

Crossing The Line: Your Rights and Responsibilities



MISSOURI BAR YOUNG LAWYERS' SECTION

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STUDENT REFERENCE GUIDE

Introduction

Most people know that certain activities are against the law. You know that if you take part in an illegal activity, such as stealing a car, you will get into trouble. What you may not know is that you can also break the law if you encourage someone else to steal a car, if you are at a party where a minor is drinking alcohol (even if you are not drinking), or if you are a minor and you are holding an unlit cigarette. This reference guide discusses several activities which clearly break the law and result in a person being punished. It also discusses activities which violate the law and cause a person to be punished, even though it is not so obvious that punishment will result from the activities.

The purpose of this reference guide is to provide answers to questions that you may have about whether a particular activity or behavior is against the law, and the punishments which may be imposed for that activity or behavior. You may study this reference guide, and keep it to review from time to time, so that you will know what conduct crosses the line between behavior which is permissible and behavior which is against the law, and the consequences for violating the law.

Graffiti and Criminal Mischief

In Missouri, graffiti and criminal mischief fall under the crime of “Property Damage.”

What is Property Damage? Property damage is intentionally or knowingly damaging the property of another person.

Consequences of Property Damage. In Missouri, there are two classifications of property damage: Property Damage in the First Degree and Property Damage in the Second Degree. A person commits property damage in the first degree when the damage to the property exceeds \$750.00. Property damage in the first degree is considered a class D felony. A class D felony is punishable by no more than 4 years in prison and a fine of no more than \$5,000.00. Property damage in the second degree is considered a class B misdemeanor. A class B misdemeanor is punishable by 30 days–6 months in jail and a fine of no more than \$500.00.

Criminal Responsibility for Another Person’s Conduct. A person may be responsible for criminal conduct of another person if he or she causes, helps, encourages, directs, or orders the other person to commit an offense.

Violations of Civil Law. In addition to the criminal penalties discussed above, a minor and/or the minor’s parents may be sued and ordered by a court to pay money to the owner of property which has been damaged or destroyed, or to make reparation to the victim, such as restoring or cleaning the damaged items or property.

Other Questions You May Have:

What if You Aren’t the Person Who Actually Damages the Property? It may not matter. You may be responsible for the conduct of a person who commits property damage or violates a civil law if you cause the other person to commit the offense or if you ask, suggest, encourage, direct, or help the other person in committing the offense.

Now You Know: That you may be responsible if you:

- Act as a look out while another person damages, tampers with, or destroys someone else’s property.
- Buy an item for another person (such as spray paint or razor blades) that you know is going to be used in damaging another person’s property.

That the following activities constitute property damage:

- Smearing someone’s property with paint;
- Destroying someone’s fence;
- Destroying public landmarks;
- Damaging or “keying” someone’s automobile;
- Toilet papering a home;
- Letting air out of tires on a car; and
- Throwing eggs at a home or vehicle.

That you could be ordered to pay the cost of:

- Repairing the damaged property; or
- Restoring or cleaning such property.

Alcohol Offenses

What Is An Alcoholic Beverage? A beverage or drink which contains alcohol or more than one-half of one percent of alcohol. Drinks which are made with whiskey, wine, brandy, gin, rum, ale, malt liquor, or tequila are examples of alcoholic beverages.

What Conduct Is Prohibited? A minor may not possess or drink an alcoholic beverage. A person is in possession of alcohol if the alcohol is in the person's care, custody, control, and under his or her management.

Consequences of Alcohol Offenses. A fine of not more than \$1,000 may be imposed.

Violations of Civil Law. While the use or possession of alcohol is not likely to violate any civil laws, use of alcohol which leads to intoxication may cause other actions which **do** violate civil laws. In such a case, a judge or jury may consider evidence of intoxication in determining whether a person acted negligently and the damages which he or she should be required to pay. A person is also liable for damages which arise from an injury that causes the death of another person if the injury was caused by the wrongful act, negligence, carelessness, unskillfulness or default (failure to act) of a person doing the act. An adult, including the parents of a minor, may be held liable for damages to property or injuries to persons which are caused by a minor who is intoxicated. A student who sells, gives, delivers, possesses, uses, or is under the influence of an alcoholic beverage, or commits a serious act or offense while under the influence of alcohol, on or near school property or while attending a school-sponsored or school-related activity may be removed from class and placed in an alternative education program. A student who sells, gives, delivers, possesses, uses or is under the influence of an alcoholic beverage while on school property or attending a school-sponsored or school-related activity may be expelled.

Now You Know:

- You are in possession of alcohol if it is in your care, custody and control even if you do not drink it.

Curfew

What Is a Curfew? Curfew laws restrict the right of a person who is under 17 to be outside or in a public place during certain hours. Curfew laws are designed to establish a safer community and to protect minors from negative influences.

Who Sets Curfews? Curfew laws are created and enforced by local governments such as cities and townships and they vary from place to place. A local police department can tell you what the law is in a particular city. For example, curfew laws may prohibit a person under 17 from being in a public place or roadway before 5:00 a.m. or after 11:00 p.m. on weekdays and before 5:00 a.m. and after 12:00 a.m. on weekends. Some cities punish parents who knew and allowed a minor to violate a curfew law.

Are There any Exceptions to Curfew Laws? Exceptions to curfew laws vary from city to city. Examples of common exceptions to curfew laws include:

- Participation in a school, civic, or religious activity
- Being accompanied by a parent, guardian, or adult
- Traveling to or from a place of employment in a motor vehicle
- Remaining on a sidewalk in front of your home
- Emergency situations

Consequences of Violating Curfew. Consequences will depend on the local ordinance. Minors may be taken into custody for curfew violations, and parents may be called to pick up the juvenile violator.

Violations of Civil Law. While violating curfew is not likely to violate a civil law, there may be additional opportunities in after-curfew hours to engage in other activities which do violate civil laws and cause a minor to be punished.

Now You Know:

- To check with the police department in any particular city to see what the curfew laws are in that city.
- That your parents may be liable if they know and permit you to leave the house after curfew.

Tobacco

What Conduct is Prohibited? A minor may not legally possess, purchase, consume, or accept a cigarette or tobacco product, or falsely represent that he or she is 18 or older in order to obtain possession of, purchase or receive a cigarette or tobacco product. A person is in possession of tobacco if the tobacco is in the person's care, custody, control and under his or her management.

Are There any Exceptions? A minor may **possess** a cigarette or tobacco product in the presence of a family member only if the possession occurs on property not open to the public. The exception is limited to possession and does not include purchasing or consuming tobacco products.

Consequences of Tobacco Offenses. A fine of not more than \$200 may be imposed. In addition, if a minor pleads guilty or is found guilty of possessing, purchasing, consuming, or receiving cigarettes or chewing tobacco, the court **must** impose the fine. If the conviction is for a second or subsequent violation, the court must impose the fine and require the minor to attend a tobacco awareness program. If the minor receives another tobacco ticket, a fine up to \$200 **will** be assessed and the minor **will** be required to attend another tobacco awareness program for each additional violation.

Violations of Civil Law. Possession or use of tobacco on school grounds or at school-sponsored activities may be in violation of school policies and may result in the student being disciplined.

Now You Know:

- That you are in possession of tobacco if it is in your care, custody or control or under your management.
- That you could receive a ticket if you are just **with** minors who are smoking, even if you are not smoking.
- That you break the law if you:
 - Have a package of cigarettes in your jacket pocket.
 - Are holding an unlit cigarette.

Failure To Attend School

What is Truancy or Failure to Attend School? Truancy is a willful and unjustified voluntary absence from school.

What Absences are Excused? Absences may be excused for illness of the minor, illness or death in the minor's family, weather or road conditions which make travel dangerous, an absence approved by a teacher, principal, or superintendent of the minor's school, and other circumstances which are reasonable and proper.

Consequences of Failure to Attend School. A student who violates the truancy law will be referred to the school district for discipline. Parents may also be held responsible for their child's failure to attend school.

Now You Know:

- Students must attend school unless the absence is excused.
- Parents may be held responsible for a child's failure to attend school.
- Students will be subject to school discipline.

Drug Offenses

What is a Drug? Missouri law defines many substances to be drugs, including, opium poppy, cocaine, and marijuana. A person is in possession of drugs if drugs are in the person's care, custody, control and under his or her management.

Consequences. Depending on the seriousness of the offense, criminal sanctions could range from a fine to time in jail.¹ In addition, a minor may be subject to informal adjustment,² placed on probation, required to perform community service, required to pay the victim of the offense, and/or committed to the Missouri Division of Youth Services.

Violations of Civil Law. Use of drugs which leads to intoxication is a fact which may be considered by the judge or jury in determining whether a person acted negligently in causing injury to a person or property and the damages which he or she should be required to pay. In addition, it is possible that a person who supplies drugs to another person who is injured as a result of using the drugs could be sued for the injuries suffered. A person is also liable for losses which arise from an injury that causes the death of another person if the injury was caused by the wrongful act, neglect, carelessness, unskillfulness, or default (failure to act) of such person or his or her agent. A student who sells, gives, delivers, possesses, uses or is under the influence of marijuana, a controlled substance or a dangerous drug while on school property, or attending a school-sponsored or school-related activity **may** be expelled.

Other Questions You May Have:

What is a Drug-Free Zone? The law specifically designates certain locations, such as schools and school buses and public housing as "Drug-Free Zones." Penalties can be increased for offenses described in this section if they occur in Drug-Free Zones.

Now You Know:

- In cases involving unlawful possession of an illegal substance, the minor must have exercised care, control, custody, and management of the substance and must have known that the substance was illegal.
- Schools and other locations regularly attended by minors are considered Drug-Free Zones, and violations of the law may have increased penalties.

¹ The ranges of punishment for criminal sanctions are listed on page 41 of this guide.

² Informal adjustment is the term of art used in Missouri to describe the first step the juvenile court may take to informally dispose of a case before formal action is taken. Disposition at this stage usually involves probation and restitution and/or community service. Additional discussion about juvenile court dispositions can be found on page 35.

Common Drug Offenses and Classifications

Offense	Definition	Classification
Inhalation of Certain Substances	<p>Intentionally or willfully inhaling, ingesting, applying, using or possessing any solvent with intent to inhale, ingest, apply or use the solvent in a manner designed to:</p> <ul style="list-style-type: none"> • affect the person’s central nervous system; • create or induce a condition of intoxication, hallucination, or elation; or • change, distort, or disturb the person’s eyesight, thinking process, balance or coordination 	This offense is generally treated as an infraction. A court may sentence a person to pay a fine and/or place the person on probation.
Possession of Marijuana	Knowingly or intentionally possessing a usable quantity of marijuana	<p>Class A misdemeanor (35 grams or less)</p> <p>Class C felony (30 kilograms or less but more than 35 grams)</p> <p>Class B felony (more than 30 kilograms but less than 100 kilograms)</p> <p>Class A felony (100 kilograms or more)</p>
Delivery of Marijuana	Knowingly or intentionally delivering marijuana	<p>Class C felony (5 grams or less)</p> <p>Class B felony (more than 5 grams)</p>
Possession of a Controlled Substance Other Than Marijuana (including Cocaine/Crack, Heroin, Methamphetamine (Speed), and LSD)	Knowingly or intentionally possessing a controlled substance unless the person obtained the substance directly from or under a valid prescription	<p>Class C felony (less than 2 grams of cocaine base)</p> <p>Class B felony (more than 30 grams but less than 90 grams of heroin, more than 150 grams but less than 450 grams of cocaine other than crack cocaine, more</p>

		<p>than 2 grams but less than 6 grams of cocaine base, more than 500 milligrams but less than 1 gram of LSD, more than 30 grams but less than 90 grams of PCP, more than 4 grams but less than 12 grams of phencyclidine, more than 30 grams but less than 90 grams of methamphetamine)</p> <p>Class A felony (90 grams or more of heroin, 450 grams or more of cocaine other than cocaine base, 6 grams or more of cocaine base, 1 gram or more of LSD, 90 grams or more of PCP, 12 grams or more of phenbyblidine, 90 grams or more of methamphetamine)</p>
Delivery of a Controlled Substance	Knowingly or intentionally manufacturing, delivering, or possessing with intent to manufacture or deliver a controlled substance	<p>Class B felony (30 grams or less of heroin, 150 grams or less of cocaine other than crack cocaine, 2 grams or less of crack cocaine, 500 milligrams or less of LSD, 30 grams or less of PCP, 4 grams or less of phencyclidine, 30 grams or less of methamphetamine)</p> <p>Class A felony (more than 30 grams of heroin, more than 150 grams of cocaine other than crack cocaine, more than 2 grams of crack cocaine, more than 500 milligrams of LSD, more than 30 grams of PCP, more than 4 grams of phencyclidine, more than 30 grams of methamphetamine)</p>

Arson

What is Arson? Arson is starting a fire or causing an explosion with intent to destroy or damage property which belongs to another person or ignoring the likelihood that someone's property will be damaged.

Consequences of Arson. Depending on the seriousness of the offense, criminal sanctions could range from a fine to time in jail.¹ In addition, a minor may be subject to informal adjustment, placed on probation, required to perform community service, required to pay the victim of the offense, and/or committed to the Missouri Division of Youth Services.

Violations of Civil Law. In addition to the criminal penalties, a minor and/or the minor's parents may be sued and ordered by a court to pay money to the owner of property which has been damaged or destroyed. A student who commits arson on school property or while attending a school-sponsored or school-related activity **must** be expelled.

Now You Know:

- Arson could result from the reckless use of fireworks or stink bombs.
- You may be liable if you assist in buying an item that you know will be used to start a fire.

¹ The ranges of punishment for criminal sanctions are listed on page 41 of this guide.

Theft

What is Theft or Stealing? When a person takes property owned by another person without his or her consent with an intent to deprive the owner of the property.

Consequences of Theft or Stealing. Depending on the seriousness of the offense, criminal sanctions could range from a fine to time in jail. In addition, a minor may be subject to informal adjustment, placed on probation, required to perform community service, required to pay the victim of the offense, and/or committed to the Missouri Division of Youth Services.

Violations of Civil Law. In addition to the criminal penalties discussed above, a minor and/or the minor's parents may be sued and ordered by a court to pay money to the owner of property which has been stolen or damaged. A student who commits theft on school property or while attending a school-sponsored or school-related activity may be removed from class and subject to discipline.

Other Questions You May Have:

What if You Aren't the Person Who Takes the Property? It probably doesn't matter. You may be responsible for the conduct of a person who commits theft if you cause the other person to commit the offense or if you request, encourage, direct or assist the other person in committing the offense.

Now You Know:

That you may be guilty of theft if you:

- Tell a friend to steal a compact disc for you and the friend does so.
- Act as a look out while another person steals something.
- Distract a store clerk while another person steals something.
- Are with another person who steals something and the other person hides the stolen property in his or her jacket and you both walk out of the store and you know that the property was stolen.

Progressive Sanction Levels		
Amount of Property Damage	Grade of Offense	Sanction Level
Less than \$500	Class C misdemeanor	Less than 30 days
	Class B misdemeanor	30 days to 6 months
	Class A misdemeanor	6 months or more
Between \$500 and \$25,000	Class C felony	10 years maximum
More than \$25,000 <i>or</i> 2 nd degree robbery	Class B felony	10–20 years
1 st degree robbery	Class A felony	20 years–life

Weapons

What is a Weapon? Missouri law defines several items as weapons including firearms, clubs, blackjacks, knuckles, switchblade knives, hunting or “bowie” knives, and folding knives with a blade longer than four inches. A person is in possession of a weapon if the weapon is in the person’s care, custody, and control or is in an area accessible to the person.

Note: Even though it is not a violation of state laws to carry a folding pocket knife with a blade of less than four inches, carrying a pocket knife may violate a local ordinance or school policy that could result in a fine or suspension.

Consequences. A court may sentence a juvenile offender to any number of different dispositions ranging from informal adjustment, having to perform community service, having to pay for any damages from the crime, having to report to a juvenile officer for a period of probation, having your driving privileges suspended, to confinement to a home or a juvenile facility.

Criminal Responsibility for Another Person’s Conduct. A person may be responsible for criminal conduct of another person if before or during the crime he or she aids, assists or encourages the other person in the commission of an offense.

Civil Liability. In addition to the criminal penalties, a person may be subject to civil damages through a lawsuit for damages and injuries resulting from the possession or use of weapons. A person would have to pay damages resulting from any intentional act that caused injury or death to another or for the damage to any property of another. A person may also have to pay damages resulting from any negligent or careless act with a weapon that resulted in injury, death or property damage.

School Suspensions. Under Missouri law, if a student brings a firearm, knuckles, switchblade or knife, or other weapon as defined by school policy, to a school, school function or on a school bus, this offense will result in a one-year suspension or expulsion from the school. As used under this law, the word “school” is broadly construed to include the parking lots and grounds around the school.

Violations. There are many ways to violate the weapons laws of Missouri. Some weapons are unlawful to possess such as machine guns, short barreled shotguns, knuckles and switchblades. It is also unlawful to carry a weapon concealed from the ordinary view on your person or in your car, except if you have been granted a concealed carry permit. It is also ordinarily unlawful to take a weapon into certain places such as schools, churches or public assemblies.

The following is a summary of some of Missouri's weapons laws. Unlawful use of a weapon is a class D felony, with some exceptions noted below.

Carrying a concealed weapon. A person commits the crime of carrying a concealed weapon if he or she knowingly carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of causing death, with certain exceptions. The area "upon or about" the person includes the area and objects under the person's control including an automobile or a bag or purse.

In 2003, legislation became effective that allows individuals to apply for a permit to carry concealed firearms in the state of Missouri. The law authorizes county sheriffs to issue permits to individuals who are at least 23 years old to carry concealed weapons on their persons and in their vehicles. The legislation also authorizes individuals who are at least 21 years old to carry firearms in the passenger compartment of their vehicles even without a permit.

The "right to carry" firearms, however, is not absolute. It does not authorize persons with a concealed firearms permit to take a gun into certain locations, including schools, churches, hospitals, child care facilities or onto the private property of businesses or other organizations where appropriate signs prohibiting firearms are posted or without the permission of appropriate officials for those entities. In addition, for anyone who does not have a permit, it is still unlawful to carry a firearm into a school, onto a school bus or onto the premises of any school function.

Flourishing a weapon. It is unlawful to exhibit a weapon in an angry or threatening manner in the presence of one or more persons. However, it is lawful self-defense to exhibit a weapon to defend yourself or another from an attacker.

Discharge of a firearm.

- It is unlawful to discharge a firearm at a house, train, boat, aircraft, motor vehicle or building used for assembling people. A violation is a class D felony.
- It is also unlawful to discharge a firearm at an outbuilding or along or across a highway. It is unlawful to discharge a firearm within 100 yards of an occupied school, courthouse or church building. A violation is a class B misdemeanor.
- It is also unlawful to discharge a firearm at a motor vehicle or from a motor vehicle at a person, building or another vehicle ("drive-by" shootings). A violation is a class B felony. It is a class A felony if it results in injury or death to another person.

Prohibited weapons. It is unlawful to knowingly possess, transport, manufacture, repair or sell any of the following: an explosive weapon; a machine gun; a gas gun; a short barreled rifle or shotgun; a firearm silencer; a switchblade knife; a bullet or projectile which explodes or detonates upon impact because of an independent explosive charge after having been shot from a firearm; or knuckles. There are exceptions to this law for the armed forces, law enforcement, manufacturers and for items possessed by museums and authorized collectors.

Possession of a concealable firearm unlawful for certain persons. It is unlawful for persons convicted of certain felonies or who are fugitives from justice, mentally incompetent, or habitually drugged or drunken to possess a concealable firearm.

Unlawful transfer of a weapon. It is unlawful to knowingly sell, lease, loan, or give a firearm or ammunition to persons convicted of certain felonies or who are fugitives from justice, to mentally incompetent persons, or to habitually drugged or drunken persons.

Unlawful transfer of a weapon to a minor. It is unlawful to sell, lease, loan or give a firearm or blackjack to a person under eighteen years old without the consent of the child's parent or guardian.

Armed Criminal Action. This crime punishes those who use a weapon in the commission of another crime. Thus, a person commits the crime of Armed Criminal Action if he or she uses a deadly weapon or dangerous instrument to commit any felony, such as a robbery, burglary, assault or murder. The punishment for Armed Criminal Action is imprisonment for a minimum of three years up to an unlimited number of years or life imprisonment. Persons convicted of Armed Criminal Action are not eligible for parole until they have served three years imprisonment.

School-sponsored firearms related events. It is not unlawful for a student to participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearms-related events, provided the student does not carry a firearm or weapon into any school, onto any bus or onto the premises of an unrelated school function.

Offense Classifications for Adults

Class B Felony

5 to 15 years imprisonment

- Discharging a firearm at a vehicle or from a vehicle at a person, building or another vehicle.

Class C Felony

Imprisonment up to 7 years; Fines up to \$5000

- Possession, manufacture, transport, repair, or sale of an explosive weapon; a machine gun; a gas gun; a short barreled rifle or shotgun; a firearm silencer.

Class D Felony

Imprisonment up to 4 years; Fines up to \$5000

- Unlawfully carrying a concealed weapon.
- Unlawfully flourishing a weapon.
- Possession of a loaded weapon at a school or school function or on a school bus.
- Unlawful transfer of a weapon to persons convicted of certain felonies or who are fugitives from justice, to mentally incompetent persons, or to habitually drugged or drunken persons.
- Discharging a weapon at a house, building, train, plane or boat.

Class A Misdemeanor

Imprisonment up to 1 year; Fines up to \$1000

- Possession of an unloaded weapon at a school or school function or on a school bus.
- Possession, manufacture, transport, repair, or sale of a switchblade knife; explosive ammunition; or knuckles.
- Unlawful transfer of a weapon to a minor.
- Unlawful transfer of a firearm to an intoxicated person.

Class B Misdemeanor

Imprisonment up to 6 months; Fines up to \$500

- Possession of a weapon in a church, government building, polling place or public assembly.
- Discharge of a firearm near a school, church or courthouse.
- Discharge of a firearm at an outbuilding or across or along a highway.
- Possession of a firearm while intoxicated.

Now You Know:

- It is against the law to possess a switchblade or knuckles.
- It is against the law to conceal a weapon upon yourself or in your bag or purse, unless you have a concealed carry permit to carry a concealed firearm.
- It is against the law to carry a concealed weapon in your automobile unless you are 21 or older.
- It is against the law to discharge a firearm at certain places and things, from certain places and things and near certain places and things.
- You are liable for any damages you cause to persons or property with a weapon.

Assault/Peace Disturbance

What is Assault? Assault is intentionally, knowingly or recklessly causing or attempting to cause physical injury to another person, intentionally or knowingly threatening another person with physical injury, or intentionally or knowingly causing physical contact with another person when the offender knows or should reasonably believe that the other person will consider the contact to be offensive. Assault includes doing any of those things to a spouse or another family member such as a brother or sister.

Consequences of Assault. Depending on the seriousness of the offense, criminal sanctions could range from a fine to time in jail.¹ In addition, a minor may be subject to informal adjustment, placed on probation, required to perform community service, required to pay the victim of the offense, and/or committed to the Missouri Division of Youth Services.

Violations of Civil Law. In addition to criminal penalties discussed above, a minor and/or the minor's parents may be sued and ordered by a court to pay money to a person who has been injured as a result of an assault. A person is also responsible for losses which arise from an injury that causes the death of another person if the injury was caused by the wrongful act of such person. Payment of money may be ordered to repay a person for injuries or to punish the offender for committing the assault. A student who commits an assault on school property or while attending a school-sponsored or school-related activity may be charged with a separate criminal offense. In addition, the offender may be subject to discipline.

Now You Know:

You could be guilty of assault if you:

- Strike someone with a bat or bottle.
- Encourage one person to assault another person.
- Grab someone by the arm or slap them on the face.
- Act as a look out while one person assaults another person.
- Assist a person in assaulting another person.
- Hit, push, kick, shake or grab another person if the person is offended by the contact, even if the person is not injured.

What is Disorderly Conduct? In Missouri, disturbing the peace falls under the offense of disorderly conduct. It involves wrongfully disturbing another person, such as intentionally or knowingly using abusive, indecent, profane or vulgar language in a public place, making an offensive gesture or display in a public place, creating a noxious and unreasonable odor in a public place, abusing or threatening a person in a public place in an obviously offensive manner, making unreasonable noise in a public place, fighting with another in a public place, looking into a dwelling or guest room through any window or other opening in the dwelling, discharging or displaying a firearm in a public place, and exposing an anus or genitals in a public place.

¹ The ranges of punishment for criminal sanctions are listed on page 41 of this guide.

Consequences of Disturbing the Peace. Depending on the seriousness of the offense, criminal sanctions could range from a fine to time in jail.¹ In addition, a minor may be subject to informal adjustment, placed on probation, required to perform community service, required to pay the victim of the offense, and/or committed to the Missouri Division of Youth Services.

Violations of Civil Law. In addition to the criminal penalties discussed above, a minor and/or the minor's parents may be sued and ordered to pay money to a person who has been injured or whose property has been damaged or destroyed as a result of disorderly conduct. The money may be to repay a person for damage to or loss of his or her property and may also be as punishment for committing the act which constitutes disorderly conduct. A student who commits disorderly conduct on school property or while attending a school-sponsored or school-related activity may be subject to discipline.

Now You Know:

That behavior which crosses the line and can constitute disturbance of the peace includes:

- Fighting in public, including fights at school.
- Challenging someone to a fight.
- Making loud noises.
- Having a party which is so loud that it unreasonably disturbs the community.
- Using foul language in a public place which is likely to produce violence.
- "Mooning" another person.
- Urinating in public.

¹ The ranges of punishment for criminal sanctions are listed on page 41 of this guide.

Discrimination

What is Discrimination? Discrimination is treating one person unfairly and differently from other people because of the person's race, ethnicity, religion, ancestry, national origin, disability, gender or sexual orientation. Some actions are obviously discriminatory. For example, it is discriminatory to exclude individuals from participating in an activity simply because of their race, gender or religion. In addition, actions which appear to be neutral, but which have a discriminatory impact are also against the law. For example, it is discriminatory to offer tutoring services to students for one hour each day if Russian students may be tutored only from 6:00 a.m. to 7:00 a.m., but other students may obtain those services at reasonable hours during the day.

A discriminatory environment is inappropriate and may cause a person to feel isolated and uncomfortable. Discrimination may prevent a person from receiving opportunities which are available to others. Every person enrolled in a public school should receive the same educational opportunities which are provided to other students. You should know that you are protected by law from discrimination when you are at school and when you are at work.

Violations of Civil Law. If actions which are discriminatory result in damage to or destruction of property, the defendant may be ordered to repair or replace the property or pay for the cost of the property. If such actions result in personal injuries or death, the defendant may be ordered to pay monetary damages. A defendant could also be ordered to pay exemplary or punitive damages if his or her actions were committed with malice (intent to harm).

Other Questions You May Have:

What Should I do if I am Discriminated Against? If you believe that you have been or are being treated unfairly or differently at school because of your race, ethnicity, religion, ancestry, national origin, disability, gender or sexual orientation, report that treatment to a teacher or school administrator and file a complaint with the school. If you believe that you are being discriminated against at work, report that fact to your supervisor or company management. By taking action against conduct which violates the law, you are helping to create an environment where discrimination is not tolerated or permitted. Persons who engage in activities which are discriminatory will be subject to several punishments, including written or public apologies, being reprimanded or fired, being suspended or expelled, or being liable for damages to the property, health, reputation or person of an injured party.

Now You Know: That you may be liable if you:

- Refuse to permit females to play on an athletic team solely because they are female.
- Tease or make fun of another person because of their race or national origin.

Sexual Harassment

What is Sexual Harassment? Sexual harassment is more than unfriendly behavior or teasing. It is unwelcome sexual statements or actions which interfere with another person's ability to work or learn. There are two main types of sexual harassment. First, hostile environment sexual harassment includes both verbal and physical harassment. Verbal sexual harassment includes, but is not limited to, making sexual remarks or jokes, spreading sexual rumors about another student, and making sexist statements. Physical harassment includes, but is not limited to, touching or grabbing in a sexual way, flashing and mooning. Second, quid pro quo sexual harassment occurs where a teacher or other school employee, or an employer or supervisor, asks sexual favors in exchange for a better grade or as a threat to lower a grade, or in exchange for a raise or for not being fired.

A sexually hostile environment may offend and/or threaten a student's ability to benefit from his or her education, or to perform a job in a safe environment. Many of you will not be working for several more years, but learning how to recognize sexual harassment now will teach you how to treat others appropriately, as well as how you should and should not be treated by others. It is important for you to know that you are protected by law from sexual harassment when you are at school as well as when you are at work.

Violations of Civil Law. If sexual harassment results in damage to or destruction of property, the defendant may be ordered to repair or replace the property or pay for the cost of the property. If such conduct results in personal injuries or death, the defendant may be ordered to pay monetary damages. A defendant could also be ordered to pay exemplary or punitive damages (over and above the actual loss suffered; usually for punishment) if his or her actions were committed with malice (intent to harm).

Other Questions You May Have:

What Should I do if I am Sexually Harassed? If you believe that you have been or are being sexually harassed, know that the law protects you. If a fellow student is sexually harassing you, tell him or her that it is illegal and ask him or her to stop. Tell a teacher or administrator whom you trust. File a complaint with the school. If a teacher is sexually harassing you, tell him or her that his or her actions are illegal and report it to an administrator, such as the principal, and file a complaint with the school. If a fellow employee or your boss is sexually harassing you, tell your supervisor or company management. By taking action against conduct which violates the law, you are helping to strengthen your own sense of safety and also helping other students who suffer from sexual harassment. The harassers will be subject to any number of punishments, including written or public apologies, being reprimanded or fired, being suspended or expelled, or being liable for damages to the health, reputation or person of an injured party.

You have the right to learn or work safely. Sexual harassment harms individuals in many ways, by causing fear, inability to attend school, depression, loss of trust, anger and stress. Stopping sexual harassment in its tracks will help the harassers—by teaching them that what they

are doing is hurtful and unacceptable, and that their behavior will not be tolerated. Speak up for yourself—it's your right!

Now You Know: That you may be liable if you:

- Spread sexual rumors about another person.
- Flash or moon another person.

What You Need to Know About Juvenile and Criminal Proceedings

A legal proceeding to punish a person for breaking a criminal law is usually brought by the State of Missouri. When a lawsuit is brought because a criminal law was broken, the State of Missouri is called the *prosecution* and the person who is alleged to have broken the law is called the *defendant*.

A person who is 17 is considered to be an adult under Missouri criminal laws. A person who is not an adult is called a *minor* or a *juvenile*. Even though a person who is 17 is an adult under Missouri criminal laws, he or she must be 21 to legally purchase or drink alcohol. For other purposes, such as entering into a contract or signing a will, a person must be 18.

The legal proceedings which are brought against a person who breaks a criminal law are different depending upon whether the person who breaks the law is a minor or an adult. If a person breaks the law before he or she is 17 years old, the legal proceedings usually will take place in a juvenile court. If a person breaks the law after he or she is 17, the legal proceedings will take place in a court of general jurisdiction (“adult court”).

Juvenile courts handle two types of offenses: status offenses and delinquent conduct. Status offenses include conduct that would not be a crime if committed by an adult but is sanctionable when committed by a juvenile, including: truancy, incorrigibility, running away from home, possessing tobacco, curfew violations, and similar misconduct. Delinquent conduct means conduct committed by a juvenile under 17 that would be a crime if committed by an adult.

A juvenile also may be subject to general court jurisdiction if the juvenile court “certifies” the juvenile and transfers the case. A juvenile 12 or older may be certified where charges include a felony. A juvenile at any age may be certified for certain very serious felonies. A certified juvenile loses the protections of juvenile court and becomes subject to adult procedures and punishment under the general criminal code.

What You Need to Know About Civil Proceedings

A legal proceeding to impose a civil punishment is usually brought by a person who has been harmed in some way. When a lawsuit is brought because a civil law was broken, the person who brings the lawsuit is called the *plaintiff* and the person who is sued is called the *defendant*.

When a court orders a person who has broken the law to pay money to a person who was harmed, the money which must be paid is known as *damages*. If damages must be paid because the wrongful act deprived another person of his or her property or caused a physical injury, those damages are known as *actual damages*. If the damages must be paid in order to replace property that was lost or to repay expenses which were caused by the wrongful act, the damages are also actual damages. Actual damages are intended to reimburse the other person for the damage to or loss of their property. Actual damages may also be intended to compensate a person for personal injuries. If damages must be paid as a punishment, the damages are known as *punitive or exemplary damages*.

Punishments for Juveniles

DESCRIPTION OF JUVENILE COURT DISPOSITIONS

Informal Adjustment (“Intake and Diversion”)

Before a formal delinquency petition is filed in juvenile court, the court’s “intake” staff may consider whether to “divert” the case from the system by reaching an informal resolution with the juvenile and his or her parents. Diversion is generally reserved for children who admit to committing less serious offenses and are not repeat offenders. The court staff typically makes a preliminary inquiry to determine the facts, interviews the child and parent, and decides whether the interests of the public or the child require formal processing.

If the juvenile court staff finds that formal action is unnecessary, the staff may reach an agreement with the child and parent concerning the conditions they must fulfill. The agreement generally places the child on probation. Probation may not continue past the child’s 21st birthday. Probation has been called the “Workhorse of the Juvenile Justice System” because it is the sanction most frequently imposed on delinquents nationwide. (In 1999, for example, about 60% of adjudicated delinquents received probation as the most serious sanction).

In addition to probation, the child may also be required to pay victims restitution for any damages caused by the offense. The child may be required to perform community service. The child may agree to other appropriate conditions, such as participating in counseling or undergoing drug or alcohol treatment. The child may also be referred to other agencies for rehabilitation and treatment.

If the child fulfills the conditions of the informal adjustment, the case is closed without a formal adjudicatory hearing before the juvenile court judge. If the probation officer reports that the juvenile violates or fails to fulfill one or more conditions, the court may extend the probation term, add additional probation conditions, or in extreme cases revoke probation and commit the child to the Division of Youth Services. The court may also proceed with formal adjudication and disposition.

Involvement of Parents

The juvenile court may order an alleged delinquent’s parent or guardian to participate in activities necessary to treat the child. For example, the court may order parents to attend counseling sessions, participate in treatment programs at an institution housing the child, or pay the costs of supporting the child housed at an institution.

After giving the parent a reasonable opportunity for a hearing, the juvenile court may order the parent to pay the costs of the proceedings, which may range from \$25-50.

Possible Juvenile Court Dispositions

When the juvenile court finds that a child has committed a delinquent act, the court may order one or more of the following dispositions:

1. Place the child under supervision in the child's own home or in the custody of a relative or other person the court finds suitable;
2. Commit the child to foster care or a private or public agency or institution that cares for children;
3. Commit the child to the custody of the juvenile officer at a juvenile facility;
4. Commit the child to the custody of the Missouri Division of Youth Services, which maintains facilities for treating youthful offenders;
5. Cause the child to be examined and treated by a physician, psychiatrist or psychologist and, when the child's health or condition requires, to be placed in a public or private hospital, clinic or institution for treatment;
6. Suspend or revoke the child's drivers license (or deny issuance of a child's drivers license);
7. Order the child to pay restitution for damages or injury caused by the child's delinquent act;
8. Order the child to perform community service;
9. Order the child to pay a fine.

What Happens When a Child is Placed on Probation

A probation officer is assigned to each child on probation. The field probation officer meets regularly with the child to provide supervision and guidance, monitors the child's school attendance, reports to the court if the child is voluntarily absent from school, and monitors the child's compliance with other terms of probation.

Restitution or Reparation by the Child or Parent

If a child is found to have engaged in an offense causing property damage or loss or personal injury, the informal adjustment agreement or the juvenile court may order the child or a parent to make full or partial restitution or reparation to the victim. A restitution order may provide for periodic payments by the child or parent for the period specified in the order. (The juvenile court's restitution or reparation orders, which are usually for only modest amounts, must be distinguished from victims' civil damage actions, which general jurisdiction courts hear and decide.)

A restitution or reparation order directed against a parent may extend beyond the child's 18th birthday. The juvenile court may also render judgment against a defaulting person for any amount of restitution unpaid and owing after ten days' notice to the person of his failure or refusal to obey the terms of the court's order.

The restitution or reparation program must promote the child's rehabilitation, must be reasonable in view of the child's ability to make payment or perform the reparation, and must not

conflict with the child's schooling. When practicable and subject to court supervision, the juvenile court may approve a restitution or reparation program based on settlement between the child and the victim, perhaps after victim-offender mediation sessions.

Community Service As a Condition of Probation

The juvenile may perform community service as a condition of probation, either by an informal adjustment agreement with the court staff or by juvenile court order. The child works a specified number of hours at a project approved by the staff or court.

The court may also order that a child's parent perform community service with the child.

Commitment to the Missouri Division of Youth Services

Where a juvenile has committed a delinquent act or a status offense and the juvenile court determines that a suitable community-based treatment service does not exist or has proved ineffective, the court may commit the juvenile to the Missouri Division of Youth Services (DYS). DHS is the state agency charged with holding, treating and rehabilitating the most serious juvenile offenders. The DHS program, consisting of small residential community-based facilities and programs, is widely regarded as the nation's most effective statewide delinquency program. In 2001, for example, the American Youth Policy Forum (AYPF) called DHS "a guiding light for reform," and found that Missouri's "unconventional approach— emphasizing treatment and least-restrictive care —is far more successful than the incarceration-oriented systems used in most other states." The AYPF concluded that Missouri's approach "should be a model for the nation."

Missouri has the lowest statewide juvenile recidivism rate in the nation, only about 11%; in some states, recidivism by youths released from training schools reaches 50% to 70%, and sometimes greater than 90%.

DYS may hold a child in its residential or parole program until the child turns 21.

GENERAL JURISDICTION COURT ("ADULT COURT") CRIMINAL DISPOSITIONS

In general jurisdiction court ("adult court"), the court may sentence a criminal to jail or prison, may sentence the offender to pay a fine, or may place an offender on probation with special conditions. These dispositional alternatives apply to adult defendants, and to juveniles certified ("transferred") to general jurisdiction court for trial and sentencing as adults.

If the court places an offender on probation, the court may order the offender to complete treatment, pay restitution for damages or injuries, and heed other conditions, such as periodically visiting a probation officer, undergoing drug tests, verifying education or employment, and surrendering weapons. In addition, persons on probation typically face restrictions concerning where and when they may travel and the persons with whom they may associate. Violation of a probation condition may result in a court hearing and a sentence of imprisonment or a fine.

A Few Other Things You Should Know About Missouri Juvenile Laws

Confidentiality and Recordkeeping. Missouri law requires law enforcement agencies to maintain confidential records any time a minor is taken into custody. A juvenile officer may provide information regarding a juvenile under certain circumstances to the victim, witnesses, officials at school, law enforcement, and the child's parents or legal guardian.

Juvenile Offenses at School. Discipline and behavior problems are the responsibility of school officials. However, criminal offenses committed at school will be investigated by law enforcement officers and treated the same as any other criminal investigation. School officials are required by law to report felonies to law enforcement. Depending on the offense, they may also be required to report other lesser crimes and misdemeanors.

School Searches. A school official may search a student or a student's property without a search warrant when the student is on school property and when the school official has reasonable grounds to suspect that a violation of the law or the rules of the school will be discovered.

Criminal Sanctions

When a person violates a criminal law, the crime is put into a category or *classified* as a misdemeanor or felony. These classifications are known as the *grade* of the offense. The grade of the offense and the punishment which applies often depends upon the *value* of property which is damaged or destroyed. The value of the property is how much the property was worth or how much it will cost to repair or replace the property. The value of the property is sometimes referred to as the *monetary* or *pecuniary* value. Depending upon the grade of the offense, some crimes which are committed by adults may be punished by requiring the adult to spend time in jail, or may require the offender to pay a fine.

The punishments which are described below generally apply to adults. However, they would also apply to a minor who has been certified to stand trial and be punished as an adult.

Grade of the Offense	Punishment
Class A Felony	Term of not less than 10 nor more than 30 years, or life imprisonment.
Class B Felony	Term of not less than 5 nor more than 15 years.
Class C Felony	Not more than 7 years; possible fine not to exceed \$5,000.00. If financial gain derived, an amount fixed by Court not to exceed double amount of gain, but not more than \$20,000.00.
Class D Felony	Not more than 4 years; possible fine not to exceed \$5,000.00. If financial gain derived, an amount fixed by Court not to exceed double amount of gain, but not more than \$20,000.00.
Class A Misdemeanor	Term not to exceed 1 year; possible fine not to exceed \$1,000.00. If financial gain derived, an amount fixed by Court not to exceed double amount of gain, but not more than \$20,000.00.
Class B Misdemeanor	Term not to exceed 6 months; possible fine not to exceed \$500.00. If financial gain derived, an amount fixed by Court not to exceed double amount of gain, but not more than \$20,000.00.
Class C Misdemeanor	Term not to exceed 15 days; possible fine not to exceed \$300.00. If financial gain derived, an amount fixed by Court not to exceed double amount of gain, but not more than \$20,000.00.
Infraction	Possible fine not to exceed \$200.00. If financial gain derived, an amount fixed by Court not to exceed double amount of gain, but not more than \$20,000.00.