

SECOND REGULAR SESSION

HOUSE BILL NO. 2210

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROBERTS.

4476H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 558.016, 575.150, and 595.209, RSMo, and to enact in lieu thereof three new sections relating to criminal conduct, with penalty provisions.

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

Section A. Sections 558.016, 575.150, and 595.209, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 558.016, 575.150, and 595.209,
3 to read as follows:

558.016. 1. The court may sentence a person who has been found guilty of an offense
2 to a term of imprisonment as authorized by section 558.011 or to a term of imprisonment
3 authorized by a statute governing the offense if it finds the defendant is a prior offender or a
4 persistent misdemeanor offender. The court may sentence a person to an extended term of
5 imprisonment if:

6 (1) The defendant is a persistent offender or a dangerous offender, and the person is
7 sentenced under subsection 7 of this section;

8 (2) The statute under which the person was found guilty contains a sentencing
9 enhancement provision that is based on a prior finding of guilt or a finding of prior criminal
10 conduct and the person is sentenced according to the statute; or

11 (3) A more specific sentencing enhancement provision applies that is based on a prior
12 finding of guilt or a finding of prior criminal conduct.

13 2. A "prior offender" is one who has been found guilty of one felony.

14 3. A "persistent offender" is one who has been found guilty of two or more felonies
15 committed at different times, **or one who has been previously found guilty of a dangerous**
16 **felony as defined in section 556.061.**

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.

17 4. A "dangerous offender" is one who:

18 (1) Is being sentenced for a felony during the commission of which he **or she**
19 knowingly murdered or endangered or threatened the life of another person or knowingly
20 inflicted or attempted or threatened to inflict serious physical injury on another person; and

21 (2) Has been found guilty of a class A or B felony or a dangerous felony.

22 5. A "persistent misdemeanor offender" is one who has been found guilty of two or
23 more offenses, committed at different times that are classified as A or B misdemeanors under
24 the laws of this state.

25 6. The findings of guilt shall be prior to the date of commission of the present offense.

26 7. The court shall sentence a person, who has been found to be a persistent offender or
27 a dangerous offender, and is found guilty of a class B, C, D, or E felony to the authorized term
28 of imprisonment for the offense that is one class higher than the offense for which the person
29 is found guilty.

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

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

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

10 2. This section applies to:

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

12 (2) Arrests, stops, or detentions, for any offense, infraction, or ordinance violation;

13 and

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

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

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

22 5. The offense of resisting or interfering with an arrest is a class E felony for an arrest
23 for a:

24 (1) Felony;

- 25 (2) Warrant issued for failure to appear on a felony case; or
26 (3) Warrant issued for a probation violation on a felony case.

27

28 The offense of resisting an arrest, detention, or stop in violation of subdivision (1) or (2) of
29 subsection 1 of this section is a class A misdemeanor, unless the person fleeing creates a
30 substantial risk of serious physical injury or death to any person **or the person fleeing does**
31 **so by operating a motor vehicle**, in which case it is a class E felony.

595.209. 1. The following rights shall automatically be afforded to victims of
2 dangerous felonies, as defined in section 556.061, victims of murder in the first degree, as
3 defined in section 565.020, victims of voluntary manslaughter, as defined in section 565.023,
4 victims of any offense under chapter 566, victims of an attempt to commit one of the
5 preceding crimes, as defined in section 562.012, and victims of domestic assault, as defined in
6 sections 565.072 to 565.076; and, upon written request, the following rights shall be afforded
7 to victims of all other crimes and witnesses of crimes:

8 (1) For victims, the right to be present at all criminal justice proceedings at which the
9 defendant has such right, including juvenile proceedings where the offense would have been a
10 felony if committed by an adult, even if the victim is called to testify or may be called to
11 testify as a witness in the case;

12 (2) For victims, the right to information about the crime, as provided for in
13 subdivision (5) of this subsection;

14 (3) For victims and witnesses, to be informed, in a timely manner, by the prosecutor's
15 office of the filing of charges, preliminary hearing dates, trial dates, continuances and the
16 final disposition of the case. Final disposition information shall be provided within five days;

17 (4) For victims, the right to confer with and to be informed by the prosecutor
18 regarding bail hearings, guilty pleas, pleas under chapter 552 or its successors, hearings,
19 sentencing and probation revocation hearings, **and postconviction relief hearings held**
20 **under Missouri supreme court rules 24.035 and 29.15, or their successors as**
21 **promulgated by the court**, and the right to be heard at such hearings, including juvenile
22 proceedings, unless in the determination of the court the interests of justice require otherwise;

23 (5) The right to be informed by local law enforcement agencies, the appropriate
24 juvenile authorities or the custodial authority of the following:

25 (a) The status of any case concerning a crime against the victim, including juvenile
26 offenses;

27 (b) The right to be informed by local law enforcement agencies or the appropriate
28 juvenile authorities of the availability of victim compensation assistance, assistance in
29 obtaining documentation of the victim's losses, including, but not limited to and subject to
30 existing law concerning protected information or closed records, access to copies of

31 complete, unaltered, unedited investigation reports of motor vehicle, pedestrian, and other
32 similar accidents upon request to the appropriate law enforcement agency by the victim or the
33 victim's representative, and emergency crisis intervention services available in the
34 community;

35 (c) Any release of such person on bond or for any other reason;

36 (d) Within twenty-four hours, any escape by such person from a municipal detention
37 facility, county jail, a correctional facility operated by the department of corrections, mental
38 health facility, or the division of youth services or any agency thereof, and any subsequent
39 recapture of such person;

40 (6) For victims, the right to be informed by appropriate juvenile authorities of
41 probation revocation hearings initiated by the juvenile authority and the right to be heard at
42 such hearings or to offer a written statement, video or audio tape, counsel or a representative
43 designated by the victim in lieu of a personal appearance, the right to be informed by the
44 board of probation and parole of probation revocation hearings initiated by the board and of
45 parole hearings, the right to be present at each and every phase of parole hearings, the right to
46 be heard at probation revocation and parole hearings or to offer a written statement, video or
47 audio tape, counsel or a representative designated by the victim in lieu of a personal
48 appearance, and the right to have, upon written request of the victim, a partition set up in the
49 probation or parole hearing room in such a way that the victim is shielded from the view of
50 the probationer or parolee, and the right to be informed by the custodial mental health facility
51 or agency thereof of any hearings for the release of a person committed pursuant to the
52 provisions of chapter 552, the right to be present at such hearings, the right to be heard at such
53 hearings or to offer a written statement, video or audio tape, counsel or a representative
54 designated by the victim in lieu of personal appearance;

55 (7) For victims and witnesses, upon their written request, the right to be informed by
56 the appropriate custodial authority, including any municipal detention facility, juvenile
57 detention facility, county jail, correctional facility operated by the department of corrections,
58 mental health facility, division of youth services or agency thereof if the offense would have
59 been a felony if committed by an adult, postconviction or commitment pursuant to the
60 provisions of chapter 552 of the following:

61 (a) The projected date of such person's release from confinement;

62 (b) Any release of such person on bond;

63 (c) Any release of such person on furlough, work release, trial release, electronic
64 monitoring program, or to a community correctional facility or program or release for any
65 other reason, in advance of such release;

66 (d) Any scheduled parole or release hearings, including hearings under section
67 217.362, regarding such person and any changes in the scheduling of such hearings. No such
68 hearing shall be conducted without thirty days' advance notice;

69 (e) Within twenty-four hours, any escape by such person from a municipal detention
70 facility, county jail, a correctional facility operated by the department of corrections, mental
71 health facility, or the division of youth services or any agency thereof, and any subsequent
72 recapture of such person;

73 (f) Any decision by a parole board, by a juvenile releasing authority or by a circuit
74 court presiding over releases pursuant to the provisions of chapter 552, or by a circuit court
75 presiding over releases under section 217.362, to release such person or any decision by the
76 governor to commute the sentence of such person or pardon such person;

77 (g) Notification within thirty days of the death of such person;

78 (8) For witnesses who have been summoned by the prosecuting attorney and for
79 victims, to be notified by the prosecuting attorney in a timely manner when a court
80 proceeding will not go on as scheduled;

81 (9) For victims and witnesses, the right to reasonable protection from the defendant or
82 any person acting on behalf of the defendant from harm and threats of harm arising out of
83 their cooperation with law enforcement and prosecution efforts;

84 (10) For victims and witnesses, on charged cases or submitted cases where no charge
85 decision has yet been made, to be informed by the prosecuting attorney of the status of the
86 case and of the availability of victim compensation assistance and of financial assistance and
87 emergency and crisis intervention services available within the community and information
88 relative to applying for such assistance or services, and of any final decision by the
89 prosecuting attorney not to file charges;

90 (11) For victims, to be informed by the prosecuting attorney of the right to restitution
91 which shall be enforceable in the same manner as any other cause of action as otherwise
92 provided by law;

93 (12) For victims and witnesses, to be informed by the court and the prosecuting
94 attorney of procedures to be followed in order to apply for and receive any witness fee to
95 which they are entitled;

96 (13) When a victim's property is no longer needed for evidentiary reasons or needs to
97 be retained pending an appeal, the prosecuting attorney or any law enforcement agency
98 having possession of the property shall, upon request of the victim, return such property to the
99 victim within five working days unless the property is contraband or subject to forfeiture
100 proceedings, or provide written explanation of the reason why such property shall not be
101 returned;

102 (14) An employer may not discharge or discipline any witness, victim or member of a
103 victim's immediate family for honoring a subpoena to testify in a criminal proceeding,
104 attending a criminal proceeding, or for participating in the preparation of a criminal
105 proceeding, or require any witness, victim, or member of a victim's immediate family to use
106 vacation time, personal time, or sick leave for honoring a subpoena to testify in a criminal
107 proceeding, attending a criminal proceeding, or participating in the preparation of a criminal
108 proceeding;

109 (15) For victims, to be provided with creditor intercession services by the prosecuting
110 attorney if the victim is unable, as a result of the crime, temporarily to meet financial
111 obligations;

112 (16) For victims and witnesses, the right to speedy disposition of their cases, and for
113 victims, the right to speedy appellate review of their cases, provided that nothing in this
114 subdivision shall prevent the defendant from having sufficient time to prepare such
115 defendant's defense. The attorney general shall provide victims, upon their written request,
116 case status information throughout the appellate process of their cases. The provisions of this
117 subdivision shall apply only to proceedings involving the particular case to which the person
118 is a victim or witness;

119 (17) For victims and witnesses, to be provided by the court, a secure waiting area
120 during court proceedings and to receive notification of the date, time and location of any
121 hearing conducted by the court for reconsideration of any sentence imposed, modification of
122 such sentence or recall and release of any defendant from incarceration;

123 (18) For victims, the right to receive upon request from the department of corrections
124 a photograph taken of the defendant prior to release from incarceration.

125 2. The provisions of subsection 1 of this section shall not be construed to imply any
126 victim who is incarcerated by the department of corrections or any local law enforcement
127 agency has a right to be released to attend any hearing or that the department of corrections or
128 the local law enforcement agency has any duty to transport such incarcerated victim to any
129 hearing.

130 3. Those persons entitled to notice of events pursuant to the provisions of subsection
131 1 of this section shall provide the appropriate person or agency with their current addresses,
132 electronic mail addresses, and telephone numbers or the addresses, electronic mail addresses,
133 or telephone numbers at which they wish notification to be given.

134 4. Notification by the appropriate person or agency utilizing the statewide automated
135 crime victim notification system as established in section 650.310 shall constitute compliance
136 with the victim notification requirement of this section. If notification utilizing the statewide
137 automated crime victim notification system cannot be used, then written notification shall be

138 sent by certified mail or electronic mail to the most current address or electronic mail address
139 provided by the victim.

140 5. Victims' rights as established in Section 32 of Article I of the Missouri Constitution
141 or the laws of this state pertaining to the rights of victims of crime shall be granted and
142 enforced regardless of the desires of a defendant and no privileges of confidentiality shall
143 exist in favor of the defendant to exclude victims or prevent their full participation in each and
144 every phase of parole hearings or probation revocation hearings. The rights of the victims
145 granted in this section are absolute and the policy of this state is that the victim's rights are
146 paramount to the defendant's rights. The victim has an absolute right to be present at any
147 hearing in which the defendant is present before a probation and parole hearing officer.

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