

FIRST EXTRAORDINARY SESSION

SENATE BILL NO. 1

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LIBLA.

Read 1st time July 27, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5789S.02I

AN ACT

To repeal sections 84.344, 568.045, and 571.060, 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 public safety, with penalty provisions and an emergency clause.

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

Section A. Sections 84.344, 568.045, and 571.060, 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by house bill no. 215 merged with senate bill no. 36, ninety-seventh general assembly, first regular session, are repealed and eight new sections enacted in lieu thereof, to be known as sections 84.344, 211.071, 211.071, 285.040, 491.016, 491.641, 568.045, and 571.060, to read as follows:

84.344. 1. Notwithstanding any provisions of this chapter to the contrary, any city not within a county may establish a municipal police force on or after July 1, 2013, according to the procedures and requirements of this section. The purpose of these procedures and requirements is to provide for an orderly and appropriate transition in the governance of the police force and provide for an equitable employment transition for commissioned and civilian personnel.

2. Upon the establishment of a municipal police force by a city under sections 84.343 to 84.346, the board of police commissioners shall convey, assign, and otherwise transfer to the city title and ownership of all indebtedness and assets, including, but not limited to, all funds and real and personal property held

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

11 in the name of or controlled by the board of police commissioners created under
12 sections 84.010 to 84.340. The board of police commissioners shall execute all
13 documents reasonably required to accomplish such transfer of ownership and
14 obligations.

15 3. If the city establishes a municipal police force and completes the
16 transfer described in subsection 2 of this section, the city shall provide the
17 necessary funds for the maintenance of the municipal police force.

18 4. Before a city not within a county may establish a municipal police force
19 under this section, the city shall adopt an ordinance accepting responsibility,
20 ownership, and liability as successor-in-interest for contractual obligations,
21 indebtedness, and other lawful obligations of the board of police commissioners
22 subject to the provisions of subsection 2 of section 84.345.

23 5. A city not within a county that establishes a municipal police force
24 shall initially employ, without a reduction in rank, salary, or benefits, all
25 commissioned and civilian personnel of the board of police commissioners created
26 under sections 84.010 to 84.340 that were employed by the board immediately
27 prior to the date the municipal police force was established. Such commissioned
28 personnel who previously were employed by the board may only be involuntarily
29 terminated by the city not within a county for cause. The city shall also recognize
30 all accrued years of service that such commissioned and civilian personnel had
31 with the board of police commissioners. Such personnel shall be entitled to the
32 same holidays, vacation, and sick leave they were entitled to as employees of the
33 board of police commissioners.

34 6. Commissioned and civilian personnel [who were previously employed by
35 the board] **who are employed by the municipal police force established**
36 **under this section** shall [continue to] **not** be subject, throughout their
37 employment for the city not within a county, to a residency [rule no more
38 restrictive than a] requirement of retaining a primary residence in a city not within
39 a county [for a total of seven years and of then allowing them to maintain a
40 primary residence outside the city not within a county] so long as the **primary**
41 residence is located within a one-hour response time.

42 7. The commissioned and civilian personnel who retire from service with
43 the board of police commissioners before the establishment of a municipal police
44 force under subsection 1 of this section shall continue to be entitled to the same
45 pension benefits provided under chapter 86 and the same benefits set forth in
46 subsection 5 of this section.

47 8. If the city not within a county elects to establish a municipal police
48 force under this section, the city shall establish a separate division for the
49 operation of its municipal police force. The civil service commission of the city
50 may adopt rules and regulations appropriate for the unique operation of a police
51 department. Such rules and regulations shall reserve exclusive authority over
52 the disciplinary process and procedures affecting commissioned officers to the
53 civil service commission; however, until such time as the city adopts such rules
54 and regulations, the commissioned personnel shall continue to be governed by the
55 board of police commissioner's rules and regulations in effect immediately prior
56 to the establishment of the municipal police force, with the police chief acting in
57 place of the board of police commissioners for purposes of applying the rules and
58 regulations. Unless otherwise provided for, existing civil service commission
59 rules and regulations governing the appeal of disciplinary decisions to the civil
60 service commission shall apply to all commissioned and civilian personnel. The
61 civil service commission's rules and regulations shall provide that records
62 prepared for disciplinary purposes shall be confidential, closed records available
63 solely to the civil service commission and those who possess authority to conduct
64 investigations regarding disciplinary matters pursuant to the civil service
65 commission's rules and regulations. A hearing officer shall be appointed by the
66 civil service commission to hear any such appeals that involve discipline resulting
67 in a suspension of greater than fifteen days, demotion, or termination, but the
68 civil service commission shall make the final findings of fact, conclusions of law,
69 and decision which shall be subject to any right of appeal under chapter 536.

70 9. A city not within a county that establishes and maintains a municipal
71 police force under this section:

72 (1) Shall provide or contract for life insurance coverage and for insurance
73 benefits providing health, medical, and disability coverage for commissioned and
74 civilian personnel of the municipal police force to the same extent as was
75 provided by the board of police commissioners under section 84.160;

76 (2) Shall provide or contract for medical and life insurance coverage for
77 any commissioned or civilian personnel who retired from service with the board
78 of police commissioners or who were employed by the board of police
79 commissioners and retire from the municipal police force of a city not within a
80 county to the same extent such medical and life insurance coverage was provided
81 by the board of police commissioners under section 84.160;

82 (3) Shall make available medical and life insurance coverage for purchase

83 to the spouses or dependents of commissioned and civilian personnel who retire
84 from service with the board of police commissioners or the municipal police force
85 and deceased commissioned and civilian personnel who receive pension benefits
86 under sections 86.200 to 86.366 at the rate that such dependent's or spouse's
87 coverage would cost under the appropriate plan if the deceased were living; and

88 (4) May pay an additional shift differential compensation to commissioned
89 and civilian personnel for evening and night tours of duty in an amount not to
90 exceed ten percent of the officer's base hourly rate.

91 10. A city not within a county that establishes a municipal police force
92 under sections 84.343 to 84.346 shall establish a transition committee of five
93 members for the purpose of: coordinating and implementing the transition of
94 authority, operations, assets, and obligations from the board of police
95 commissioners to the city; winding down the affairs of the board; making
96 nonbinding recommendations for the transition of the police force from the board
97 to the city; and other related duties, if any, established by executive order of the
98 city's mayor. Once the ordinance referenced in this section is enacted, the city
99 shall provide written notice to the board of police commissioners and the governor
100 of the state of Missouri. Within thirty days of such notice, the mayor shall
101 appoint three members to the committee, two of whom shall be members of a
102 statewide law enforcement association that represents at least five thousand law
103 enforcement officers. The remaining members of the committee shall include the
104 police chief of the municipal police force and a person who currently or previously
105 served as a commissioner on the board of police commissioners, who shall be
106 appointed to the committee by the mayor of such city.

211.071. 1. If a petition alleges that a child between the ages of twelve
2 and eighteen has committed an offense which would be considered a felony if
3 committed by an adult, the court may, upon its own motion or upon motion by the
4 juvenile officer, the child or the child's custodian, order a hearing and may, in its
5 discretion, dismiss the petition and such child may be transferred to the court of
6 general jurisdiction and prosecuted under the general law; except that if a
7 petition alleges that any child has committed an offense which would be
8 considered first degree murder under section 565.020, second degree murder
9 under section 565.021, first degree assault under section 565.050, forcible rape
10 under section 566.030 as it existed prior to August 28, 2013, rape in the first
11 degree under section 566.030, forcible sodomy under section 566.060 as it existed
12 prior to August 28, 2013, sodomy in the first degree under section 566.060, first

13 degree robbery under section 569.020 as it existed prior to January 1, 2017, or
14 robbery in the first degree under section 570.023, distribution of drugs under
15 section 195.211 as it existed prior to January 1, 2017, [or] the manufacturing of
16 a controlled substance under section 579.055, **any offense under section**
17 **571.030, any offense under section 571.015**, or has committed two or more
18 prior unrelated offenses which would be felonies if committed by an adult, the
19 court shall order a hearing, and may in its discretion, dismiss the petition and
20 transfer the child to a court of general jurisdiction for prosecution under the
21 general law.

22 2. Upon apprehension and arrest, jurisdiction over the criminal offense
23 allegedly committed by any person between eighteen and twenty-one years of age
24 over whom the juvenile court has retained continuing jurisdiction shall
25 automatically terminate and that offense shall be dealt with in the court of
26 general jurisdiction as provided in section 211.041.

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

32 4. Written notification of a transfer hearing shall be given to the juvenile
33 and his or her custodian in the same manner as provided in sections 211.101 and
34 211.111. Notice of the hearing may be waived by the custodian. Notice shall
35 contain a statement that the purpose of the hearing is to determine whether the
36 child is a proper subject to be dealt with under the provisions of this chapter, and
37 that if the court finds that the child is not a proper subject to be dealt with under
38 the provisions of this chapter, the petition will be dismissed to allow for
39 prosecution of the child under the general law.

40 5. The juvenile officer may consult with the office of prosecuting attorney
41 concerning any offense for which the child could be certified as an adult under
42 this section. The prosecuting or circuit attorney shall have access to police
43 reports, reports of the juvenile or deputy juvenile officer, statements of witnesses
44 and all other records or reports relating to the offense alleged to have been
45 committed by the child. The prosecuting or circuit attorney shall have access to
46 the disposition records of the child when the child has been adjudicated pursuant
47 to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney
48 shall not divulge any information regarding the child and the offense until the

49 juvenile court at a judicial hearing has determined that the child is not a proper
50 subject to be dealt with under the provisions of this chapter.

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

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

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

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

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

66 (5) The record and history of the child, including experience with the
67 juvenile justice system, other courts, supervision, commitments to juvenile
68 institutions and other placements;

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

72 (7) The age of the child;

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

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

77 (10) Racial disparity in certification.

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

80 (1) Findings showing that the court had jurisdiction of the cause and of
81 the parties;

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

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

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

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

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

94 10. If a petition has been dismissed thereby permitting a child to be
95 prosecuted under the general law and the child is found not guilty by a court of
96 general jurisdiction, the juvenile court shall have jurisdiction over any later
97 offense committed by that child which would be considered a misdemeanor or
98 felony if committed by an adult, subject to the certification provisions of this
99 section.

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

103 **12. The provisions of this section shall become effective on**
104 **January 1, 2021.**

211.071. 1. If a petition alleges that a child between the ages of twelve
2 and seventeen has committed an offense which would be considered a felony if
3 committed by an adult, the court may, upon its own motion or upon motion by the
4 juvenile officer, the child or the child's custodian, order a hearing and may, in its
5 discretion, dismiss the petition and such child may be transferred to the court of
6 general jurisdiction and prosecuted under the general law; except that if a
7 petition alleges that any child has committed an offense which would be
8 considered first degree murder under section 565.020, second degree murder
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11 degree under section 566.030, forcible sodomy under section 566.060 as it existed
12 prior to August 28, 2013, sodomy in the first degree under section 566.060, first
13 degree robbery under section 570.023, **[or] any offense under section 571.030,**
14 **any offense under section 571.015,** distribution of drugs under section
15 579.055, or has committed two or more prior unrelated offenses which would be
16 felonies if committed by an adult, the court shall order a hearing, and may in its

17 discretion, dismiss the petition and transfer the child to a court of general
18 jurisdiction for prosecution under the general law.

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

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

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30 and his or her custodian in the same manner as provided in sections 211.101 and
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33 child is a proper subject to be dealt with under the provisions of this chapter, and
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36 prosecution of the child under the general law.

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52 reasonable prospects of rehabilitation within the juvenile justice system. These

53 criteria shall include but not be limited to:

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

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

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

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

63 (5) The record and history of the child, including experience with the
64 juvenile justice system, other courts, supervision, commitments to juvenile
65 institutions and other placements;

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

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71 considering disposition;

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73 rehabilitative programs available to the juvenile court; and

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76 under the general law, the court shall enter a dismissal order containing:

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78 the parties;

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81 child and his **or her** counsel; and

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83 transfer jurisdiction.

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

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90 would be a violation of a state law or municipal ordinance.

91 10. If a petition has been dismissed thereby permitting a child to be
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93 general jurisdiction, the juvenile court shall have jurisdiction over any later
94 offense committed by that child which would be considered a misdemeanor or
95 felony if committed by an adult, subject to the certification provisions of this
96 section.

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

100 12. The provisions of this section shall expire on December 31,
101 2020.

285.040. 1. As used in this section, "public safety employee" shall
2 mean a person trained or authorized by law or rule to render
3 emergency medical assistance or treatment, including, but not limited
4 to, firefighters, ambulance attendants and attendant drivers, emergency
5 medical technicians, emergency medical technician paramedics,
6 dispatchers, registered nurses and physicians, and persons who are
7 vested with the power of arrest for criminal code violations including,
8 but not limited to, sheriffs and deputy sheriffs.

9 2. No public safety employee of any city not within a county shall
10 be subject, throughout their employment, to a residency requirement
11 of retaining a primary residence in a city not within a county so long
12 as the primary residence is located within a one-hour response time.

491.016. A statement made by a witness, that is not otherwise
2 admissible, is admissible in evidence in a criminal proceeding in the
3 courts of this state as substantive evidence to prove the truth of the
4 matter asserted if the court finds by preponderance of the evidence, in
5 a hearing conducted outside the presence of the jury and before trial,
6 that the defendant engaged in or acquiesced to wrongdoing, with the
7 purpose of preventing the witness from testifying in any proceeding
8 and the witness fails to appear.

491.641. 1. (1) There is hereby created in the state treasury the
2 "Pretrial Witness Protection Services Fund", which shall consist of
3 moneys collected under this section. The state treasurer shall be
4 custodian of the fund. In accordance with sections 30.170 and 30.180,

5 the state treasurer may approve disbursements. The fund shall be a
6 dedicated fund and money in the fund shall be used solely by the
7 department of public safety for the purposes of witness protection
8 services pursuant to this section.

9 (2) Notwithstanding the provisions of section 33.080 to the
10 contrary, any moneys remaining in the fund at the end of the biennium
11 shall not revert to the credit of the general revenue fund.

12 (3) The state treasurer shall invest moneys in the fund in the
13 same manner as other funds are invested. Any interest and moneys
14 earned on such investments shall be credited to the fund.

15 2. Any law enforcement agency may provide for the security of
16 witnesses, potential witnesses, and their immediate families in criminal
17 proceedings instituted or investigations pending against a person
18 alleged to have engaged in a violation of state law. Providing for
19 witnesses may include provision of housing facilities and for the health,
20 safety, and welfare of such witnesses and their immediate families, if
21 testimony by such a witness might subject the witness or a member of
22 his or her immediate family to danger of bodily injury, and may
23 continue so long as such danger exists. Subject to appropriations from
24 the general assembly for the purposes provided for in this section,
25 funds may be appropriated from the pretrial witness protection
26 services fund.

27 3. The department of public safety may authorize funds to be
28 disbursed to law enforcement agencies for the purchase, rental, or
29 modification of protected housing facilities for the purpose of this
30 section. The law enforcement agency may contract with any
31 department of federal or state government to obtain or to provide the
32 facilities or services to carry out this section.

33 4. The department of public safety may authorize expenditures
34 for law enforcement agencies to provide for the health, safety, and
35 welfare of witnesses and victims, and the families of such witnesses and
36 victims, whenever testimony from, or a willingness to testify by, such
37 a witness or victim would place the life of such person, or a member of
38 his or her family or household, in jeopardy. A law enforcement agency
39 shall submit an application to the department of public safety which
40 shall include, but not necessarily be limited to:

41 (1) Statement of conditions which qualify persons for protection;

42 (2) Precise methods the originating agency will use to provide
43 protection, including relocation of persons and reciprocal agreements
44 with other law enforcement agencies;

45 (3) Statement of the projected costs over a specified period of
46 time;

47 (4) If the requesting agency expects the person to provide
48 evidence in any court of competent jurisdiction:

49 (a) Brief statement of the anticipated evidence;

50 (b) Certification of a reasonable belief in the person's
51 competency to give evidence;

52 (c) Statement of facts supporting the law enforcement agency's
53 belief in the accuracy of the evidence; and

54 (d) Any offer made in exchange for the person agreeing to give
55 evidence.

56 5. The application submitted in subsection 4 of this section shall
57 be a closed record and not subject to disclosure under the provisions
58 of chapter 610. Any information contained in the application, or any
59 other documents, which reveals or could reveal the location or address
60 of the individual or individuals who qualify for services under this
61 section shall be confidential and shall not be disclosed by any entity.

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

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

5 (2) Knowingly engages in sexual conduct with a person under the age of
6 seventeen years over whom the person is a parent, guardian, or otherwise
7 charged with the care and custody;

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

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

16 2. The offense of endangering the welfare of a child in the first degree is

17 a class D felony unless the offense:

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

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

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

571.060. 1. A person commits the offense of unlawful transfer of weapons
2 if he **or she**:

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

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

12 (3) Knowingly sells, leases, loans, gives away or delivers a blackjack to
13 a person less than eighteen years old without the consent of the child's custodial
14 parent or guardian, or recklessly, as defined in section 562.016, [sells, leases,
15 loans, gives away or delivers any firearm to a person less than eighteen years old
16 without the consent of the child's custodial parent or guardian; provided, that this
17 does not prohibit the delivery of such weapons to any peace officer or member of
18 the Armed Forces or National Guard while performing his official duty]; or

19 [(3)] (4) Recklessly, as defined in section 562.016, sells, leases, loans,
20 gives away or delivers a firearm or ammunition for a firearm to a person who is
21 intoxicated.

22 2. Unlawful transfer of weapons under [subdivision] **subdivisions (1) or**
23 **(2)** of subsection 1 of this section is a class E felony; unlawful transfer of weapons
24 under [subdivisions (2) and] **subdivisions (3) or (4)** of subsection 1 of this
25 section is a class A misdemeanor.

Section B. Because of the necessity of protecting the citizens of Missouri
2 from violent crime, section A of this act is deemed necessary for the immediate

3 preservation of the public health, welfare, peace, and safety, and is hereby
4 declared to be an emergency act within the meaning of the constitution, and
5 section A of this act shall be in full force and effect upon its passage and
6 approval.

✓

Unofficial

Bill

Copy