

FIRST REGULAR SESSION

HOUSE BILL NO. 1065

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE EVANS.

2231H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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

Section A. Sections 488.029, 513.605, 556.046, 556.061, 557.036, 558.021, 558.046, 559.115, 559.117, 566.010, 566.030, 566.032, 566.060, 566.062, 566.086, 566.125, 571.070, 575.150, 575.200, and 589.414, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 488.029, 513.605, 556.046, 556.061, 557.036, 558.021, 558.046, 559.115, 559.117, 566.010, 566.030, 566.032, 566.060, 566.062, 566.086, 566.123, 566.124, 571.070, 575.150, and 589.414, to read as follows:

488.029. There shall be assessed and collected a surcharge of one hundred fifty dollars in all criminal cases for any violation of chapter ~~[195]~~ **579** in which a crime laboratory makes analysis of a controlled substance, but no such surcharge shall be assessed when the costs are waived or are to be paid by the state or when a criminal proceeding or the defendant has been dismissed by the court. The moneys collected by clerks of the courts pursuant to the provisions of this section shall be collected and disbursed as provided by sections 488.010 to 488.020. All such moneys shall be payable to the director of revenue, who shall deposit all amounts collected pursuant to this section to the credit of the state forensic laboratory account to be administered by the department of public safety pursuant to section 650.105.

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

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

- 3 (1) (a) "Beneficial interest":
4 a. The interest of a person as a beneficiary under any other trust arrangement pursuant
5 to which a trustee holds legal or record title to real property for the benefit of such person; or
6 b. The interest of a person under any other form of express fiduciary arrangement
7 pursuant to which any other person holds legal or record title to real property for the benefit of
8 such person;
- 9 (b) "Beneficial interest" does not include the interest of a stockholder in a corporation
10 or the interest of a partner in either a general partnership or limited partnership. A beneficial
11 interest shall be deemed to be located where the real property owned by the trustee is located;
- 12 (2) "Civil proceeding", any civil suit commenced by an investigative agency under any
13 provision of sections 513.600 to 513.645;
- 14 (3) "Criminal activity" is the commission, attempted commission, conspiracy to commit,
15 or the solicitation, coercion or intimidation of another person to commit any crime which is
16 chargeable by indictment or information under the following Missouri laws:
- 17 (a) Chapter ~~[495]~~ **579**, relating to drug regulations;
18 (b) Chapter 565, relating to offenses against the person;
19 (c) Chapter 566, relating to sexual offenses;
20 (d) Chapter 568, relating to offenses against the family;
21 (e) Chapter 569, relating to robbery, arson, burglary and related offenses;
22 (f) Chapter 570, relating to stealing and related offenses;
23 (g) Chapter 567, relating to prostitution;
24 (h) Chapter 573, relating to pornography and related offenses;
25 (i) Chapter 574, relating to offenses against public order;
26 (j) Chapter 575, relating to offenses against the administration of justice;
27 (k) Chapter 491, relating to witnesses;
28 (l) Chapter 572, relating to gambling;
29 (m) Chapter 311, but relating only to felony violations of this chapter committed by
30 persons not duly licensed by the supervisor of liquor control;
31 (n) Chapter 571, relating to weapons offenses;
32 (o) Chapter 409, relating to regulation of securities;
33 (p) Chapter 301, relating to registration and licensing of motor vehicles;
- 34 (4) "Criminal proceeding", any criminal prosecution commenced by an investigative
35 agency under any criminal law of this state;
- 36 (5) "Investigative agency", the attorney general's office, or the office of any prosecuting
37 attorney or circuit attorney;
- 38 (6) "Pecuniary value":

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

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

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

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

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

54 (10) (a) "Trustee":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (2) "Affirmative defense":

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

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

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

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

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

16 (4) "Commercial film and photographic print processor", any person who develops
17 exposed photographic film into negatives, slides or prints, or who makes prints from negatives
18 or slides, for compensation. The term commercial film and photographic print processor shall

19 include all employees of such persons but shall not include a person who develops film or makes
20 prints for a public agency;

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

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

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

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

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

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

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

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

59 (13) "Confinement":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

90 (19) "Dangerous felony", the felonies of arson in the first degree, assault in the first
91 degree, attempted rape in the first degree if physical injury results, attempted forcible rape if
92 physical injury results, attempted sodomy in the first degree if physical injury results, attempted
93 forcible sodomy if physical injury results, rape in the first degree, forcible rape, sodomy in the
94 first degree, forcible sodomy, assault in the second degree if the victim of such assault is a
95 special victim as defined in subdivision (14) of section 565.002, kidnapping in the first degree,
96 kidnapping, murder in the second degree, assault of a law enforcement officer in the first degree,
97 domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree,
98 statutory rape in the first degree when the victim is a child less than twelve years of age at the
99 time of the commission of the act giving rise to the offense, statutory sodomy in the first degree
100 when the victim is a child less than twelve years of age at the time of the commission of the act
101 giving rise to the offense, child molestation in the first or second degree, abuse of a child if the
102 child dies as a result of injuries sustained from conduct chargeable under section 568.060, child
103 kidnapping, parental kidnapping committed by detaining or concealing the whereabouts of the
104 child for not less than one hundred twenty days under section 565.153, and an
105 "intoxication-related traffic offense" or "intoxication-related boating offense" if the person is
106 found ~~[to be a "habitual offender" or "habitual boating offender" as such terms are defined in~~
107 ~~section 577.004]~~ **guilty of or pleads guilty to a class A or B felony in violation of section**
108 **577.010, 577.012, 577.013, or 577.014;**

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

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

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

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

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

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

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

128 (27) "Forcible compulsion" either:

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

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

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

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

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

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

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

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

143

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

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

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

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

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

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

158 (34) "Of another", property that any entity, including but not limited to any natural
159 person, corporation, limited liability company, partnership, association, governmental
160 subdivision or instrumentality, other than the actor, has a possessory or proprietary interest
161 therein, except that property shall not be deemed property of another who has only a security

162 interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or
163 other security arrangement;

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

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

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

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

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

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

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

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

188 (43) "Serious emotional injury", an injury that creates a substantial risk of temporary or
189 permanent medical or psychological damage, manifested by impairment of a behavioral,
190 cognitive or physical condition. Serious emotional injury shall be established by testimony of
191 qualified experts upon the reasonable expectation of probable harm to a reasonable degree of
192 medical or psychological certainty;

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

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

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

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

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

210 (49) "Voluntary act":

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

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

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

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

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

8 3. If the jury at the first stage of a trial finds the defendant guilty of the submitted
9 offense, the second stage of the trial shall proceed. The issue at the second stage of the trial shall
10 be the punishment to be assessed and declared. Evidence supporting or mitigating punishment

11 may be presented. Such evidence may include, within the discretion of the court, evidence
12 concerning the impact of the offense upon the victim, the victim's family and others, the nature
13 and circumstances of the offense, and the history and character of the defendant. Rebuttal and
14 surrebuttal evidence may be presented. The state shall be the first to proceed. The court shall
15 instruct the jury as to the range of punishment authorized by statute for each submitted offense.
16 The attorneys may argue the issue of punishment to the jury, and the state shall have the right to
17 open and close the argument. The jury shall assess and declare the punishment as authorized by
18 statute.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 3. In a trial without a jury or upon a plea of guilty, the court may defer the proof and
18 findings of such facts to a later time, but prior to sentencing. The facts required by subdivision
19 (1) of subsection 4 of section 558.016 may be established by judicial notice of prior testimony
20 or the plea of guilty.

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

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

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

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

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

4 (1) The convicted person was:

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

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

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

9 (3) The convicted person is not:

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

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

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

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

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

12 3. The court may recommend placement of an offender in a department of corrections
13 one hundred twenty-day program under this subsection or order such placement under subsection
14 4 of section 559.036. Upon the recommendation or order of the court, the department of
15 corrections shall assess each offender to determine the appropriate one hundred twenty-day
16 program in which to place the offender, which may include placement in the shock incarceration
17 program or institutional treatment program. When the court recommends and receives placement
18 of an offender in a department of corrections one hundred twenty-day program, the offender shall
19 be released on probation if the department of corrections determines that the offender has
20 successfully completed the program except as follows. Upon successful completion of a
21 program under this subsection, the board of probation and parole shall advise the sentencing
22 court of an offender's probationary release date thirty days prior to release. The court shall
23 follow the recommendation of the department unless the court determines that probation is not
24 appropriate. If the court determines that probation is not appropriate, the court may order the
25 execution of the offender's sentence only after conducting a hearing on the matter within ninety
26 to one hundred twenty days from the date the offender was delivered to the department of
27 corrections. If the department determines the offender has not successfully completed a one
28 hundred twenty-day program under this subsection, the offender shall be removed from the
29 program and the court shall be advised of the removal. The department shall report on the
30 offender's participation in the program and may provide recommendations for terms and

31 conditions of an offender's probation. The court shall then have the power to grant probation or
32 order the execution of the offender's sentence.

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

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

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

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

60 8. Notwithstanding any other provision of law, probation may not be granted pursuant
61 to this section to offenders who have been convicted of murder in the second degree pursuant
62 to section 565.021; forcible rape pursuant to section 566.030 as it existed prior to August 28,
63 2013; rape in the first degree under section 566.030; forcible sodomy pursuant to section 566.060
64 as it existed prior to August 28, 2013; sodomy in the first degree under section 566.060; statutory
65 rape in the first degree pursuant to section 566.032; statutory sodomy in the first degree pursuant
66 to section 566.062; child molestation in the first degree pursuant to section 566.067 when

67 classified as a class A felony; abuse **or neglect** of a child pursuant to section 568.060 when
68 classified as a class A felony; or an offender who has been found to be a predatory sexual
69 offender pursuant to section ~~[566.125]~~ **566.123**; or any offense in which there exists a statutory
70 prohibition against either probation or parole.

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

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

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

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

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

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

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

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

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

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

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

32 or

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

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

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

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

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

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

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

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

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

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

18 a. Ancestor or descendant by blood or adoption;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (3) The victim is a child less than twelve years of age, in which case the required term
16 of imprisonment is life imprisonment without eligibility for probation or parole until the offender
17 has served not less than thirty years of such sentence or unless the offender has reached the age

18 of seventy-five years and has served at least fifteen years of such sentence, unless such sodomy
 19 in the first degree is described under subdivision (4) of this subsection; or

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

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

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

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

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

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

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

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

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

4 (2) A student teacher; [☒]

5 (3) An employee of the school; [☒]

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

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

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

11 (7) **A coach, assistant coach, director, or other adult with a school-aged team, club,**
 12 **or ensemble, regardless of whether such team, club, or ensemble is connected to a school**

13 or scholastic association. For purposes of this subdivision, "school-aged team, club, or
14 ensemble" means any group organized for individual or group competition for the
15 performance of sports activities or any group organized for individual or group
16 presentation for fine or performing arts by any child under eighteen years of age.

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

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

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

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

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

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

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

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

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

24 3. Notwithstanding any provision of law, the department of corrections, or any
25 division thereof, shall not furlough an individual found to be and sentenced as a prior
26 sexual offender or a persistent sexual offender as defined in section 566.124 or a predatory
27 sexual offender as defined in section 566.123.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 7. The defendant may waive proof of the facts alleged.

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

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

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

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

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

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

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

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

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

6 (2) Such person is:

7 **(a) A fugitive from justice~~[-is]~~ in another jurisdiction or for whom a warrant for**
 8 **arrest has been issued in this state or any other state, territory, foreign country, or by a**
 9 **federal court who has absconded from any probation or parole supervision;**

10 **(b) Habitually in an intoxicated or drugged condition~~[-or is]~~ ; or**

11 **(c) Currently adjudged mentally incompetent.**

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

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

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

7 (1) Resists the arrest, stop or detention of such person by using or threatening the use of
8 violence or physical force or by fleeing from such officer; ~~or~~

9 (2) Interferes with the arrest, stop or detention of another person by using or threatening
10 the use of violence, physical force or physical interference; **or**

11 **(3) While being held in custody after a stop or detention or an arrest has been**
12 **made, escapes or attempts to escape from custody.**

13 2. This section applies to:

14 (1) Arrests, stops, or detentions, with or without warrants;

15 (2) Arrests, stops, ~~or~~ detentions, **or being held in custody** for any offense, infraction,
16 or ordinance violation; and

17 (3) Arrests for warrants issued by a court or a probation and parole officer.

18 3. A person is presumed to be fleeing a vehicle stop if he or she continues to operate a
19 motor vehicle after he or she has seen or should have seen clearly visible emergency lights or has
20 heard or should have heard an audible signal emanating from the law enforcement vehicle
21 pursuing him or her.

22 4. It is no defense to a prosecution pursuant to subsection 1 of this section that the law
23 enforcement officer was acting unlawfully in making the arrest. However, nothing in this section
24 shall be construed to bar civil suits for unlawful arrest.

25 5. The offense of resisting ~~or interfering with an arrest~~ , **interfering with, or escaping**
26 **or attempting to escape from a stop or detention or an arrest, or from custody after such**
27 **stop, detention, or arrest** is a class E felony for an arrest for a:

28 (1) Felony;

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

30 (3) Warrant issued for a probation violation on a felony case,
31

32 **unless a person is escaping or attempting to escape while in custody or under arrest for a**
33 **felony by means of a deadly weapon or dangerous instrument, or by holding any person**
34 **hostage, in which case it is a class A felony.**

35 6. The offense of resisting an arrest, detention or stop **for a misdemeanor or an**
36 **infraction** in violation of subdivision (1) or (2) of subsection 1 of this section is a class A
37 misdemeanor, unless the person fleeing creates a substantial risk of serious physical injury or
38 death to any person, in which case it is a class E felony.

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

4 (1) Name;

5 (2) Residence;

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

7 (4) Student status; or

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

9 2. Any person required to register under sections 589.400 to 589.425 shall, within three

10 business days, notify the chief law enforcement official of the county or city not within a county

11 of any changes to the following information:

12 (1) Vehicle information;

13 (2) Temporary lodging information;

14 (3) Temporary residence information;

15 (4) Email addresses, instant messaging addresses, and any other designations used in

16 internet communications, postings, or telephone communications; or

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

18 communication.

19 3. The chief law enforcement official in the county or city not within a county shall

20 immediately forward the registration changes described under subsections 1 and 2 of this section

21 to the Missouri state highway patrol within three business days.

22 4. If any person required by sections 589.400 to 589.425 to register changes such

23 person's residence or address to a different county or city not within a county, the person shall

24 appear in person and shall inform both the chief law enforcement official with whom the person

25 last registered and the chief law enforcement official of the county or city not within a county

26 having jurisdiction over the new residence or address in writing within three business days of

27 such new address and phone number, if the phone number is also changed. If any person

28 required by sections 589.400 to 589.425 to register changes his or her state, territory, the District

29 of Columbia, or foreign country, or federal, tribal, or military jurisdiction of residence, the person

30 shall appear in person and shall inform both the chief law enforcement official with whom the

31 person was last registered and the chief law enforcement official of the area in the new state,

32 territory, the District of Columbia, or foreign country, or federal, tribal, or military jurisdiction

33 having jurisdiction over the new residence or address within three business days of such new

34 address. Whenever a registrant changes residence, the chief law enforcement official of the

35 county or city not within a county where the person was previously registered shall inform the

36 Missouri state highway patrol of the change within three business days. When the registrant is

37 changing the residence to a new state, territory, the District of Columbia, or foreign country, or

38 federal, tribal, or military jurisdiction, the Missouri state highway patrol shall inform the

39 responsible official in the new state, territory, the District of Columbia, or foreign country, or

40 federal, tribal, or military jurisdiction of residence within three business days.

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

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

76 6. Tier II sexual offenders, in addition to the requirements of subsections 1 to 4 of this
77 section, shall report semiannually in person in the month of their birth and six months thereafter
78 to the chief law enforcement official to verify the information contained in their statement made
79 pursuant to section 589.407. Tier II sexual offenders include:

80 (1) Any offender who has been adjudicated for the offense of:

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

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

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

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

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

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

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

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

93 (i) Patronizing prostitution under section 567.030;

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

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

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

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

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

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

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

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

117 (2) Any offender who has been adjudicated for the crime of:

118 (a) Rape in the first degree under section 566.030;

119 (b) Statutory rape in the first degree under section 566.032;

120 (c) Rape in the second degree under section 566.031;

121 (d) Endangering the welfare of a child in the first degree under section 568.045 if the
122 offense is sexual in nature;

123 (e) Sodomy in the first degree under section 566.060;

124 (f) Statutory sodomy under section 566.062;

125 (g) Statutory sodomy under section 566.064 if the victim is under sixteen years of age;

126 (h) Sodomy in the second degree under section 566.061;

127 (i) Sexual misconduct involving a child under section 566.083 if the offense is a second
128 or subsequent offense;

129 (j) Sexual abuse in the first degree under section 566.100 if the victim is under thirteen
130 years of age;

131 (k) Kidnapping in the first degree under section 565.110 if the victim is under eighteen
132 years of age, excluding kidnapping by a parent or guardian;

133 (l) Child kidnapping under section 565.115;

134 (m) Sexual conduct with a nursing facility resident or vulnerable person in the first
135 degree under section 566.115 if the punishment is greater than a year;

136 (n) Incest under section 568.020;

137 (o) Endangering the welfare of a child in the first degree under section 568.045 with
138 sexual intercourse or deviate sexual intercourse with a victim under eighteen years of age;

139 (p) Child molestation in the first degree under section 566.067;

140 (q) Child molestation in the second degree under section 566.068;

141 (r) Child molestation in the third degree under section 566.069 if the victim is under
142 thirteen years of age;

143 (s) Promoting prostitution in the first degree under section 567.050 if the victim is under
144 eighteen years of age;

145 (t) Promoting prostitution in the second degree under section 567.060 if the victim is
146 under eighteen years of age;

- 147 (u) Promoting prostitution in the third degree under section 567.070 if the victim is under
148 eighteen years of age;
- 149 (v) Promoting travel for prostitution under section 567.085 if the victim is under
150 eighteen years of age;
- 151 (w) Trafficking for the purpose of sexual exploitation under section 566.209 if the victim
152 is under eighteen years of age;
- 153 (x) Sexual trafficking of a child in the first degree under section 566.210;
- 154 (y) Sexual trafficking of a child in the second degree under section 566.211;
- 155 (z) Genital mutilation of a female child under section 568.065;
- 156 (aa) Statutory rape in the second degree under section 566.034;
- 157 (bb) Child molestation in the fourth degree under section 566.071 if the victim is under
158 thirteen years of age;
- 159 (cc) Sexual abuse in the second degree under section 566.101 if the penalty is a term of
160 imprisonment of more than a year;
- 161 (dd) Patronizing prostitution under section 567.030 if the offender is a persistent
162 offender;
- 163 (ee) Abuse of a child under section 568.060 if the offense is of a sexual nature and the
164 victim is under thirteen years of age;
- 165 (ff) Sexual [~~contact~~] **conduct** with a prisoner or offender under section 566.145 if the
166 victim is under thirteen years of age;
- 167 (gg) Sexual [~~intereourse~~] **conduct** with a prisoner or offender under section 566.145;
- 168 (hh) Sexual contact with a student under section 566.086 if the victim is under thirteen
169 years of age;
- 170 (ii) Use of a child in a sexual performance under section 573.200; or
- 171 (jj) Promoting a sexual performance by a child under section 573.205;
- 172 (3) Any offender who is adjudicated for a crime comparable to a tier I or tier II offense
173 listed in this section or failure to register offense under section 589.425, or other comparable
174 out-of-state failure to register offense, who has been or is already required to register as a tier II
175 offender because of having been adjudicated for a tier II offense, two tier I offenses, or
176 combination of a tier I offense and failure to register offense, on a previous occasion;
- 177 (4) Any offender who is adjudicated in any other state, territory, the District of
178 Columbia, or foreign country, or under federal, tribal, or military jurisdiction for an offense of
179 a sexual nature or with a sexual element that is comparable to a tier III offense listed in this
180 section or a tier III offense under the Sex Offender Registration and Notification Act, Title I of
181 the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248; or

182 (5) Any offender who is adjudicated in Missouri for any offense of a sexual nature
183 requiring registration under sections 589.400 to 589.425 that is not classified as a tier I or tier II
184 offense in this section.

185 8. In addition to the requirements of subsections 1 to 7 of this section, all Missouri
186 registrants who work, including as a volunteer or unpaid intern, or attend any school whether
187 public or private, including any secondary school, trade school, professional school, or institution
188 of higher education, on a full-time or part-time basis or have a temporary residence in this state
189 shall be required to report in person to the chief law enforcement officer in the area of the state
190 where they work, including as a volunteer or unpaid intern, or attend any school or training and
191 register in that state. "Part-time" in this subsection means for more than seven days in any
192 twelve-month period.

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

~~2 [575.200. 1. A person commits the offense of escape from custody or
3 attempted escape from custody if, while being held in custody after arrest for any
4 crime, he or she escapes or attempts to escape from custody.
5
6 2. The offense of escape or attempted escape from custody is a class A
7 misdemeanor unless:
8 (1) The person escaping or attempting to escape is under arrest for a
9 felony, in which case it is a class E felony; or
10 (2) The offense is committed by means of a deadly weapon or dangerous
11 instrument or by holding any person as hostage, in which case it is a class A
12 felony.]~~

~~13 [566.125. 1. The court shall sentence a person to an extended term of
14 imprisonment if it finds the defendant is a persistent sexual offender and has been
15 found guilty of attempting to commit or committing the following offenses:
16 (1) Statutory rape in the first degree or statutory sodomy in the first
17 degree;
18 (2) Rape in the first degree or sodomy in the first degree;
19 (3) Forcible rape;
20 (4) Forcible sodomy;
21 (5) Rape;
22 (6) Sodomy.
23 2. A "persistent sexual offender" is one who has previously been found
24 guilty of attempting to commit or committing any of the offenses listed in
subsection 1 of this section or one who has previously been found guilty of an~~

25 offense in any other jurisdiction which would constitute any of the offenses listed
26 in subsection 1 of this section.

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

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

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

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

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

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

51 ~~6. A person found to be a predatory sexual offender shall be imprisoned~~
52 ~~for life with eligibility for parole, however subsection 4 of section 558.019 shall~~
53 ~~not apply to persons found to be predatory sexual offenders for the purposes of~~
54 ~~determining the minimum prison term or the length of sentence as defined or~~
55 ~~used in such subsection. Notwithstanding any other provision of law, in no event~~
56 ~~shall a person found to be a predatory sexual offender receive a final discharge~~
57 ~~from parole.~~

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

63 ~~(1) Has previously been found guilty of committing or attempting to~~
64 ~~commit any of the offenses listed in subsection 1 of this section and is found~~
65 ~~guilty of committing or attempting to commit any of the offenses listed in~~
66 ~~subsection 1 of this section shall be any number of years but not less than thirty~~
67 ~~years;~~

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

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

77 ~~————— (4) Has previously been found guilty of child molestation in the first~~
78 ~~degree or second degree, or sexual abuse when classified as a class B felony, and~~
79 ~~is found guilty of child molestation in the first or second degree, or sexual abuse~~
80 ~~when classified as a class B felony shall be any number of years but not less than~~
81 ~~fifteen years;~~

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

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

✓