

PREFACE

During 2024-2025, the Supreme Court of the United States handed down relatively few decisions affecting substantive criminal law, clarifying the due process forbids the introduction of excessive amounts of irrelevant, prejudicial evidence in criminal trials, and giving some deference to legislative efforts to protect minors from obscene internet material.

As predicted in this Supplement last year, the Missouri courts have begun to grapple with the issue of jury determination of prior and persistent offender status, as required by the U.S. Supreme Court in *Erlinger v. United States*, decided in 2024. At least one case vacated a sentence under the persistent offender statute and remanded for sentencing hearing with a jury.

During the last year, the Missouri Supreme Court resolved uncertainty about multiple convictions for tampering with the same automobile, explicated the rule of evidence known as *corpus delicti*, and provided guidance on instructing down in cases where the elements of a version of a lesser degree of an offense are identical to the elements of the higher degree. The Court also overruled prior cases holding that in some kidnapping cases involving confinement there was no need for proof that the confinement increased the risk of harm to the victim or was “incidental” to another offense. The Court also rejected the view of the Court of Appeals that interfering with an arrest required some affirmative physical act as opposed to mere obstructive behavior.

During 2025, the General Assembly expanded the crimes of harassment and tampering with judicial officers to prohibit publication of personal information. Punishment for child endangerment was significantly enhanced when fentanyl or a variant is involved. In addition, an amendment to the child abuse statute to provide what amounts to a special negative defense that allowing a child to participate in certain “independent activities” is not child abuse. Finally, efforts were made to punish “organized retail theft,” i.e., coordinated shoplifting, and “street takeovers,” involving mass assemblages of reckless stunt driving on public streets.

The author concluded his service with the St. Louis City Counselor’s Office in 2022, but remains active in the study and practice of criminal law and procedure.

MISSOURI CRIMINAL LAW

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