

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILLS NOS. 538, 562, & 601

AN ACT

To repeal sections 556.061, 568.045, 571.015, 571.060, 571.063, and 571.070, RSMo, section 211.071 as enacted by senate bill no. 793 merged with senate bill no. 800, ninety-ninth general assembly, second regular session and section 211.071 as enacted by house bill no. 215 merged with senate bill no. 36, ninety-seventh general assembly, first regular session, and to enact in lieu thereof eight new sections relating to criminal offenses involving deadly weapons, with penalty provisions.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1           Section A. Sections 556.061, 568.045, 571.015, 571.060,  
2 571.063, and 571.070, RSMo, section 211.071 as enacted by senate  
3 bill no. 793 merged with senate bill no. 800, ninety-ninth  
4 general assembly, second regular session and section 211.071 as  
5 enacted by house bill no. 215 merged with senate bill no. 36,  
6 ninety-seventh general assembly, first regular session, are  
7 repealed and eight new sections enacted in lieu thereof, to be  
8 known as sections 211.071, 211.071, 556.061, 568.045, 571.015,  
9 571.060, 571.063, and 571.070, to read as follows:

10           211.071. 1. If a petition alleges that a child between the  
11 ages of twelve and eighteen has committed an offense which would  
12 be considered a felony if committed by an adult, the court may,

1 upon its own motion or upon motion by the juvenile officer, the  
2 child or the child's custodian, order a hearing and may, in its  
3 discretion, dismiss the petition and such child may be  
4 transferred to the court of general jurisdiction and prosecuted  
5 under the general law; except that if a petition alleges that any  
6 child has committed an offense which would be considered first  
7 degree murder under section 565.020, second degree murder under  
8 section 565.021, first degree assault under section 565.050,  
9 forcible rape under section 566.030 as it existed prior to August  
10 28, 2013, rape in the first degree under section 566.030,  
11 forcible sodomy under section 566.060 as it existed prior to  
12 August 28, 2013, sodomy in the first degree under section  
13 566.060, first degree robbery under section 569.020 as it existed  
14 prior to January 1, 2017, or robbery in the first degree under  
15 section 570.023, distribution of drugs under section 195.211 as  
16 it existed prior to January 1, 2017, [or] the manufacturing of a  
17 controlled substance under section 579.055, the offense of armed  
18 criminal action under section 571.015, or the offense of unlawful  
19 use of a weapon under section 571.030, or has committed two or  
20 more prior unrelated offenses which would be felonies if  
21 committed by an adult, the court shall order a hearing, and may  
22 in its discretion, dismiss the petition and transfer the child to  
23 a court of general jurisdiction for prosecution under the general  
24 law.

25 2. Upon apprehension and arrest, jurisdiction over the  
26 criminal offense allegedly committed by any person between  
27 eighteen and twenty-one years of age over whom the juvenile court  
28 has retained continuing jurisdiction shall automatically

1 terminate and that offense shall be dealt with in the court of  
2 general jurisdiction as provided in section 211.041.

3 3. Knowing and willful age misrepresentation by a juvenile  
4 subject shall not affect any action or proceeding which occurs  
5 based upon the misrepresentation. Any evidence obtained during  
6 the period of time in which a child misrepresents his or her age  
7 may be used against the child and will be subject only to rules  
8 of evidence applicable in adult proceedings.

9 4. Written notification of a transfer hearing shall be  
10 given to the juvenile and his or her custodian in the same manner  
11 as provided in sections 211.101 and 211.111. Notice of the  
12 hearing may be waived by the custodian. Notice shall contain a  
13 statement that the purpose of the hearing is to determine whether  
14 the child is a proper subject to be dealt with under the  
15 provisions of this chapter, and that if the court finds that the  
16 child is not a proper subject to be dealt with under the  
17 provisions of this chapter, the petition will be dismissed to  
18 allow for prosecution of the child under the general law.

19 5. The juvenile officer may consult with the office of  
20 prosecuting attorney concerning any offense for which the child  
21 could be certified as an adult under this section. The  
22 prosecuting or circuit attorney shall have access to police  
23 reports, reports of the juvenile or deputy juvenile officer,  
24 statements of witnesses and all other records or reports relating  
25 to the offense alleged to have been committed by the child. The  
26 prosecuting or circuit attorney shall have access to the  
27 disposition records of the child when the child has been  
28 adjudicated pursuant to subdivision (3) of subsection 1 of

1 section 211.031. The prosecuting attorney shall not divulge any  
2 information regarding the child and the offense until the  
3 juvenile court at a judicial hearing has determined that the  
4 child is not a proper subject to be dealt with under the  
5 provisions of this chapter.

6 6. A written report shall be prepared in accordance with  
7 this chapter developing fully all available information relevant  
8 to the criteria which shall be considered by the court in  
9 determining whether the child is a proper subject to be dealt  
10 with under the provisions of this chapter and whether there are  
11 reasonable prospects of rehabilitation within the juvenile  
12 justice system. These criteria shall include but not be limited  
13 to:

14 (1) The seriousness of the offense alleged and whether the  
15 protection of the community requires transfer to the court of  
16 general jurisdiction;

17 (2) Whether the offense alleged involved viciousness, force  
18 and violence;

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

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

25 (5) The record and history of the child, including  
26 experience with the juvenile justice system, other courts,  
27 supervision, commitments to juvenile institutions and other  
28 placements;

1           (6) The sophistication and maturity of the child as  
2 determined by consideration of his or her home and environmental  
3 situation, emotional condition and pattern of living;

4           (7) The age of the child;

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

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

9           (10) Racial disparity in certification.

10          7. If the court dismisses the petition to permit the child  
11 to be prosecuted under the general law, the court shall enter a  
12 dismissal order containing:

13           (1) Findings showing that the court had jurisdiction of the  
14 cause and of the parties;

15           (2) Findings showing that the child was represented by  
16 counsel;

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

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

21          8. A copy of the petition and order of the dismissal shall  
22 be sent to the prosecuting attorney.

23          9. When a petition has been dismissed thereby permitting a  
24 child to be prosecuted under the general law and the prosecution  
25 of the child results in a conviction, the jurisdiction of the  
26 juvenile court over that child is forever terminated, except as  
27 provided in subsection 10 of this section, for an act that would  
28 be a violation of a state law or municipal ordinance.

1           10. If a petition has been dismissed thereby permitting a  
2 child to be prosecuted under the general law and the child is  
3 found not guilty by a court of general jurisdiction, the juvenile  
4 court shall have jurisdiction over any later offense committed by  
5 that child which would be considered a misdemeanor or felony if  
6 committed by an adult, subject to the certification provisions of  
7 this section.

8           11. If the court does not dismiss the petition to permit  
9 the child to be prosecuted under the general law, it shall set a  
10 date for the hearing upon the petition as provided in section  
11 211.171.

12           12. The provisions of this section shall become effective  
13 January 1, 2021.

14           211.071. 1. If a petition alleges that a child between the  
15 ages of twelve and seventeen has committed an offense which would  
16 be considered a felony if committed by an adult, the court may,  
17 upon its own motion or upon motion by the juvenile officer, the  
18 child or the child's custodian, order a hearing and may, in its  
19 discretion, dismiss the petition and such child may be  
20 transferred to the court of general jurisdiction and prosecuted  
21 under the general law; except that if a petition alleges that any  
22 child has committed an offense which would be considered first  
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1 566.060, first degree robbery under section 570.023, or  
2 distribution of drugs under section 579.055, or has committed two  
3 or more prior unrelated offenses which would be felonies if  
4 committed by an adult, the court shall order a hearing, and may  
5 in its discretion, dismiss the petition and transfer the child to  
6 a court of general jurisdiction for prosecution under the general  
7 law.

8 2. Upon apprehension and arrest, jurisdiction over the  
9 criminal offense allegedly committed by any person between  
10 seventeen and twenty-one years of age over whom the juvenile  
11 court has retained continuing jurisdiction shall automatically  
12 terminate and that offense shall be dealt with in the court of  
13 general jurisdiction as provided in section 211.041.

14 3. Knowing and willful age misrepresentation by a juvenile  
15 subject shall not affect any action or proceeding which occurs  
16 based upon the misrepresentation. Any evidence obtained during  
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18 may be used against the child and will be subject only to rules  
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25 the child is a proper subject to be dealt with under the  
26 provisions of this chapter, and that if the court finds that the  
27 child is not a proper subject to be dealt with under the  
28 provisions of this chapter, the petition will be dismissed to

1 allow for prosecution of the child under the general law.

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27 general jurisdiction;

28 (2) Whether the offense alleged involved viciousness, force



1 and violence;

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

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

8 (5) The record and history of the child, including  
9 experience with the juvenile justice system, other courts,  
10 supervision, commitments to juvenile institutions and other  
11 placements;

12 (6) The sophistication and maturity of the child as  
13 determined by consideration of his home and environmental  
14 situation, emotional condition and pattern of living;

15 (7) The age of the child;

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

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

20 (10) Racial disparity in certification.

21 7. If the court dismisses the petition to permit the child  
22 to be prosecuted under the general law, the court shall enter a  
23 dismissal order containing:

24 (1) Findings showing that the court had jurisdiction of the  
25 cause and of the parties;

26 (2) Findings showing that the child was represented by  
27 counsel;

28 (3) Findings showing that the hearing was held in the

1 presence of the child and his counsel; and

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

4 8. A copy of the petition and order of the dismissal shall  
5 be sent to the prosecuting attorney.

6 9. When a petition has been dismissed thereby permitting a  
7 child to be prosecuted under the general law and the prosecution  
8 of the child results in a conviction, the jurisdiction of the  
9 juvenile court over that child is forever terminated, except as  
10 provided in subsection 10 of this section, for an act that would  
11 be a violation of a state law or municipal ordinance.

12 10. If a petition has been dismissed thereby permitting a  
13 child to be prosecuted under the general law and the child is  
14 found not guilty by a court of general jurisdiction, the juvenile  
15 court shall have jurisdiction over any later offense committed by  
16 that child which would be considered a misdemeanor or felony if  
17 committed by an adult, subject to the certification provisions of  
18 this section.

19 11. If the court does not dismiss the petition to permit  
20 the child to be prosecuted under the general law, it shall set a  
21 date for the hearing upon the petition as provided in section  
22 211.171.

23 12. The provisions of this section shall expire on December  
24 31, 2020.

25 556.061. In this code, unless the context requires a  
26 different definition, the following terms shall mean:

27 (1) "Access", to instruct, communicate with, store data in,  
28 retrieve or extract data from, or otherwise make any use of any

1 resources of, a computer, computer system, or computer network;

2 (2) "Affirmative defense":

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

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

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

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

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

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

21 (5) "Computer", the box that houses the central processing  
22 unit (CPU), along with any internal storage devices, such as  
23 internal hard drives, and internal communication devices, such as  
24 internal modems capable of sending or receiving electronic mail  
25 or fax cards, along with any other hardware stored or housed  
26 internally. Thus, computer refers to hardware, software and data  
27 contained in the main unit. Printers, external modems attached  
28 by cable to the main unit, monitors, and other external

1 attachments will be referred to collectively as peripherals and  
2 discussed individually when appropriate. When the computer and  
3 all peripherals are referred to as a package, the term "computer  
4 system" is used. Information refers to all the information on a  
5 computer system including both software applications and data;

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

9 (7) "Computer hardware", all equipment which can collect,  
10 analyze, create, display, convert, store, conceal or transmit  
11 electronic, magnetic, optical or similar computer impulses or  
12 data. Hardware includes, but is not limited to, any data  
13 processing devices, such as central processing units, memory  
14 typewriters and self-contained laptop or notebook computers;  
15 internal and peripheral storage devices, transistor-like binary  
16 devices and other memory storage devices, such as floppy disks,  
17 removable disks, compact disks, digital video disks, magnetic  
18 tape, hard drive, optical disks and digital memory; local area  
19 networks, such as two or more computers connected together to a  
20 central computer server via cable or modem; peripheral input or  
21 output devices, such as keyboards, printers, scanners, plotters,  
22 video display monitors and optical readers; and related  
23 communication devices, such as modems, cables and connections,  
24 recording equipment, RAM or ROM units, acoustic couplers,  
25 automatic dialers, speed dialers, programmable telephone dialing  
26 or signaling devices and electronic tone-generating devices; as  
27 well as any devices, mechanisms or parts that can be used to  
28 restrict access to computer hardware, such as physical keys and

1 locks;

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

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

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

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

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

20 (13) "Confinement":

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

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

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

27 c. A public servant having the legal power and duty to  
28 confine the person authorizes his release without guard and

1 without condition that he return to confinement;

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

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

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

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

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

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

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

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

25 (16) "Criminal negligence", failure to be aware of a  
26 substantial and unjustifiable risk that circumstances exist or a  
27 result will follow, and such failure constitutes a gross  
28 deviation from the standard of care which a reasonable person

1 would exercise in the situation;

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

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

8 (19) "Dangerous felony", the felonies of arson in the first  
9 degree, assault in the first degree, attempted rape in the first  
10 degree if physical injury results, attempted forcible rape if  
11 physical injury results, attempted sodomy in the first degree if  
12 physical injury results, attempted forcible sodomy if physical  
13 injury results, rape in the first degree, forcible rape, sodomy  
14 in the first degree, forcible sodomy, assault in the second  
15 degree if the victim of such assault is a special victim as  
16 defined in subdivision (14) of section 565.002, kidnapping in the  
17 first degree, kidnapping, murder in the second degree, assault of  
18 a law enforcement officer in the first degree, domestic assault  
19 in the first degree, elder abuse in the first degree, robbery in  
20 the first degree, armed criminal action, statutory rape in the  
21 first degree when the victim is a child less than twelve years of  
22 age at the time of the commission of the act giving rise to the  
23 offense, statutory sodomy in the first degree when the victim is  
24 a child less than twelve years of age at the time of the  
25 commission of the act giving rise to the offense, child  
26 molestation in the first or second degree, abuse of a child if  
27 the child dies as a result of injuries sustained from conduct  
28 chargeable under section 568.060, child kidnapping, parental

1 kidnapping committed by detaining or concealing the whereabouts  
2 of the child for not less than one hundred twenty days under  
3 section 565.153, and an "intoxication-related traffic offense" or  
4 "intoxication-related boating offense" if the person is found to  
5 be a "habitual offender" or "habitual boating offender" as such  
6 terms are defined in section 577.001;

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

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

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

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

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



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

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

6 (27) "Forcible compulsion" either:

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

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

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

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

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

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

23 (b) Where people assemble for purposes of business,  
24 government, education, religion, entertainment, or public  
25 transportation; or

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

27

28 Any such vehicle, vessel, or structure is inhabitable regardless

1 of whether a person is actually present. If a building or  
2 structure is divided into separately occupied units, any unit not  
3 occupied by the actor is an inhabitable structure of another;

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

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

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

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

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

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

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

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

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

4           (38) "Possess" or "possessed", having actual or  
5 constructive possession of an object with knowledge of its  
6 presence. A person has actual possession if such person has the  
7 object on his or her person or within easy reach and convenient  
8 control. A person has constructive possession if such person has  
9 the power and the intention at a given time to exercise dominion  
10 or control over the object either directly or through another  
11 person or persons. Possession may also be sole or joint. If one  
12 person alone has possession of an object, possession is sole. If  
13 two or more persons share possession of an object, possession is  
14 joint;

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

17           (40) "Public servant", any person employed in any way by a  
18 government of this state who is compensated by the government by  
19 reason of such person's employment, any person appointed to a  
20 position with any government of this state, or any person elected  
21 to a position with any government of this state. It includes,  
22 but is not limited to, legislators, jurors, members of the  
23 judiciary and law enforcement officers. It does not include  
24 witnesses;

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

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

6           (43) "Serious emotional injury", an injury that creates a  
7 substantial risk of temporary or permanent medical or  
8 psychological damage, manifested by impairment of a behavioral,  
9 cognitive or physical condition. Serious emotional injury shall  
10 be established by testimony of qualified experts upon the  
11 reasonable expectation of probable harm to a reasonable degree of  
12 medical or psychological certainty;

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

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

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

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

27           (48) "Vessel", any boat or craft propelled by a motor or by  
28 machinery, whether or not such motor or machinery is a principal

1 source of propulsion used or capable of being used as a means of  
2 transportation on water, or any boat or craft more than twelve  
3 feet in length which is powered by sail alone or by a combination  
4 of sail and machinery, and used or capable of being used as a  
5 means of transportation on water, but not any boat or craft  
6 having, as the only means of propulsion, a paddle or oars;

7 (49) "Voluntary act":

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

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

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

23 568.045. 1. A person commits the offense of endangering  
24 the welfare of a child in the first degree if he or she:

25 (1) Knowingly acts in a manner that creates a substantial  
26 risk to the life, body, or health of a child less than seventeen  
27 years of age; or

28 (2) Knowingly engages in sexual conduct with a person under

1 the age of seventeen years over whom the person is a parent,  
2 guardian, or otherwise charged with the care and custody;

3 (3) Knowingly encourages, aids or causes a child less than  
4 seventeen years of age to engage in any conduct which violates  
5 the provisions of chapter 571 or chapter 579;

6 (4) In the presence of a child less than seventeen years of  
7 age or in a residence where a child less than seventeen years of  
8 age resides, unlawfully manufactures, or attempts to manufacture  
9 compounds, possesses, produces, prepares, sells, transports,  
10 tests or analyzes amphetamine or methamphetamine or any of their  
11 analogues.

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

14 (1) Is committed as part of an act or series of acts  
15 performed by two or more persons as part of an established or  
16 prescribed pattern of activity, or where physical injury to the  
17 child results, or the offense is a second or subsequent offense  
18 under this section, in which case the offense is a class C  
19 felony;

20 (2) Results in serious physical injury to the child, in  
21 which case the offense is a class B felony; or

22 (3) Results in the death of a child, in which case the  
23 offense is a class A felony.

24 571.015. 1. [Except as provided in subsection 4 of this  
25 section,] Any person who commits any felony under the laws of  
26 this state by, with, or through the use, assistance, or aid of a  
27 dangerous instrument or deadly weapon is also guilty of the  
28 [crime] offense of armed criminal action and, upon conviction,

1 shall be punished by imprisonment by the department of  
2 corrections [and human resources] for a term of not less than  
3 three years and not to exceed fifteen years, unless the person is  
4 unlawfully possessing a firearm, in which case the term of  
5 imprisonment shall be for a term of not less than five years.

6 The punishment imposed pursuant to this subsection shall be in  
7 addition to and consecutive to any punishment provided by law for  
8 the crime committed by, with, or through the use, assistance, or  
9 aid of a dangerous instrument or deadly weapon. No person  
10 convicted under this subsection shall be eligible for parole,  
11 probation, conditional release, or suspended imposition or  
12 execution of sentence for a period of three calendar years.

13 2. Any person convicted of a second offense of armed  
14 criminal action under subsection 1 of this section shall be  
15 punished by imprisonment by the department of corrections [and  
16 human resources] for a term of not less than five years and not  
17 to exceed thirty years, unless the person is unlawfully  
18 possessing a firearm, in which case the term of imprisonment  
19 shall be for a term not less than fifteen years. The punishment  
20 imposed pursuant to this subsection shall be in addition to and  
21 consecutive to any punishment provided by law for the crime  
22 committed by, with, or through the use, assistance, or aid of a  
23 dangerous instrument or deadly weapon. No person convicted under  
24 this subsection shall be eligible for parole, probation,  
25 conditional release, or suspended imposition or execution of  
26 sentence for a period of five calendar years.

27 3. Any person convicted of a third or subsequent offense of  
28 armed criminal action under subsection 1 of this section shall be

1 punished by imprisonment by the department of corrections [and  
2 human resources] for a term of not less than ten years, unless  
3 the person is unlawfully possessing a firearm, in which case the  
4 term of imprisonment shall be no less than fifteen years. The  
5 punishment imposed pursuant to this subsection shall be in  
6 addition to and consecutive to any punishment provided by law for  
7 the crime committed by, with, or through the use, assistance, or  
8 aid of a dangerous instrument or deadly weapon. No person  
9 convicted under this subsection shall be eligible for parole,  
10 probation, conditional release, or suspended imposition or  
11 execution of sentence for a period of ten calendar years.

12 [4. The provisions of this section shall not apply to the  
13 felonies defined in sections 564.590, 564.610, 564.620, 564.630,  
14 and 564.640.]

15 571.060. 1. A person commits the offense of unlawful  
16 transfer of weapons if he:

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

21 (2) Knowingly sells, leases, loans, gives away, or delivers  
22 any firearm to a person less than eighteen years old without the  
23 consent of the child's custodial parent or guardian; provided,  
24 that this does not prohibit the delivery of such weapons to any  
25 peace officer or member of the Armed Forces or National Guard  
26 while performing his official duty;

27 (3) Knowingly sells, leases, loans, gives away or delivers  
28 a blackjack to a person less than eighteen years old without the



1 consent of the child's custodial parent or guardian, or  
2 recklessly, as defined in section 562.016, [sells, leases, loans,  
3 gives away or delivers any firearm to a person less than eighteen  
4 years old without the consent of the child's custodial parent or  
5 guardian; provided, that this does not prohibit the delivery of  
6 such weapons to any peace officer or member of the Armed Forces  
7 or National Guard while performing his official duty]; or

8 ~~[(3)]~~ (4) Recklessly, as defined in section 562.016, sells,  
9 leases, loans, gives away or delivers a firearm or ammunition for  
10 a firearm to a person who is intoxicated.

11 2. Unlawful transfer of weapons under subdivision (1) or  
12 (2) of subsection 1 of this section is a class E felony; unlawful  
13 transfer of weapons under ~~[subdivisions (2) and]~~ subdivision (3)  
14 or (4) of subsection 1 of this section is a class A misdemeanor.

15 571.063. 1. As used in this section the following terms  
16 shall mean:

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

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

22 (3) "Materially false information", any information that  
23 portrays an illegal transaction as legal or a legal transaction  
24 as illegal;

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

27 2. A person commits the crime of fraudulent purchase of a  
28 firearm if such person:

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

6           (2) Provides to a licensed dealer or private seller of  
7 firearms or ammunition what the person knows to be materially  
8 false information with intent to deceive the dealer or seller  
9 about the legality of a transfer of a firearm or ammunition; or

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

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

14          4. This section shall not apply to criminal investigations  
15 conducted by the United States Bureau of Alcohol, Tobacco,  
16 Firearms and Explosives, authorized agents of such  
17 investigations, or to a peace officer, as defined in section  
18 542.261, acting at the explicit direction of the United States  
19 Bureau of Alcohol, Tobacco, Firearms and Explosives.

20          571.070. 1. A person commits the offense of unlawful  
21 possession of a firearm if such person knowingly has any firearm  
22 in his or her possession and:

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

27          (2) Such person is a fugitive from justice, is habitually  
28 in an intoxicated or drugged condition, or is currently adjudged

1 mentally incompetent.

2           2. Unlawful possession of a firearm is a class D felony,  
3 unless a person has been convicted of a dangerous felony as  
4 defined in section 556.061, in which case it is a class C felony.

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