

Senate Bill 491 Summary
Missouri State Senate
Truly Agreed to and Finally Passed

HCS/SS/SCS/SB 491 - This act modifies provisions relating to crime.

The term "crime" was replaced with "offense" in many sections of this act. Several sections relating to crimes were moved to chapters within the state's "Criminal Code", which encompasses chapters 556 to 600. Other sections within chapters 556 to 600 not relating to crime were moved to chapters outside of the code. This act creates a new chapter 579 for the drug crimes, which were previously codified outside of the code in chapter 195. Some crimes were renamed, renumbered, or consolidated into other crimes. Several crimes were repealed that were considered to be obsolete or duplicative by a committee of the Missouri Bar Association. Certain doubly enacted provisions were repealed. Other crimes were reclassified with the effect of lowering or raising the penalty of the crime depending on the reclassification.

NEW FELONY AND MISDEMEANOR CLASSES

This act creates a new classification for felonies to be known as Class E, and a new classification for misdemeanors to be known as Class D.

The term of imprisonment for a Class C felony was changed from no more than 7 years to 3 to 10 years. Under current law, the maximum term for a class D felony is 4 years. This act makes the maximum term 7 years, which is the current maximum term for Class C felonies. Under this act, the new

Class E felony has the same maximum authorized term of imprisonment as a Class D felony under current law. The terms of imprisonment for misdemeanors were not revised and the new Class D misdemeanor has no authorized term of imprisonment.

To reflect the change in the authorized terms of imprisonment, crimes once classified as Class C felonies were changed to Class D felonies and crimes once classified as Class D felonies were changed to Class E felonies throughout the statutes.

This act provides that fines for Class C, D, and E felonies may not exceed \$10,000 rather than \$5,000. The maximum fines for Class A and B misdemeanors, offenses committed by corporations, and infractions were also doubled. This act increases the maximum fine for a Class C misdemeanor from \$300 to \$750 and the maximum fine for the new Class D misdemeanor is \$500. The \$20,000 cap on the amount a court may fine a person who has gained from an offense was repealed.

ELDER AND VULNERABLE PERSON ABUSE

Under current law, certain people are required to report abuse. This act provides that duly ordained ministers, clergy, religious workers, and Christian Science practitioners functioning in a ministerial capacity are not required to report privileged communications made to such person in his or her professional capacity.

This act modifies the elder abuse statute and a provision requiring certain people to report vulnerable abuse to provide that the statutes shall not be construed as meaning an elderly, disabled, or vulnerable

person is abused solely because such person chose to rely on spiritual means in lieu of medical care for his or her health care as shown by such person's explicit consent, advance directive for health care, or practice.

DANGEROUS FELONY

This act modifies the definition of "dangerous felony" to include habitual offenders of driving while intoxicated and first and second degree child molestation.

INCHOATE OFFENSES

Under current law, any attempt or conspiracy to commit a misdemeanor regardless of the classification of the underlying offense is a Class C misdemeanor. This act makes the classification of an attempt or conspiracy to commit a misdemeanor offense to be one step lower than the class provided for the underlying offense.

REPEAT OFFENDERS

Additional crimes were added to provisions that allow for enhanced penalties for repeat offenders.

ASSAULT OFFENSES

This act repeals several assault offenses and creates enhanced penalties for assaults on "special victims", which are defined under the act. A new third degree assault crime is created, which penalizes knowingly causing physical injury to another person. In addition, this act makes penalty

enhancements that currently apply to domestic assault offenses apply to all assault offenses.

SEX OFFENSES

Under current law, definitions for sexual and deviate sexual intercourse refer to the term "female sex organ". This act changes the reference to "female genitalia".

Under current law, consent is not a defense to a sex offense if the victim is under the age of 12. This act raises the age to 14.

This act creates two new degrees of child molestation. Under the new fourth degree child molestation, it is a class E felony for a person, who is four years older than a child under the age of 17, to subject the child to sexual contact. It is a Class B felony if certain aggravating circumstances are present. This act lowers the penalty for subjecting a child under the age of 14 to sexual contact from a B felony to the new Class C felony, unless forcible compulsion is present, in which case it is a Class B felony.

Current law provides that a person commits the crime of use of a child in a sexual performance if he or she allows a child under the age of 17 to engage in a sexual performance or consents to his or her child being in a sexual performance. This act raises the age of the child to under 18 years of age. This act expands the offense of sexual contact with a student to private elementary and secondary schools. It currently only applies to public

schools.

This act repeals a provision allowing a court to prohibit a person found guilty of bestiality from harboring or living with animals for two years after the completion of the sentence.

Under current law, a person commits child abuse if he or she knowingly inflicts cruel and inhuman punishment on a child less than 17 years old or photographs a child under the age of 18 in a sexual act. This act removes the provision regarding the photographing of a child.

This act expands the list of victims who shall not be forced to submit to a lie detector test by law enforcement as a condition for proceeding with a criminal investigation and victims whose identities shall be protected to cover all offenses under chapter 566, domestic assault, and stalking.

PROPERTY CRIMES

Under current law, the classification of a crime involving property damage is often based on the value of the property damage. The values differ throughout the statutes. This act makes such values \$750 when they fall within the range of \$500 to \$1,000. Several other values are modified within the property crimes chapter.

STEALING

Under current law, stealing property valued at less than \$500 is a Class A misdemeanor unless the property falls under a list of certain specified types of property. This act makes it a Class D misdemeanor for a first-time offense of stealing property valued at less than \$150.

Current law also provides that a person found guilty of a third stealing offense within ten years must be charged with a felony stealing offense. Rather than providing for a felony upon a third offense, this act requires a felony charge for the fourth offense.

ENDANGERING VISITORS TO CORRECTIONAL FACILITIES

Visitors to a county or city jail are added to the class of possible victims under the crime of endangering a visitor to a correctional facility.

INTOXICATION-RELATED OFFENSES

This act repeals a requirement that ignition interlock devices be equipped with GPS.

This act adds a new repeat offender of intoxication-related driving offenses, called the habitual offender, which is a person who has been found guilty of five or more intoxication-related offenses committed on separate occasions, four or more intoxication-related offenses committed on separate occasions where at least one of the offenses involved another person being injured or killed, or three intoxication-related offenses when at least two of the offenses involved another person being injured or killed. This act creates the crimes of boating while intoxicated and with an excessive blood alcohol content, which are similar to current provisions of law that prohibit operating a vessel on the Mississippi or Missouri Rivers or lakes in the state while intoxicated or with an excessive blood alcohol level, except the new crimes are not limited to boating on

specific waterways.

Phlebotomists are added to the list of people who may draw blood to determine blood alcohol content.

LEAVING THE SCENE OF AN ACCIDENT

Under current law, it is only a crime to leave the scene of an accident on a highway or parking lot or facility and only the person who caused the accident is required to report the accident. This act repeals both limitations, so the crime applies to an accident taking place anywhere and caused by anyone. In addition, accidents involving vessels and ATVs are added to the crime. This act limits the requirement to report an accident to incidents resulting in property damage to another person's property.

DRUG OFFENSES

Under current law, the definition of ultimate user includes a person who lawfully possesses a controlled substance for his or her own use or the use of a household member. This act expands the definition to include a person who lawfully possesses a controlled substance for the use of a member of the person's immediate family regardless of whether the family member resides in the household. "Immediate family" is defined as including a husband, wife, parent, child, sibling, stepparent, stepchild, stepbrother, stepsister, grandparent, or grandchild.

This act provides that a first time offense of possession of 10 grams or less of marijuana is a Class D misdemeanor rather than a Class A misdemeanor.

Under the current law, it is unlawful for manufacturers and distributors and their agents and employees to deliver a controlled substance if the person has reasonable cause to believe the controlled substance will be used in violation of the law. Under this act, the offense is committed when the person knowingly delivers a controlled substance while acting recklessly as to whether it will be used in violation of the law. Agents of manufacturers and distributors are removed from the people who can commit the crime.

Under current law, a person commits the Class C felony of maintaining a public nuisance when such person keeps or maintains a room, building, structure, or inhabitable structure that is used for the illegal use, keeping, or selling of drugs, including marijuana.

Under this act, a person commits the crime, which is a Class E felony, if such person knowingly keeps or maintains a room or building that is used for the illegal manufacture, distribution, storage or sale of drugs except for 35 grams or less of synthetic or real marijuana. A person also commits the crime if, on three or more separate occasions within a year, two or more people not living in the room or building, gather to ingest, inject, inhale drugs, not including marijuana or synthetic marijuana.

In addition, a provision was repealed that contained procedures for a prosecutor to bring a civil lawsuit to enjoin the nuisance and allowing the court to order the premises to not be occupied or used for no longer than one year.

This act is similar to SB 253 (2013), HB 210 (2013), SB 872 (2012), and HB 1897 (2012).

MEGHAN LUECKE