

Affirm. Defenses

MAI-CR 3d

| Submission | MAI-CR 2d | Statute RSMo 1994 | Reference | How Submitted | When Submitted |
|--|----------------------|---|---|---------------------------------------|--|
| Mental Disease or Defect | 2.30 2.32 2.33 | § 552.010 § 552.030 § 552.040, RSMo Supp. 1997 | MAI-CR 3d 306.02 MAI-CR 3d 306.04 | Cross-reference in "Unless" clause | If evidence, must be given if statutory notice given. NOTE: Presumption of sanity language is an optional paragraph that may be added upon the request of the state. The effect of the verdict is explained in optional language that is given upon the request of the defendant. |
| Duress | 3.26 | § 562.071 | Separate instruction, MAI-CR 3d 310.24 | Cross-reference in "Unless" clause | If evidence, upon request of either party. |
| Marriage to Victim (in some sexual offenses) | N/A | § 566.023 | See the Notes on Use for MAI-CR 3d 320.03, 320.05, 320.07, 320.09, 320.11, 320.13, 320.15, 320.19, 320.21.1 | "Unless" clause modified. | If evidence, upon request of defendant. |
| Mistaken Belief As to Age (in some sexual offenses) | 2.37.2.2 | § 566.020 | Note 2 to MAI-CR 3d 320.05 and 320.13 | "Unless" clause modified | If evidence, upon request of defendant. |
| Justification: Emergency Measures | 2.40 | § 563.026 | Separate instruction, MAI-CR 3d 308.20 | Cross-reference in "Unless" clause | If evidence, upon request of either party. |
| Abandonment: Responsibility for Conduct of Others | 2.16 | § 562.041.2(3) | Note 10 to MAI-CR 3d 304.04 | "Unless" clause modified | If evidence, upon request of either party. |
| Antique Slot Machine | N/A | § 572.125 | Note 4 to MAI-CR 3d 326.06 and 326.12 and Note 5 to MAI-CR 3d 326.04 | Cross-reference in "Unless" clause | If evidence, must be given. |

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Special Negative Defenses

MAI-CR 3d

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|---|---|--|--|--|--|
| 1. Justification Self-defense, Defense of Others, etc. | 2.41, etc. | § 563.031 | Separate instruction, MAI-CR 3d 306.06, etc. | Cross-reference in verdict director | If evidence, must be given, in general. |
| 2. Entrapment | 3.28 | § 562.066 | Separate instruction, MAI-CR 3d 310.28 | Cross-reference in verdict director | If evidence, upon request of either party unless defendant accepts withdrawal. |
| 3. Intoxication A. Voluntary | 3.30, which was withdrawn in 1984 | § 562.076 | Separate instruction, MAI-CR 3d 310.50 | Separate instruction with no cross-reference in verdict director | See Notes on Use 4 to MAI- CR 3d 310.50. |
| B. Involuntary | 3.30.2 | § 562.076 | Separate instruction, MAI-CR 3d 310.52 | Cross-reference in verdict director | If evidence, upon request of either party. |
| 4. Sudden Passion A. Assault | 3.78 | § 565.060.1(1) and .2 | Notes to verdict directors in 319 Series | Separate paragraph in verdict director | If evidence, paragraph must be given. Lesser offense instruction upon request. |
| B. Homicide | 3.78 | § 565.023.1(1) | Notes to verdict directors in 313 Series | Separate paragraph in verdict director | If evidence, paragraph must be given. Lesser offense instruction upon request. |
| 5. Consent to Assault | Notes to 2.04 | § 565.080 Compare: § 565.100 - kidnapping | Notes to verdict directors in 319 Series and Notes on Use 3 to MAI-CR 3d 328.20 | Cross-reference in verdict director to separate instruction | If evidence, must be given. |

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| 6. Claim of Right - Tampering | 2.37.3.1 | § 569.130 | Notes to verdict directors in 323 Series and MAI-CR 3d 328.14 and 328.18 | Separate paragraph in verdict director | If evidence, must be given. |
| Ethnic Intimidation - Lawful purpose - Arson (in 2nd degree) | 2.37.1.3 | § 569.050.2 | Notes on Use 2 to MAI-CR 3d 323.08 | Separate paragraph in verdict director | If evidence, must be given. |
| 7. Claim of Right - Stealing | 2.37.3.2 | § 570.070 | Notes to verdict directors in 324 Series | Separate paragraph in verdict director | If evidence, must be given. |
| 8. Mistake As to Incapacity - Sexual Offenses | 2.37.2.1 | § 566.020.1 | Note 5 to MAI-CR 3d 320.04.1, Note 6 to MAI-CR 3d 320.10.1 and Note 8 to MAI-CR 3d 320.18.1 | Separate paragraph in verdict director | If evidence, must be given. |
| 9. Mistake As to Eligibility to Remarry | 2.37.4 | § 568.010.2 | Note 2 to MAI-CR 3d 322.02.1 | Separate paragraph in verdict director | If evidence, must be given. |
| 10. Relief in Legality of Conduct | 2.38 | § 562.031.2 | Separate instruction, MAI-CR 3d 308.16 | Cross-reference in verdict director | If evidence, upon request of defendant. |
| 11. Fleeing Domestic Abuse | N/A | §565.156 | Note 3 to MAI-CR 3d 319.70.1 and 319.70.5 | Separate paragraph in verdict director | If evidence, must be given. |

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| 12. Nonsupport A. Good Cause B. Nonmedical Remedial Treatment | Notes to 2.04 | § 568.040 § 568.040 | Note 3 to MAI-CR 3d 322.08 Note 4 to MAI-CR 3d 322.08 | Separate paragraph in verdict director or definition of "support." See Notes 4 to MAI-CR 3d 322.08 | If evidence, must be given. If evidence, must be given. |
| 13. "Defenses" to False Imprisonment | Notes to 2.04 | § 565.140 | Note 9 to MAI-CR 3d 319.28 | Separate paragraph in verdict director | If evidence, must be given. |
| 14. Renunciation - Defense to Conspiracy | Notes to 2.04 | § 564.016 | Note 4 to MAI-CR 3d 304.10 | Separate paragraph in verdict director | If evidence, upon request of either party. |
| 15. Gambling Records of Defendant's Bets and Not Exceeding Ten | Notes to 2.04 | § 572.050 | Note 2 to MAI-CR 3d 326.08 | Separate paragraph in verdict director | If evidence, must be given. |
| 16. Retraction of False Statements | Notes to 2.04 | § 575.040, etc. | See Notes to MAI-CR 3d 329.10, .20, .22, .30 | Separate paragraph in verdict director | If evidence, must be given. |
| 17. Exemption for controlled substance | N/A | Chapter 195. | See <u>e.g.</u> Notes on Use 6 to MAI-CR 3d 325.02 | See Notes on Use 6 to MAI-CR 3d 325.02 | See Notes on Use 6 to MAI- CR 3d 325.02 |
| 18. Exemption for use of a weapon | N/A | § 571.030.2 | Notes on Use to MAI- CR 3d 331.20, et. seq. | Separate paragraph in verdict director. | If evidence, must be given. |

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