklessly, as defined in section 562.016, sells, leases, loans, gives  
14 away or delivers a firearm or ammunition for a firearm to a person who is  
15 intoxicated.

16 2. Unlawful transfer of weapons under subdivision (1) of subsection 1 of  
17 this section is a class **[D] E** felony; unlawful transfer of weapons under  
18 subdivisions (2) and (3) of subsection 1 of this section is a class A misdemeanor.

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

2 (1) "Ammunition", any cartridge, shell, or projectile designed for use in a  
3 firearm;

4 (2) "Licensed dealer", a person who is licensed under 18 U.S.C. Section  
5 923 to engage in the business of dealing in firearms;

6 (3) "Materially false information", any information that portrays an illegal  
7 transaction as legal or a legal transaction as illegal;

8 (4) "Private seller", a person who sells or offers for sale any firearm, as  
9 defined in section 571.010, or ammunition.

10 2. A person commits the crime of fraudulent purchase of a firearm if such  
11 person:

12 (1) Knowingly solicits, persuades, encourages or entices a licensed dealer  
13 or private seller of firearms or ammunition to transfer a firearm or ammunition  
14 under circumstances which the person knows would violate the laws of this state  
15 or the United States; or

16 (2) Provides to a licensed dealer or private seller of firearms or  
17 ammunition what the person knows to be materially false information with intent  
18 to deceive the dealer or seller about the legality of a transfer of a firearm or  
19 ammunition; or

20 (3) Willfully procures another to violate the provisions of subdivision (1)  
21 or (2) of this subsection.

22 3. Fraudulent purchase of a firearm is a class **[D] E** felony.

23 4. This section shall not apply to criminal investigations conducted by the  
24 United States Bureau of Alcohol, Tobacco, Firearms and Explosives, authorized  
25 agents of such investigations, or to a peace officer, as defined in section 542.261,  
26 acting at the explicit direction of the United States Bureau of Alcohol, Tobacco,  
27 Firearms and Explosives.

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

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

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

9 2. Unlawful possession of a firearm is a class **[C] D** felony.

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

          571.072. 1. A person commits the [crime] **offense** of unlawful possession  
2 of an explosive weapon if he or she has any explosive weapon in his or her  
3 possession and:

4           (1) He or she has pled guilty to or has been convicted of a dangerous  
5 felony, as defined in section 556.061, or of an attempt to commit a dangerous  
6 felony, or of [a crime] **an offense** under the laws of any state or of the United  
7 States which, if committed within this state, would be a dangerous felony, or  
8 confined therefor in this state or elsewhere during the five-year period  
9 immediately preceding the date of such possession; or

10           (2) He or she is a fugitive from justice, is habitually in an intoxicated or  
11 drugged condition, or is currently adjudged mentally incompetent.

12           2. Unlawful possession of an explosive weapon is a class [C] **D** felony.

          577.001. As used in this chapter, the following terms mean:

2           (1) "Aggravated offender", a person who has been found guilty of:

3           (a) Three or more intoxication-related traffic offenses committed on  
4 separate occasions; or

5           (b) Two or more intoxication-related traffic offenses committed on separate  
6 occasions where at least one of the intoxication-related traffic offenses is an  
7 offense committed in violation of any state law, county or municipal ordinance,  
8 any federal offense, or any military offense in which the defendant was operating  
9 a vehicle while intoxicated and another person was injured or killed;

10           (2) "Aggravated boating offender", a person who has been found guilty of:

11           (a) Three or more intoxication-related boating offenses; or

12           (b) [Has been found guilty of one] **Two** or more intoxication-related  
13 boating offenses committed on separate occasions where at least one of the  
14 intoxication-related [traffic] **boating** offenses is an offense committed in violation  
15 of any state law, county or municipal ordinance, any federal offense, or any  
16 military offense in which the defendant was operating a vessel while intoxicated  
17 and another person was injured or killed;

18           (3) "All-terrain vehicle", any motorized vehicle manufactured and used  
19 exclusively for off-highway use which is fifty inches or less in width, with an  
20 unladen dry weight of one thousand pounds or less, traveling on three, four or  
21 more low pressure tires, with a seat designed to be straddled by the operator, or  
22 with a seat designed to carry more than one person, and handlebars for steering

23 control;

24 (4) "Court", any circuit, associate circuit, or municipal court, including  
25 traffic court, but not any juvenile court or drug court;

26 (5) "Chronic offender", a person who has been found guilty of:

27 (a) Four or more intoxication-related traffic offenses committed on  
28 separate occasions; or

29 (b) Three or more intoxication-related traffic offenses committed on  
30 separate occasions where at least one of the intoxication-related traffic offenses  
31 is an offense committed in violation of any state law, county or municipal  
32 ordinance, any federal offense, or any military offense in which the defendant was  
33 operating a vehicle while intoxicated and another person was injured or killed;  
34 or

35 (c) Two or more intoxication-related traffic offenses committed on separate  
36 occasions where both intoxication-related traffic offenses were offenses committed  
37 in violation of any state law, county or municipal ordinance, any federal offense,  
38 or any military offense in which the defendant was operating a vehicle while  
39 intoxicated and another person was injured or killed;

40 (6) "Chronic boating offender", a person who has been found guilty of:

41 (a) Four or more intoxication-related boating offenses; or

42 (b) Three or more intoxication-related boating offenses committed on  
43 separate occasions where at least one of the intoxication-related boating offenses  
44 is an offense committed in violation of any state law, county or municipal  
45 ordinance, any federal offense, or any military offense in which the defendant was  
46 operating a vessel while intoxicated and another person was injured or killed; or

47 (c) Two or more intoxication-related boating offenses committed on  
48 separate occasions where both intoxication-related boating offenses were offenses  
49 committed in violation of any state law, county or municipal ordinance, any  
50 federal offense, or any military offense in which the defendant was operating a  
51 vessel while intoxicated and another person was injured or killed;

52 (7) "Continuous alcohol monitoring", automatically testing breath, blood,  
53 or transdermal alcohol concentration levels and tampering attempts at least once  
54 every hour, regardless of the location of the person who is being monitored, and  
55 regularly transmitting the data. Continuous alcohol monitoring shall be  
56 considered an electronic monitoring service under subsection 3 of section 217.690;

57 (8) "Controlled substance", a drug, substance, or immediate precursor in  
58 schedules I to V listed in section 195.017;

59 (9) "Drive", "driving", "operates" or "operating", means physically driving  
60 or operating a vehicle or vessel;

61 (10) "Flight crew member", the pilot in command, copilots, flight  
62 engineers, and flight navigators;

63 (11) "Habitual offender", a person who has been found guilty of:

64 (a) Five or more intoxication-related traffic offenses committed on  
65 separate occasions; or

66 (b) Four or more intoxication-related traffic offenses committed on  
67 separate occasions where at least one of the intoxication-related traffic offenses  
68 is an offense committed in violation of any state law, county or municipal  
69 ordinance, any federal offense, or any military offense in which the defendant was  
70 operating a vehicle while intoxicated and another person was injured or killed;  
71 or

72 (c) Three or more intoxication-related traffic offenses committed on  
73 separate occasions where at least two of the intoxication-related traffic offenses  
74 were offenses committed in violation of any state law, county or municipal  
75 ordinance, any federal offense, or any military offense in which the defendant was  
76 operating a vehicle while intoxicated and another person was injured or killed;  
77 or

78 (d) While driving while intoxicated, the defendant acted with criminal  
79 negligence to:

80 a. Cause the death of any person not a passenger in the vehicle operated  
81 by the defendant, including the death of an individual that results from the  
82 defendant's vehicle leaving a highway, as defined by section 301.010, or the  
83 highway's right-of-way; or

84 b. Cause the death of two or more persons; or

85 c. Cause the death of any person while he or she has a blood alcohol  
86 content of at least eighteen-hundredths of one percent by weight of alcohol in  
87 such person's blood;

88 (12) "Habitual boating offender", a person who has been found guilty of:

89 (a) Five or more intoxication-related boating offenses; or

90 (b) Four or more intoxication-related boating offenses committed on  
91 separate occasions where at least one of the intoxication-related boating offenses  
92 is an offense committed in violation of any state law, county or municipal  
93 ordinance, any federal offense, or any military offense in which the defendant was  
94 operating a vessel while intoxicated and another person was injured or killed; or

95 (c) Three or more intoxication-related boating offenses committed on  
96 separate occasions where at least two of the intoxication-related boating offenses  
97 were offenses committed in violation of any state law, county or municipal  
98 ordinance, any federal offense, or any military offense in which the defendant was  
99 operating a vessel while intoxicated and another person was injured or killed; or

100 (d) While boating while intoxicated, the defendant acted with criminal  
101 negligence to:

102 a. Cause the death of any person not a passenger in the vessel operated  
103 by the defendant, including the death of an individual that results from the  
104 defendant's vessel leaving the water; or

105 b. Cause the death of two or more persons; or

106 c. Cause the death of any person while he or she has a blood alcohol  
107 content of at least eighteen-hundredths of one percent by weight of alcohol in  
108 such person's blood;

109 (13) "Intoxicated" or "intoxicated condition", when a person is under the  
110 influence of alcohol, a controlled substance, or drug, or any combination thereof;

111 (14) "Intoxication-related boating offense", operating a vessel while  
112 intoxicated; boating while intoxicated; operating a vessel with excessive blood  
113 alcohol content or an offense in which the defendant was operating a vessel while  
114 intoxicated and another person was injured or killed in violation of any state law,  
115 county or municipal ordinance, any federal offense, or any military offense;

116 (15) "Intoxication-related traffic offense", driving while intoxicated,  
117 driving with excessive blood alcohol content, **driving under the influence of**  
118 **alcohol or drugs in violation of a county or municipal ordinance**, or an  
119 offense in which the defendant was operating a vehicle while intoxicated and  
120 another person was injured or killed in violation of any state law, county or  
121 municipal ordinance, any federal offense, or any military offense;

122 (16) "Law enforcement officer" or "arresting officer", includes the  
123 definition of law enforcement officer in section 556.061 and military policemen  
124 conducting traffic enforcement operations on a federal military installation under  
125 military jurisdiction in the state of Missouri;

126 (17) "Operate a vessel", to physically control the movement of a vessel in  
127 motion under mechanical or sail power in water;

128 (18) "Persistent offender", a person who has been found guilty of:

129 (a) Two or more intoxication-related traffic offenses committed on  
130 separate occasions; **or**

131 **(b) One intoxication-related traffic offense committed in**  
 132 **violation of any state law, county or municipal ordinance, federal**  
 133 **offense, or military offense in which the defendant was operating a**  
 134 **vehicle while intoxicated and another person was injured or killed;**

135 (19) "Persistent boating offender", a person who has been found guilty of:

136 **(a) Two or more intoxication-related boating offenses committed on**  
 137 **separate occasions; or**

138 **(b) One intoxication-related boating offense committed in**  
 139 **violation of any state law, county or municipal ordinance, federal**  
 140 **offense, or military offense in which the defendant was operating a**  
 141 **vessel while intoxicated and another person was injured or killed;**

142 (20) "Prior offender", a person who has been found guilty of one  
 143 intoxication-related traffic offense, where such prior offense occurred within five  
 144 years of the occurrence of the intoxication-related traffic offense for which the  
 145 person is charged;

146 (21) "Prior boating offender", a person who has been found guilty of one  
 147 intoxication-related boating offense, where such prior offense occurred within five  
 148 years of the occurrence of the intoxication-related boating offense for which the  
 149 person is charged.

577.037. 1. Upon the trial of any person for any criminal offense or  
 2 violations of county or municipal ordinances, or in any license suspension or  
 3 revocation proceeding pursuant to the provisions of chapter 302, arising out of  
 4 acts alleged to have been committed by any person while operating a vehicle,  
 5 vessel, or aircraft, or acting as a flight crew member of any aircraft, while in an  
 6 intoxicated condition or with an excessive blood alcohol content, the amount of  
 7 alcohol in the person's blood at the time of the act, as shown by any chemical  
 8 analysis of the person's blood, breath, saliva, or urine, is admissible in evidence  
 9 and the provisions of subdivision (5) of section 491.060 shall not prevent the  
 10 admissibility or introduction of such evidence if otherwise admissible.

11 2. If a chemical analysis of the defendant's breath, blood, saliva, or urine  
 12 demonstrates there was eight-hundredths of one percent or more by weight of  
 13 alcohol in the person's blood, this shall be prima facie evidence that the person  
 14 was intoxicated at the time the specimen was taken. If a chemical analysis of the  
 15 defendant's breath, blood, saliva, or urine demonstrates that there was less than  
 16 eight-hundredths of one percent of alcohol in the defendant's blood, any charge  
 17 alleging a criminal offense related to the operation of a vehicle, vessel, or aircraft

18 while in an intoxicated condition [or with an excessive blood alcohol content]  
19 shall be dismissed with prejudice unless one or more of the following  
20 considerations cause the court to find a dismissal unwarranted:

21 (1) There is evidence that the chemical analysis is unreliable as evidence  
22 of the defendant's intoxication at the time of the alleged violation due to the lapse  
23 of time between the alleged violation and the obtaining of the specimen;

24 (2) There is evidence that the defendant was under the influence of a  
25 controlled substance, or drug, or a combination of either or both with or without  
26 alcohol; or

27 (3) There is substantial evidence of intoxication from physical  
28 observations of witnesses or admissions of the defendant.

29 3. Percent by weight of alcohol in the blood shall be based upon grams of  
30 alcohol per one hundred milliliters of blood or grams of alcohol per two hundred  
31 ten liters of breath.

32 4. The foregoing provisions of this section shall not be construed as  
33 limiting the introduction of any other competent evidence bearing upon the  
34 question of whether the person was intoxicated.

35 5. A chemical analysis of a person's breath, blood, saliva or urine, in order  
36 to give rise to the presumption or to have the effect provided for in subsection 2  
37 of this section, shall have been performed as provided in sections 577.020 to  
38 577.041 and in accordance with methods and standards approved by the state  
39 department of health and senior services.

578.005. As used in sections 578.005 to 578.023, the following terms shall  
2 mean:

3 (1) "Adequate care", normal and prudent attention to the needs of an  
4 animal, including wholesome food, clean water, shelter and health care as  
5 necessary to maintain good health in a specific species of animal;

6 (2) ["Adequate control", to reasonably restrain or govern an animal so that  
7 the animal does not injure itself, any person, any other animal, or property;

8 (3)] "Animal", every living vertebrate except a human being;

9 [(4)] (3) "Animal shelter", a facility which is used to house or contain  
10 animals and which is owned, operated, or maintained by a duly incorporated  
11 humane society, animal welfare society, society for the prevention of cruelty to  
12 animals, or other not-for-profit organization devoted to the welfare, protection,  
13 and humane treatment of animals;

14 [(5)] (4) "Farm animal", an animal raised on a farm or ranch and used

15 or intended for use in farm or ranch production, or as food or fiber;

16        [(6)] (5) "Farm animal professional", any individual employed at a  
17 location where farm animals are harbored;

18        [(7)] (6) "Harbor", to feed or shelter an animal at the same location for  
19 three or more consecutive days;

20        [(8)] (7) "Humane killing", the destruction of an animal accomplished by  
21 a method approved by the American Veterinary Medical Association's Panel on  
22 Euthanasia (JAVMA 173: 59-72, 1978); or more recent editions, but animals killed  
23 during the feeding of pet carnivores shall be considered humanely killed;

24        [(9)] (8) "Owner", in addition to its ordinary meaning, any person who  
25 keeps or harbors an animal or professes to be owning, keeping, or harboring an  
26 animal;

27        [(10)] (9) "Person", any individual, partnership, firm, joint stock  
28 company, corporation, association, trust, estate, or other legal entity;

29        [(11)] (10) "Pests", birds, rabbits, or rodents which damage property or  
30 have an adverse effect on the public health, but shall not include any endangered  
31 species listed by the United States Department of the Interior nor any  
32 endangered species listed in the Wildlife Code of Missouri.

578.007. The provisions of sections 578.005 to 578.023 **and section**  
2 **578.040** shall not apply to:

3        (1) Care or treatment performed by a licensed veterinarian within the  
4 provisions of chapter 340;

5        (2) Bona fide scientific experiments;

6        (3) Hunting, fishing, or trapping as allowed by chapter 252, including all  
7 practices and privileges as allowed under the Missouri Wildlife Code;

8        (4) Facilities and publicly funded zoological parks currently in compliance  
9 with the federal "Animal Welfare Act" as amended;

10        (5) Rodeo practices currently accepted by the Professional Rodeo Cowboy's  
11 Association;

12        (6) The killing of an animal by the owner thereof, the agent of such owner,  
13 or by a veterinarian at the request of the owner thereof;

14        (7) The lawful, humane killing of an animal by an animal control officer,  
15 the operator of an animal shelter, a veterinarian, or law enforcement or health  
16 official;

17        (8) With respect to farm animals, normal or accepted practices of animal  
18 husbandry;

19 (9) The killing of an animal by any person at any time if such animal is  
20 outside of the owned or rented property of the owner or custodian of such animal  
21 and the animal is injuring any person or farm animal but shall not include police  
22 or guard dogs while working;

23 (10) The killing of house or garden pests; or

24 (11) Field trials, training and hunting practices as accepted by the  
25 Professional Houndsmen of Missouri.

[578.011.] **578.040. 1. For purposes of this section, the following**  
2 **terms shall mean:**

3 (1) **"Adequate control", to reasonably restrain or govern an**  
4 **animal so that the animal does not injure itself, any person, any other**  
5 **animal, or property;**

6 (2) **"Animal", any living vertebrate except a human being or**  
7 **livestock as the term "livestock" is defined under section 265.300.**

8 2. A person [is guilty] **commits the offense of animal or livestock**  
9 **trespass if a person:**

10 (1) **Having ownership or custody of an animal knowingly fails to provide**  
11 **adequate control [for a period equal to or exceeding twelve hours] and the**  
12 **animal trespasses onto another person's property; or**

13 (2) **Having ownership or custody of livestock as the term**  
14 **"livestock" is defined under section 265.300 knowingly fails to provide**  
15 **adequate control of the livestock for a period of twelve hours or more**  
16 **and the livestock trespasses onto another person's property.**

17 [2.] **3. The offense of animal or livestock trespass is an infraction**  
18 **[upon first conviction and for each offense punishable by a fine not to exceed two**  
19 **hundred dollars, and], unless the person has previously been found guilty**  
20 **of a violation of this section in which case it is a class C misdemeanor**  
21 **[punishable by imprisonment or a fine not to exceed five hundred dollars, or both,**  
22 **upon the second and all subsequent convictions]. All fines for a first [conviction**  
23 **of animal trespass] finding of guilt under this section may be waived by the**  
24 **court provided that the person found guilty of animal or livestock trespass**  
25 **shows that adequate, permanent remedies for the trespass have been**  
26 **made. [Reasonable costs incurred for the care and maintenance of trespassing**  
27 **animals may not be waived.] This section shall not apply to the provisions of**  
28 **section 578.007 or sections 272.010 to 272.370.**

632.520. 1. For purposes of this section, the following terms mean:

2 (1) "Employee of the department of mental health", a person who is an  
3 employee of the department of mental health, an employee or contracted employee  
4 of a subcontractor of the department of mental health, or an employee or  
5 contracted employee of a subcontractor of an entity responsible for confining  
6 offenders as authorized by section 632.495;

7 (2) "Offender", a person ordered to the department of mental health after  
8 a determination by the court that the person meets the definition of a sexually  
9 violent predator, a person ordered to the department of mental health after a  
10 finding of probable cause under section 632.489, or a person committed for  
11 control, care, and treatment by the department of mental health under sections  
12 632.480 to 632.513;

13 (3) "Secure facility", a facility operated by the department of mental  
14 health or an entity responsible for confining offenders as authorized by section  
15 632.495.

16 2. No offender shall knowingly commit violence to an employee of the  
17 department of mental health or to another offender housed in a secure  
18 facility. Violation of this subsection shall be a class B felony.

19 3. No offender shall knowingly damage any building or other property  
20 owned or operated by the department of mental health. Violation of this  
21 subsection shall be a class [C] D felony.

Section B. The repeal and reenactment of sections 192.2260, 301.559,  
2 339.100, 400.9-501, 565.032, 571.020, 571.030, 571.060, 571.063, 571.070, 571.072,  
3 and 632.520 of this act shall become effective on January 1, 2017.

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