

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NOS. 253 & 398**  
**96TH GENERAL ASSEMBLY**

0590L.04C

D. ADAM CRUMBLISS, Chief Clerk

---

---

**AN ACT**

To repeal sections 32.056, 56.807, 221.105, 301.146, 302.020, 302.321, 303.025, 311.325, 404.710, 429.015, 454.425, 454.548, 455.040, 456.3-301, 456.5-505, 456.8-813, 469.411, 469.437, 469.459, 475.060, 475.115, 475.375, 488.026, 488.432, 516.098, 516.140, 544.455, 544.470, 557.011, 559.100, 559.105, and 570.120, RSMo, and to enact in lieu thereof sixty-three new sections relating to the judiciary, with penalty provisions.

---

---

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

Section A. Sections 32.056, 56.807, 221.105, 301.146, 302.020, 302.321, 303.025, 311.325, 404.710, 429.015, 454.425, 454.548, 455.040, 456.3-301, 456.5-505, 456.8-813, 469.411, 469.437, 469.459, 475.060, 475.115, 475.375, 488.026, 488.432, 516.098, 516.140, 544.455, 544.470, 557.011, 559.100, 559.105, and 570.120, RSMo, are repealed and sixty-three new sections enacted in lieu thereof, to be known as sections 32.056, 56.061, 56.089, 56.807, 221.025, 221.105, 301.146, 302.020, 302.321, 303.025, 311.325, 404.710, 429.015, 454.425, 454.548, 455.007, 455.040, 456.3-301, 456.4-419, 456.5-505, 456.5-508, 456.8-813, 469.411, 469.437, 469.459, 475.060, 475.115, 475.501, 475.502, 475.503, 475.504, 475.505, 475.506, 475.521, 475.522, 475.523, 475.524, 475.525, 475.526, 475.527, 475.528, 475.529, 475.531, 475.532, 475.541, 475.542, 475.543, 475.544, 475.551, 475.552, 475.555, 484.500, 488.026, 488.432, 516.098, 516.140, 544.455, 544.470, 557.011, 559.100, 559.105, 570.120, and 571.092, to read as follows:

32.056. The department of revenue shall not release the home address or any other information contained in the department's motor vehicle or driver registration records regarding any person, **and the immediate family members of any such person**, who is a county, state or federal parole officer or who is a federal pretrial officer or who is a peace officer pursuant to

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

5 section [590.100, RSMo, or a member of the parole officer's, pretrial officer's or peace officer's  
6 immediate family] **590.010, or those persons vested by article V, section 1 of the Constitution**  
7 **of Missouri with the judicial power of the state and those persons vested by Article III of**  
8 **the Constitution of the United States with the judicial power of the United States, the**  
9 **members of the federal judiciary**, based on a specific request for such information from any  
10 person. Any person [who is a county, state or federal parole officer or who is a federal pretrial  
11 officer or who is a peace officer pursuant to section 590.100, RSMo,] **with a current status**  
12 **covered by this section** may notify the department of such status and the department shall  
13 protect the confidentiality of the records on such a person and his or her immediate family as  
14 required by this section. This section shall not prohibit the department from releasing  
15 information on a motor registration list pursuant to section 32.055 or from releasing information  
16 on any officer who holds a class A, B or C commercial driver's license pursuant to the Motor  
17 Carrier Safety Improvement Act of 1999, as amended, 49 U.S.C. 31309.

**56.061. Nothing in sections 56.010, 56.020, and 56.060 shall be construed,**  
2 **interpreted, or applied to supersede, interfere, or otherwise inhibit any charter county**  
3 **from determining, within its charter authority, the time of election cycles under Article VI,**  
4 **Sections 18(a) - 18(r) of the Missouri Constitution.**

**56.089. 1. As used in this section the following terms shall mean:**

- 2 (1) "Accusatory instrument", a warrant of arrest, complaint, information, or  
3 indictment;
- 4 (2) "Accused", an individual accused of a crime, but not yet charged with a crime;
- 5 (3) "Defendant", any person charged with a criminal offense;
- 6 (4) "Deferred prosecution", the suspension of a criminal case for a specified period  
7 upon the request of both the prosecuting attorney and the accused or the defendant;
- 8 (5) "Diversionary screening", the discretionary power of the prosecuting attorney  
9 to suspend all formal prosecutorial proceedings against a person who has become involved  
10 in the criminal justice system as an accused or defendant;
- 11 (6) "Prosecuting attorney", includes the prosecuting attorney or circuit attorney  
12 for each county of the state and the City of St. Louis, or the attorney general;
- 13 (7) "Prosecution diversion", the imposition of conditions of behavior and conduct  
14 by the prosecuting attorney upon an accused or defendant for a specified period of time  
15 as an alternative to proceeding to adjudication on a complaint, information, or indictment.
- 16 2. Each prosecuting attorney in the state of Missouri shall have the authority to,  
17 upon agreement with an accused or a defendant, divert a criminal case to a prosecution  
18 diversion program for a period of six months to two years, thus allowing for any statute  
19 of limitations to be tolled for that time alone. The period of diversion may be extended by

20 the prosecuting attorney as a disciplinary measure or to allow sufficient time for  
21 completion of any portion of the prosecution diversion including restitution; provided,  
22 however, that no extension of such diversion shall be for a period of more than two years.

23 **3. The prosecuting attorney may divert cases, under this system, out of the criminal**  
24 **justice system where the prosecuting attorney determines that the advantages of utilizing**  
25 **prosecution diversion outweigh the advantages of immediate court activity.**

26 **4. Prior to or upon the issuance of an accusatory instrument, with consent of the**  
27 **accused or defendant, the prosecuting attorney may forego continued prosecution upon the**  
28 **parties' agreement to a prosecution diversion plan. The prosecution diversion plan shall**  
29 **be for a specified period and be in writing. The prosecuting attorney has the sole authority**  
30 **to develop diversionary program requirements.**

31 **5. During any period of prosecution diversion, the prosecuting attorney may impose**  
32 **conditions upon the behavior and conduct of the accused or defendant that assures the**  
33 **safety and well-being of the community as well as that of the accused or defendant. The**  
34 **conditions imposed by the prosecuting attorney may include, but are not limited to, the**  
35 **following:**

36 **(1) Requiring the accused or defendant to remain free of any criminal behavior**  
37 **during the entire period of prosecution diversion;**

38 **(2) Payment of restitution to any victim of the related offense;**

39 **(3) Requiring the accused to pay an administrative handling cost of not more than**  
40 **one hundred twenty dollars for each misdemeanor case diverted under this section and not**  
41 **more than two hundred fifty dollars for each felony case diverted under this section, which**  
42 **the prosecuting attorney may waive or defer in whole or in part. Notwithstanding the**  
43 **provisions of sections 50.525 to 50.745, the costs provided for in this subdivision shall be**  
44 **deposited by the county treasurer into a separate interest-bearing fund to be expended by**  
45 **the prosecuting attorney. This fund shall be known as the "Administrative Handling Cost**  
46 **Fund", and it shall be the same fund for deposits under this section and under section**  
47 **570.120. The funds shall be expended, upon warrants issued by the prosecuting attorney**  
48 **directing the treasurer to issue checks thereon, only for purposes related to that authorized**  
49 **by subsection 6 of this section. Notwithstanding the provisions of any other law, in**  
50 **addition to the administrative handling cost, the prosecuting attorney may collect an**  
51 **additional cost of five dollars per case for deposit to the Missouri office of prosecution**  
52 **services fund established in subsection 2 of section 56.765. All moneys collected under this**  
53 **section which are payable to the Missouri office of prosecution services fund shall be**  
54 **transmitted at least monthly by the county treasurer to the director of revenue who shall**

55 deposit the amount collected to the credit of the Missouri office of prosecution services  
56 fund under the procedure established under subsection 2 of section 56.765.

57         **6. The moneys deposited in the fund may be used by the prosecuting attorney for**  
58 **office supplies, postage, books, training, office equipment, capital outlay, expenses of trial**  
59 **and witness preparation, additional employees for the staff of the prosecuting attorney,**  
60 **employees' salaries, and for other lawful expenses incurred by the prosecuting attorney in**  
61 **the operation of that office.**

62         **7. This fund may be audited by the state auditor's office or the appropriate**  
63 **auditing agency.**

64         **8. If the moneys collected and deposited into this fund are not totally expended**  
65 **annually, then the unexpended balance shall remain in the fund and the balance shall be**  
66 **kept in the fund to accumulate from year to year.**

67         **9. The responsibility and authority to screen or divert specific cases, or to refuse**  
68 **to screen or divert specific cases, shall rest within the sole judgment and discretion of the**  
69 **prosecuting attorney as part of their official duties as prosecuting attorney. The decision**  
70 **of the prosecuting attorney regarding diversion shall not be subject to appeal nor be raised**  
71 **as a defense in any prosecution of a criminal case involving the accused or defendant.**

72         **10. Any person participating in the program shall have the right to insist on**  
73 **criminal prosecution for the offense for which they are accused at any time.**

74         **11. In conducting the program, the prosecuting attorney may require at any point**  
75 **the reinitiation of criminal proceedings when, in his or her judgment, such is warranted.**

76         **12. Any county, city, person, organization or agency, or employee or agent thereof,**  
77 **involved with the supervision of activities, programs, or community service that are a part**  
78 **of a prosecution diversion program, shall be immune from any suit by the person**  
79 **performing the work under the deferred prosecution agreement, or any person deriving**  
80 **a cause of action from such person, except for an intentional tort or gross negligence.**  
81 **Persons performing work or community service pursuant to a deferred prosecution**  
82 **agreement as described shall not be deemed to be engaged in employment within the**  
83 **meaning of the provisions of chapter 288. A person performing work or community**  
84 **service pursuant to a deferred prosecution agreement shall not be deemed an employee**  
85 **within the meaning of the provisions of chapter 287.**

86         **13. Any person supervising or employing an accused or defendant under the**  
87 **program shall report to the prosecuting attorney any violation of the terms of the**  
88 **prosecution diversion program.**

89         **14. After completion of the program and any conditions imposed upon the accused**  
90 **or defendant, to the satisfaction of the prosecuting attorney, the accused shall be entitled**

91 **to not have the diverted case filed or the defendant shall be entitled to a dismissal of the**  
92 **diverted charges. Any other provision of law notwithstanding, such individual may be**  
93 **required to pay any associated costs prior to dismissal of pending charges.**

56.807. 1. Beginning August 28, 1989, and continuing monthly thereafter until August  
2 27, 2003, the funds for prosecuting attorneys and circuit attorneys provided for in subsection 2  
3 of this section shall be paid from county or city funds.

4 2. Beginning August 28, 1989, and continuing monthly thereafter until August 27, 2003,  
5 each county treasurer shall pay to the system the following amounts to be drawn from the general  
6 revenues of the county:

7 (1) For counties of the third and fourth classification except as provided in subdivision  
8 (3) of this subsection, three hundred seventy-five dollars;

9 (2) For counties of the second classification, five hundred forty-one dollars and  
10 sixty-seven cents;

11 (3) For counties of the first classification, counties which pursuant to section 56.363  
12 elect to make the position of prosecuting attorney a full-time position after August 28, 2001, or  
13 whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of  
14 section 56.363, and the city of St. Louis, one thousand two hundred ninety-one dollars and  
15 sixty-seven cents.

16 3. Beginning August 28, 1989, and continuing until August 27, 2003, the county  
17 treasurer shall at least monthly transmit the sums specified in subsection 2 of this section to the  
18 Missouri office of prosecution services for deposit to the credit of the "Missouri Prosecuting  
19 Attorneys and Circuit Attorneys' Retirement System Fund", which is hereby created. All moneys  
20 held by the state treasurer on behalf of the system shall be paid to the system within ninety days  
21 after August 28, 1993. Moneys in the Missouri prosecuting attorneys and circuit attorneys'  
22 retirement system fund shall be used only for the purposes provided in sections 56.800 to 56.840  
23 and for no other purpose.

24 4. Beginning August 28, 2003, the funds for prosecuting attorneys and circuit attorneys  
25 provided for in this section shall be paid from county or city funds and the surcharge established  
26 in this section and collected as provided by this section and sections 488.010 to 488.020.

27 5. Beginning August 28, 2003, each county treasurer shall pay to the system the  
28 following amounts to be drawn from the general revenues of the county:

29 (1) For counties of the third and fourth classification except as provided in subdivision  
30 (3) of this subsection, one hundred eighty-seven dollars;

31 (2) For counties of the second classification, two hundred seventy-one dollars;

32 (3) For counties of the first classification, counties which pursuant to section 56.363  
33 elect to make the position of prosecuting attorney a full-time position after August 28, 2001, or

34 whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of  
35 section 56.363, and the city of St. Louis, six hundred forty-six dollars.

36 6. Beginning August 28, 2003, the county treasurer shall at least monthly transmit the  
37 sums specified in subsection 5 of this section to the Missouri office of prosecution services for  
38 deposit to the credit of the Missouri prosecuting attorneys and circuit attorneys' retirement system  
39 fund. Moneys in the Missouri prosecuting attorneys and circuit attorneys' retirement system fund  
40 shall be used only for the purposes provided in sections 56.800 to 56.840, and for no other  
41 purpose.

42 7. Beginning August 28, 2003, the following surcharge for prosecuting attorneys and  
43 circuit attorneys shall be collected and paid as follows:

44 (1) There shall be assessed and collected a surcharge of four dollars in all criminal cases  
45 filed in the courts of this state including violation of any county ordinance [or] , any violation  
46 of criminal or traffic laws of this state, including infractions **and against any person who pled**  
47 **guilty and paid a fine through a fine collection center**, but no such surcharge shall be assessed  
48 when the costs are waived or are to be paid by the state, county, or municipality or when a  
49 criminal proceeding or the defendant has been dismissed by the court [or against any person who  
50 has pled guilty and paid their fine pursuant to subsection 4 of section 476.385]. For purposes of  
51 this section, the term "county ordinance" shall include any ordinance of the city of St. Louis;

52 (2) The clerk responsible for collecting court costs in criminal cases shall collect and  
53 disburse such amounts as provided by sections 488.010 to 488.026. Such funds shall be payable  
54 to the prosecuting attorneys and circuit attorneys' retirement fund. Moneys credited to the  
55 prosecuting attorneys and circuit attorneys' retirement fund shall be used only for the purposes  
56 provided for in sections 56.800 to 56.840 and for no other purpose.

57 8. The board may accept gifts, donations, grants and bequests from private or public  
58 sources to the Missouri prosecuting attorneys and circuit attorneys' retirement system fund.

59 9. No state moneys shall be used to fund section 56.700 and sections 56.800 to 56.840  
60 unless provided for by law.

**221.025. 1. As an alternative to confinement for any nonviolent offender as defined  
2 in section 217.010, an individual may be placed on electronic monitoring with such terms  
3 and conditions as a court shall deem just and appropriate under the circumstances  
4 including a condition that the individual pay the costs of electronic monitoring in full prior  
5 to the beginning of the electronic monitoring.**

**6 2. During any such period of electronic monitoring, an individual while complying  
7 with any court-ordered restitution, shall be considered in custody and such period of  
8 electronic monitoring shall be credited against any period of confinement or incarceration**

9 **ordered, however, electronic monitoring shall not be considered to be custody or**  
10 **incarceration for purposes of Medicaid.**

11 **3. A sheriff may contract with a private company to provide electronic monitoring**  
12 **services and any private company which provides such electronic monitoring services shall**  
13 **certify to the sheriff the number of days that any individual was electronically monitored.**

221.105. 1. The governing body of any county and of any city not within a county shall  
2 fix the amount to be expended for the cost of incarceration of prisoners confined in jails [or] ,  
3 medium security institutions **or on electronic monitoring.** The per diem cost of incarceration  
4 **or electronic monitoring** of these [prisoners] **individuals** chargeable by [the] law to the state  
5 shall be determined, subject to the review and approval of the department of corrections.

6 2. When the final determination of any criminal prosecution shall be such as to render  
7 the state liable for costs under existing [laws] **law**, it shall be the duty of the sheriff to certify to  
8 the clerk of the circuit court [or court of common pleas] in which the case was [determined]  
9 **prosecuted** the total number of days [any prisoner who was a party in such case remained in the  
10 county jail] **an individual was in custody or subjected to electronic monitoring.** It shall be  
11 the duty of the county commission to supply the cost per diem for county prisons **and for**  
12 **electronic monitoring** to the clerk of the circuit court on the first day of each year, and thereafter  
13 whenever the amount may be changed. It shall then be the duty of the clerk of the court in which  
14 the case was [determined] **prosecuted** to include in the bill of cost against the state all fees which  
15 are properly chargeable to the state. In any city not within a county it shall be the duty of the  
16 superintendent of any facility boarding prisoners to certify to the chief executive officer of such  
17 city not within a county the total number of days any [prisoner who] **individual** was [a party in  
18 such case remained in such facility] **incarcerated and the total number of days, if any, any**  
19 **such individual was on electronic monitoring.** It shall be the duty of the superintendents of  
20 such facilities to supply the cost per diem **for individuals and for electronic monitoring** to the  
21 chief executive officer on the first day of each year, and thereafter whenever the amount may be  
22 changed. It shall be the duty of the chief executive officer to bill the state all fees for boarding  
23 such [prisoners] **individuals and for electronic monitoring** which are properly chargeable to  
24 the state. The chief executive may by notification to the department of corrections delegate such  
25 responsibility to another duly sworn official of such city not within a county. The clerk of the  
26 court of any city not within a county shall not include such fees in the bill of costs chargeable to  
27 the state. The department of corrections shall revise its criminal cost manual in accordance with  
28 this provision.

29 **3. Except as provided in subsection 4 of this section** the actual costs chargeable to the  
30 state, including those incurred for a prisoner who is incarcerated in the county jail because the  
31 prisoner's parole or probation has been revoked or because the prisoner has, or allegedly has,

32 violated any condition of the prisoner's parole or probation, and such parole or probation is a  
33 consequence of a violation of a state statute, or the prisoner is a fugitive from the Missouri  
34 department of corrections or otherwise held at the request of the Missouri department of  
35 corrections regardless of whether or not a warrant has been issued shall be the actual cost of  
36 incarceration not to exceed:

37 (1) Until July 1, 1996, seventeen dollars per day per prisoner;

38 (2) On and after July 1, 1996, twenty dollars per day per prisoner;

39 (3) On and after July 1, 1997, up to thirty-seven dollars and fifty cents per day per  
40 prisoner, subject to appropriations, but not less than the amount appropriated in the previous  
41 fiscal year.

42 **4. If a court or judge places an individual on electronic monitoring, the judge may**  
43 **in his or her discretion charge the costs associated with the electronic monitoring to the**  
44 **individual in custody as a condition of their sentence. If the judge finds the offender**  
45 **unable to afford the costs associated with electronic monitoring the state shall then**  
46 **reimburse the county for any costs associated with electronic monitoring.**

301.146. 1. Any federal, state, county or municipal law enforcement or public safety  
2 agency, **or those persons vested by article V, section 1 of the Constitution of Missouri with**  
3 **the judicial power of the state and those persons vested by Article III of the Constitution**  
4 **of the United States with the judicial power of the United States, the members of the**  
5 **federal judiciary,** may request the issuance of special license plates and drivers licenses. Upon  
6 receipt of such a request, the director of revenue shall determine whether or not the special  
7 license plates and drivers licenses are to be used for a legitimate law enforcement or public safety  
8 purpose and if he so determines then the director of revenue shall issue the special license plates  
9 and drivers licenses subject to such conditions as he shall decide, in a form prescribed by the  
10 advisory committee established in section 301.129, except that such license plates shall be made  
11 with fully reflective material with a common color scheme and design, shall be clearly visible  
12 at night, and shall be aesthetically attractive, as prescribed by section 301.130. All decisions of  
13 the director of revenue relating to the special law enforcement or public safety license plates or  
14 drivers licenses shall be final.

15 2. Notwithstanding any other provision of law to the contrary, records pertaining to the  
16 request for, issuance of, retention of or disposal of special license plates and drivers licenses  
17 issued for law enforcement or public safety purposes as provided for in this section shall not be  
18 subject to public disclosure and shall be held by the department of revenue in such a way as to  
19 keep these records confidential.

302.020. 1. Unless otherwise provided for by law, it shall be unlawful for any person,  
2 except those expressly exempted by section 302.080, to:

3 (1) Operate any vehicle upon any highway in this state unless the person has a valid  
4 license;

5 (2) Operate a motorcycle or motortricycle upon any highway of this state unless such  
6 person has a valid license that shows the person has successfully passed an examination for the  
7 operation of a motorcycle or motortricycle as prescribed by the director. The director may  
8 indicate such upon a valid license issued to such person, or shall issue a license restricting the  
9 applicant to the operation of a motorcycle or motortricycle if the actual demonstration, required  
10 by section 302.173, is conducted on such vehicle;

11 (3) Authorize or knowingly permit a motorcycle or motortricycle owned by such person  
12 or under such person's control to be driven upon any highway by any person whose license does  
13 not indicate that the person has passed the examination for the operation of a motorcycle or  
14 motortricycle or has been issued an instruction permit therefor;

15 (4) Operate a motor vehicle with an instruction permit or license issued to another  
16 person.

17 2. Every person operating or riding as a passenger on any motorcycle or motortricycle,  
18 as defined in section 301.010, upon any highway of this state shall wear protective headgear at  
19 all times the vehicle is in motion. The protective headgear shall meet reasonable standards and  
20 specifications established by the director.

21 3. Notwithstanding the provisions of section 302.340 any person convicted of violating  
22 subdivision (1) or (2) of subsection 1 of this section is guilty of a [class A] misdemeanor. **A first**  
23 **violation of this section shall be punishable by a fine not to exceed three hundred dollars.**  
24 **A second or subsequent violation of this section shall be punishable by imprisonment in the**  
25 **county jail for a term not to exceed one year and/or a fine not to exceed one thousand**  
26 **dollars.** Any person convicted a third or subsequent time of violating subdivision (1) or (2) of  
27 subsection 1 of this section is guilty of a class D felony. Notwithstanding the provisions of  
28 section 302.340, violation of subdivisions (3) and (4) of subsection 1 of this section is a [class  
29 C] misdemeanor, **the first violation punishable by a fine not to exceed three hundred**  
30 **dollars, a second or subsequent violation of this section punishable as a class C**  
31 **misdemeanor,** and the penalty for failure to wear protective headgear as required by subsection  
32 2 of this section is an infraction for which a fine not to exceed twenty-five dollars may be  
33 imposed.

34

35 Notwithstanding all other provisions of law and court rules to the contrary, no court costs shall  
36 be imposed upon any person due to such violation. No points shall be assessed pursuant to  
37 section 302.302 for a failure to wear such protective headgear. **Prior pleas of guilty and prior**

38 **findings of guilty shall be pleaded and proven in the same manner as required by section**  
39 **558.021.**

302.321. 1. A person commits the crime of driving while revoked if such person  
2 operates a motor vehicle on a highway when such person's license or driving privilege has been  
3 canceled, suspended, or revoked under the laws of this state or any other state and acts with  
4 criminal negligence with respect to knowledge of the fact that such person's driving privilege has  
5 been canceled, suspended, or revoked.

6 2. Any person convicted of driving while revoked is guilty of a [class A] misdemeanor.  
7 **A first violation of this section shall be punishable by a fine not to exceed three hundred**  
8 **dollars. A second or third violation of this section shall be punishable by imprisonment in**  
9 **the county jail for a term not to exceed one year and/or a fine not to exceed one thousand**  
10 **dollars.** Any person with no prior alcohol-related enforcement contacts as defined in section  
11 302.525, convicted a fourth or subsequent time of driving while revoked or a county or  
12 municipal ordinance of driving while suspended or revoked where the defendant was represented  
13 by or waived the right to an attorney in writing, and where the prior three driving-while-revoked  
14 offenses occurred within ten years of the date of occurrence of the present offense; and any  
15 person with a prior alcohol-related enforcement contact as defined in section 302.525, convicted  
16 a third or subsequent time of driving while revoked or a county or municipal ordinance of driving  
17 while suspended or revoked where the defendant was represented by or waived the right to an  
18 attorney in writing, and where the prior two driving-while-revoked offenses occurred within ten  
19 years of the date of occurrence of the present offense and where the person received and served  
20 a sentence of ten days or more on such previous offenses is guilty of a class D felony. **Except**  
21 **upon conviction as a first offense,** no court shall suspend the imposition of sentence as to such  
22 a person nor sentence such person to pay a fine in lieu of a term of imprisonment, nor shall such  
23 person be eligible for parole or probation until such person has served a minimum of forty- eight  
24 consecutive hours of imprisonment, unless as a condition of such parole or probation, such  
25 person performs at least ten days involving at least forty hours of community service under the  
26 supervision of the court in those jurisdictions which have a recognized program for community  
27 service. Driving while revoked is a class D felony on the second or subsequent conviction  
28 pursuant to section 577.010 or a fourth or subsequent conviction for any other offense. **Prior**  
29 **pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner**  
30 **as required by section 558.021.**

303.025. 1. No owner of a motor vehicle registered in this state, or required to be  
2 registered in this state, shall operate, register or maintain registration of a motor vehicle, or  
3 permit another person to operate such vehicle, unless the owner maintains the financial  
4 responsibility which conforms to the requirements of the laws of this state. No nonresident shall

5 operate or permit another person to operate in this state a motor vehicle registered to such  
6 nonresident unless the nonresident maintains the financial responsibility which conforms to the  
7 requirements of the laws of the nonresident's state of residence. Furthermore, no person shall  
8 operate a motor vehicle owned by another with the knowledge that the owner has not maintained  
9 financial responsibility unless such person has financial responsibility which covers the person's  
10 operation of the other's vehicle; however, no owner or nonresident shall be in violation of this  
11 subsection if he or she fails to maintain financial responsibility on a motor vehicle which is  
12 inoperable or being stored and not in operation. The director may prescribe rules and regulations  
13 for the implementation of this section.

14         2. A motor vehicle owner shall maintain the owner's financial responsibility in a manner  
15 provided for in section 303.160, or with a motor vehicle liability policy which conforms to the  
16 requirements of the laws of this state. A nonresident motor vehicle owner shall maintain the  
17 owner's financial responsibility which conforms to the requirements of the laws of the  
18 nonresident's state of residence.

19         3. Any person who violates this section is guilty of a [class C] misdemeanor. **A first**  
20 **violation of this section shall be punishable by a fine not to exceed three hundred dollars.**  
21 **A second or subsequent violation of this section shall be punishable by imprisonment in the**  
22 **county jail for a term not to exceed fifteen days and/or a fine not to exceed three hundred**  
23 **dollars. Prior pleas of guilty and prior findings of guilty shall be pleaded and proven in**  
24 **the same manner as required by section 558.021.** However, no person shall be found guilty  
25 of violating this section if the operator demonstrates to the court that he or she met the financial  
26 responsibility requirements of this section at the time the peace officer, commercial vehicle  
27 enforcement officer or commercial vehicle inspector wrote the citation. In addition to any other  
28 authorized punishment, the court shall notify the director of revenue of any person convicted  
29 pursuant to this section and shall do one of the following:

30         (1) Enter an order suspending the driving privilege as of the date of the court order. If  
31 the court orders the suspension of the driving privilege, the court shall require the defendant to  
32 surrender to it any driver's license then held by such person. The length of the suspension shall  
33 be as prescribed in subsection 2 of section 303.042. The court shall forward to the director of  
34 revenue the order of suspension of driving privilege and any license surrendered within ten days;

35         (2) Forward the record of the conviction for an assessment of four points;

36         (3) In lieu of an assessment of points, render an order of supervision as provided in  
37 section 302.303. An order of supervision shall not be used in lieu of points more than one time  
38 in any thirty-six-month period. Every court having jurisdiction pursuant to the provisions of this  
39 section shall forward a record of conviction to the Missouri state highway patrol, or at the written  
40 direction of the Missouri state highway patrol, to the department of revenue, in a manner

41 approved by the director of the department of public safety. The director shall establish  
42 procedures for the record keeping and administration of this section; or

43 (4) For a nonresident, suspend the nonresident's driving privileges in this state in  
44 accordance with section 303.030 and notify the official in charge of the issuance of licenses and  
45 registration certificates in the state in which such nonresident resides in accordance with section  
46 303.080.

47 4. Nothing in sections 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330  
48 and 303.370 shall be construed as prohibiting the department of insurance, financial institutions  
49 and professional registration from approving or authorizing those exclusions and limitations  
50 which are contained in automobile liability insurance policies and the uninsured motorist  
51 provisions of automobile liability insurance policies.

52 5. If a court enters an order of suspension, the offender may appeal such order directly  
53 pursuant to chapter 512 and the provisions of section 302.311 shall not apply.

311.325. 1. Any person under the age of twenty-one years, who purchases or attempts  
2 to purchase, or has in his or her possession, any intoxicating liquor as defined in section 311.020  
3 or who is visibly in an intoxicated condition as defined in section 577.001, or has a detectable  
4 blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol  
5 in such person's blood is guilty of a misdemeanor. **A first violation of this section shall be  
6 punishable by a fine not to exceed three hundred dollars. A second or subsequent violation  
7 of this section shall be punishable by imprisonment in the county jail for a term not to  
8 exceed one year and/or a fine not to exceed one thousand dollars. Prior pleas of guilty and  
9 prior findings of guilty shall be pleaded and proven in the same manner as required by  
10 section 558.021.** For purposes of prosecution under this section or any other provision of this  
11 chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under  
12 twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating  
13 liquor therein need not be opened or the contents therein tested to verify that there is intoxicating  
14 liquor in such container. The alleged violator may allege that there was not intoxicating liquor  
15 in such container, but the burden of proof of such allegation is on such person, as it shall be  
16 presumed that such a sealed container describing that there is intoxicating liquor therein contains  
17 intoxicating liquor.

18 2. For purposes of determining violations of any provision of this chapter, or of any rule  
19 or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container  
20 describing that there is intoxicating liquor therein need not be opened or the contents therein  
21 tested to verify that there is intoxicating liquor in such container. The alleged violator may allege  
22 that there was not intoxicating liquor in such container, but the burden of proof of such allegation

23 is on such person, as it shall be presumed that such a sealed container describing that there is  
24 intoxicating liquor therein contains intoxicating liquor.

25         3. Any person under the age of twenty-one years who purchases or attempts to purchase,  
26 or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated  
27 condition as defined in section 577.001, shall be deemed to have given consent to a chemical test  
28 or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol  
29 or drug content of the person's blood. The implied consent to submit to the chemical tests listed  
30 in this subsection shall be limited to not more than two such tests arising from the same arrest,  
31 incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be  
32 performed according to methods approved by the state department of health and senior services  
33 by licensed medical personnel or by a person possessing a valid permit issued by the state  
34 department of health and senior services for this purpose. The state department of health and  
35 senior services shall approve satisfactory techniques, devices, equipment, or methods to be  
36 considered valid and shall establish standards to ascertain the qualifications and competence of  
37 individuals to conduct analyses and to issue permits which shall be subject to termination or  
38 revocation by the state department of health and senior services. The person tested may have a  
39 physician, or a qualified technician, chemist, registered nurse, or other qualified person at the  
40 choosing and expense of the person to be tested, administer a test in addition to any administered  
41 at the direction of a law enforcement officer. The failure or inability to obtain an additional test  
42 by a person shall not preclude the admission of evidence relating to the test taken at the direction  
43 of a law enforcement officer. Upon the request of the person who is tested, full information  
44 concerning the test shall be made available to such person. Full information is limited to the  
45 following:

- 46         (1) The type of test administered and the procedures followed;
- 47         (2) The time of the collection of the blood or breath sample or urine analyzed;
- 48         (3) The numerical results of the test indicating the alcohol content of the blood and  
49 breath and urine;
- 50         (4) The type and status of any permit which was held by the person who performed the  
51 test;
- 52         (5) If the test was administered by means of a breath- testing instrument, the date of  
53 performance of the most recent required maintenance of such instrument. Full information does  
54 not include manuals, schematics, or software of the instrument used to test the person or any  
55 other material that is not in the actual possession of the state. Additionally, full information does  
56 not include information in the possession of the manufacturer of the test instrument.

57         4. The provisions of this section shall not apply to a student who:

- 58         (1) Is eighteen years of age or older;

59 (2) Is enrolled in an accredited college or university and is a student in a culinary course;

60 (3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other  
61 similar malt or fermented beverage as part of the required curriculum; and

62 (4) Tastes a beverage under subdivision (3) of this subsection only for instructional  
63 purposes during classes that are part of the curriculum of the accredited college or university.  
64 The beverage must at all times remain in the possession and control of an authorized instructor  
65 of the college or university, who must be twenty-one years of age or older. Nothing in this  
66 subsection may be construed to allow a student under the age of twenty-one to receive any beer,  
67 ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered  
68 as part of the student's required curriculum and the beverage is used only for instructional  
69 purposes during classes conducted as part of the curriculum.

404.710. 1. A principal may delegate to an attorney in fact in a power of attorney general  
2 powers to act in a fiduciary capacity on the principal's behalf with respect to all lawful subjects  
3 and purposes or with respect to one or more express subjects or purposes. A power of attorney  
4 with general powers may be durable or not durable.

5 2. If the power of attorney states that general powers are granted to the attorney in fact  
6 and further states in substance that it grants power to the attorney in fact to act with respect to  
7 all lawful subjects and purposes or that it grants general powers for general purposes or does not  
8 by its terms limit the power to the specific subject or purposes set out in the instrument, then the  
9 authority of the attorney in fact acting under the power of attorney shall extend to and include  
10 each and every action or power which an adult who is nondisabled and nonincapacitated may  
11 carry out through an agent specifically authorized in the premises, with respect to any and all  
12 matters whatsoever, except as provided in subsections 6 and 7 of this section. When a power of  
13 attorney grants general powers to an attorney in fact to act with respect to all lawful subjects and  
14 purposes, the enumeration of one or more specific subjects or purposes does not limit the general  
15 authority granted by that power of attorney, unless otherwise provided in the power of attorney.

16 3. If the power of attorney states that general powers are granted to an attorney in fact  
17 with respect to one or more express subjects or purposes for which general powers are conferred,  
18 then the authority of the attorney in fact acting under the power of attorney shall extend to and  
19 include each and every action or power, but only with respect to the specific subjects or purposes  
20 expressed in the power of attorney that an adult who is nondisabled and nonincapacitated may  
21 carry out through an agent specifically authorized in the premises, with respect to any and all  
22 matters whatsoever, except as provided in subsections 6 and 7 of this section.

23 4. Except as provided in subsections 6 and 7 of this section, an attorney in fact with  
24 general powers has, with respect to the subjects or purposes for which the powers are conferred,  
25 all rights, power and authority to act for the principal that the principal would have with respect

26 to his or her own person or property, including property owned jointly or by the entireties with  
27 another or others, as a nondisabled and nonincapacitated adult; and without limiting the  
28 foregoing has with respect to the subjects or purposes of the power complete discretion to make  
29 a decision for the principal, to act or not act, to consent or not consent to, or withdraw consent  
30 for, any act, and to execute and deliver or accept any deed, bill of sale, bill of lading, assignment,  
31 contract, note, security instrument, consent, receipt, release, proof of claim, petition or other  
32 pleading, tax document, notice, application, acknowledgment or other document necessary or  
33 convenient to implement or confirm any act, transaction or decision. An attorney in fact with  
34 general powers, whether power to act with respect to all lawful subjects and purposes, or only  
35 with respect to one or more express subjects or purposes, shall have the power, unless  
36 specifically denied by the terms of the power of attorney, to make, execute and deliver to or for  
37 the benefit of or at the request of a third person, who is requested to rely upon an action of the  
38 attorney in fact, an agreement indemnifying and holding harmless any third person or persons  
39 from any liability, claims or expenses, including legal expenses, incurred by any such third  
40 person by reason of acting or refraining from acting pursuant to the request of the attorney in  
41 fact, and such indemnity agreement shall be binding upon the principal who has executed such  
42 power of attorney and upon the principal's successor or successors in interest. No such  
43 indemnity agreement shall protect any third person from any liability, claims or expenses  
44 incurred by reason of the fact that, and to the extent that, the third person has honored the power  
45 of attorney for actions outside the scope of authority granted by the power of attorney. In  
46 addition, the attorney in fact has complete discretion to employ and compensate real estate  
47 agents, brokers, attorneys, accountants and subagents of all types to represent and act for the  
48 principal in any and all matters, including tax matters involving the United States government  
49 or any other government or taxing entity, including, but not limited to, the execution of  
50 supplemental or additional powers of attorney in the name of the principal in form that may be  
51 required or preferred by any such taxing entity or other third person, and to deal with any or all  
52 third persons in the name of the principal without limitation. No such supplemental or additional  
53 power of attorney shall broaden the scope of authority granted to the attorney in fact in the  
54 original power of attorney executed by the principal.

55         5. An attorney in fact, who is granted general powers for all subjects and purposes or  
56 with respect to any express subjects or purposes, shall exercise the powers conferred according  
57 to the principal's instructions, in the principal's best interest, in good faith, prudently and in  
58 accordance with sections 404.712 and 404.714.

59         6. Any power of attorney, whether durable or not durable, and whether or not it grants  
60 general powers for all subjects and purposes or with respect to express subjects or purposes, shall  
61 be construed to grant power or authority to an attorney in fact to carry out any of the actions

62 described in this subsection if the actions are expressly enumerated and authorized in the power  
63 of attorney. Any power of attorney may grant power of authority to an attorney in fact to carry  
64 out any of the following actions if the actions are expressly authorized in the power of attorney:

65 (1) To execute, amend or revoke any trust agreement; **provided, however, it shall not**  
66 **be necessary for a power of attorney granting general powers with respect to all lawful**  
67 **subjects and purposes to expressly authorize the attorney in fact to amend or revoke a trust**  
68 **agreement, if the trust agreement itself expressly authorizes the attorney in fact to amend**  
69 **or revoke the agreement;**

70 (2) To fund with the principal's assets any trust not created by the principal;

71 (3) To make or revoke a gift of the principal's property in trust or otherwise;

72 (4) To disclaim a gift or devise of property to or for the benefit of the principal;

73 (5) To create or change survivorship interests in the principal's property or in property  
74 in which the principal may have an interest; provided, however, that the inclusion of the  
75 authority set out in this [paragraph] **subdivision** shall not be necessary in order to grant to an  
76 attorney in fact acting under a power of attorney granting general powers with respect to all  
77 lawful subjects and purposes the authority to withdraw funds or other property from any account,  
78 contract or other similar arrangement held in the names of the principal and one or more other  
79 persons with any financial institution, brokerage company or other depository to the same extent  
80 that the principal would be authorized to do if the principal were present, not disabled or  
81 incapacitated, and seeking to act in the principal's own behalf;

82 (6) To designate or change the designation of beneficiaries to receive any property,  
83 benefit or contract right on the principal's death;

84 (7) To give or withhold consent to an autopsy or postmortem examination;

85 (8) To make [a] **an anatomical** gift of, or decline to make [a] **an anatomical** gift of, **all**  
86 **or part of** the principal's body [parts] under the **Revised** Uniform Anatomical Gift Act **or to**  
87 **exercise the right of sepulcher over the principal's body under section 194.119;**

88 (9) To nominate a guardian or conservator for the principal; and if so stated in the power  
89 of attorney, the attorney in fact may nominate himself as such;

90 (10) To give consent to or prohibit any type of health care, medical care, treatment or  
91 procedure to the extent authorized by sections 404.800 to 404.865; or

92 (11) To designate one or more substitute or successor or additional attorneys in fact.

93 7. No power of attorney, whether durable or not durable, and whether or not it delegates  
94 general powers, may delegate or grant power or authority to an attorney in fact to do or carry out  
95 any of the following actions for the principal:

96 (1) To make, publish, declare, amend or revoke a will for the principal;

97 (2) To make, execute, modify or revoke a living will declaration for the principal;

98 (3) To require the principal, against his or her will, to take any action or to refrain from  
99 taking any action; or

100 (4) To carry out any actions specifically forbidden by the principal while not under any  
101 disability or incapacity.

102 8. A third person may freely rely on, contract and deal with an attorney in fact delegated  
103 general powers with respect to the subjects and purposes encompassed or expressed in the power  
104 of attorney without regard to whether the power of attorney expressly identifies the specific  
105 property, account, security, storage facility or matter as being within the scope of a subject or  
106 purpose contained in the power of attorney, and without regard to whether the power of attorney  
107 expressly authorizes the specific act, transaction or decision by the attorney in fact.

108 9. It is the policy of this state that an attorney in fact acting pursuant to the provisions  
109 of a power of attorney granting general powers shall be accorded the same rights and privileges  
110 with respect to the personal welfare, property and business interests of the principal, and if the  
111 power of attorney enumerates some express subjects or purposes, with respect to those subjects  
112 or purposes, as if the principal himself or herself were personally present and acting or seeking  
113 to act; and any provision of law and any purported waiver, consent or agreement executed or  
114 granted by the principal to the contrary shall be void and unenforceable.

115 10. Sections 404.700 to 404.735 shall not be construed to preclude any person or  
116 business enterprise from providing in a contract with the principal as to the procedure that  
117 thereafter must be followed by the principal or the principal's attorney in fact in order to give a  
118 valid notice to the person or business enterprise of any modification or termination of the  
119 appointment of an attorney in fact by the principal; and any such contractual provision for notice  
120 shall be valid and binding on the principal and the principal's successors so long as such  
121 provision is reasonably capable of being carried out.

429.015. 1. Every registered architect or corporation registered to practice architecture,  
2 every registered professional engineer or corporation registered to practice professional  
3 engineering, every registered landscape architect or corporation registered to practice landscape  
4 architecture, and every registered land surveyor or corporation registered to practice land  
5 surveying, who does any landscape architectural, architectural, engineering or land surveying  
6 work upon or performs any landscape architectural, architectural, engineering or land surveying  
7 service directly connected with the erection or repair of any building or other improvement upon  
8 land under or by virtue of any contract with the owner or lessee thereof, or such owner's or  
9 lessee's agent, trustee, contractor or subcontractor, or without a contract if ordered by a city,  
10 town, village or county having a charter form of government to abate the conditions that caused  
11 a structure on that property to be deemed a dangerous building under local ordinances pursuant  
12 to section 67.410, upon complying with the provisions of this chapter, shall have for such

13 person's landscape architectural, architectural, engineering or land surveying work or service so  
14 done or performed, a lien upon the building or other improvements and upon the land belonging  
15 to the owner or lessee on which the building or improvements are situated, to the extent of [one  
16 acre] **three acres**. If the building or other improvement is upon any lot of land in any town, city  
17 or village, then the lien shall be upon such building or other improvements, and the lot or land  
18 upon which the building or other improvements are situated, to secure the payment for the  
19 landscape architectural, architectural, engineering or land surveying work or service so done or  
20 performed. For purposes of this section, a corporation engaged in the practice of architecture,  
21 engineering, landscape architecture, or land surveying, shall be deemed to be registered if the  
22 corporation itself is registered under the laws of this state to practice architecture, engineering  
23 or land surveying.

24         2. Every mechanic or other person who shall do or perform any work or labor upon or  
25 furnish any material or machinery for the digging of a well to obtain water under or by virtue of  
26 any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee,  
27 contractor or subcontractor, upon complying with the provisions of sections 429.010 to 429.340  
28 shall have for such person's work or labor done, or materials or machinery furnished, a lien upon  
29 the land belonging to such owner or lessee on which the same are situated, to the extent of [one  
30 acre] **three acres**, to secure the payment of such work or labor done, or materials or machinery  
31 furnished as aforesaid.

32         3. Every mechanic or other person who shall do or perform any work or labor upon, or  
33 furnish any material, fixtures, engine, boiler or machinery, for the purpose of demolishing or  
34 razing a building or structure under or by virtue of any contract with the owner or lessee thereof,  
35 or such owner's or lessee's agent, trustee, contractor or subcontractor, or without a contract if  
36 ordered by a city, town, village or county having a charter form of government to abate the  
37 conditions that caused a structure on that property to be deemed a dangerous building under local  
38 ordinances pursuant to section 67.410, upon complying with the provisions of sections 429.010  
39 to 429.340, shall have for such person's work or labor done, or materials, fixtures, engine, boiler  
40 or machinery furnished, a lien upon the land belonging to such owner or lessee on which the  
41 same are situated, to the extent of [one acre] **three acres**. If the building or buildings to be  
42 demolished or razed are upon any lot of land in any town, city or village, then the lien shall be  
43 upon the lot or lots or land upon which the building or other improvements are situated, to secure  
44 the payment for the labor and materials performed.

45         4. The provisions of sections 429.030 to 429.060 and sections 429.080 to 429.430  
46 applicable to liens of mechanics and other persons shall apply to and govern the procedure with  
47 respect to the liens provided for in subsections 1, 2 and 3 of this section.

48           5. Any design professional or corporation authorized to have lien rights under subsection  
49 1 of this section shall have a lien upon the building or other improvement and upon the land,  
50 whether or not actual construction of the planned work or improvement has commenced if:

51           (1) The owner or lessee thereof, or such owner's or lessee's agent or trustee, contracted  
52 for such professional services directly with the design professional or corporation asserting the  
53 lien; and

54           (2) The owner or lessee is the owner or lessee of such real property either at the time the  
55 contract is made or at the time the lien is filed.

56           6. Priority between a design professional or corporation lien claimant and any other  
57 mechanic's lien claimant shall be determined pursuant to the provisions of section 429.260 on  
58 a pro rata basis.

59           7. In any civil action, the owner or lessee may assert defenses which include that the  
60 actual construction of the planned work or improvement has not been performed in compliance  
61 with the professional services contract, is impracticable or is economically infeasible.

62           8. The agreement is in writing.

          454.425. **1.** The **family support** division [of child support enforcement] shall render  
2 child support services authorized pursuant to this chapter to persons who are not recipients of  
3 public assistance as well as to such recipients. Services may be provided to children, custodial  
4 parents, noncustodial parents and other persons entitled to receive support. An application may  
5 be required by the division for services and fees may be charged by the division pursuant to 42  
6 U.S.C. Section 654 and federal regulations. Services provided under a state plan shall be made  
7 available to residents of other states on the same terms as residents of this state. If a family  
8 receiving services ceases to receive assistance under a state program funded under Part A of Title  
9 IV of the Social Security Act, the division shall provide appropriate notice to such family, and  
10 services shall continue under the same terms and conditions as that provided to other individuals  
11 under the state plan, except that an application for continued services shall not be required [and  
12 the requirement for payment of fees shall not apply to the family].

13           **2.** The division shall charge a fee in the amount of sixty dollars to an obligee or  
14 obligor who requests that the division review a support order under subdivision (13) of  
15 subsection 2 of section 454.400 for the purpose of determining whether a modification to  
16 the support order is appropriate. After the division completes a review, the fee is  
17 nonrefundable, regardless of the outcome of the review. The division shall waive the  
18 review fee if the requestor has an individual gross monthly income of less than two  
19 hundred fifty percent of the federal poverty level based on a household size of one, if the  
20 requestor currently receives assistance under a state program funded under Part A of Title

21 **IV of the federal Social Security Act, or if the fee is otherwise prohibited by state or federal**  
22 **law or regulation.**

23 **3. The division shall charge a fee to an obligee or obligor who requests that the**  
24 **division modify a support order after the division has determined that a modification**  
25 **action is appropriate and that such modification action can be completed under this**  
26 **chapter. After the division completes the modification action, the fee is nonrefundable,**  
27 **regardless of the outcome of the modification action. The division shall waive the**  
28 **modification fee if the requestor has an individual gross monthly income of less than two**  
29 **hundred fifty percent of the federal poverty level based on a household size of one, if the**  
30 **requestor currently receives assistance under a state program funded under Part A of Title**  
31 **IV of the federal Social Security Act, or if the fee is otherwise prohibited by state or federal**  
32 **law. When appropriate to charge a modification fee under this section, the modification**  
33 **fee shall be in the amount of:**

34 **(1) One hundred seventy-five dollars if the requestor has an individual gross**  
35 **monthly income equal to or greater than two hundred fifty percent of the federal poverty**  
36 **level but less than four hundred percent of the federal poverty level based on a household**  
37 **size of one; or**

38 **(2) Three hundred fifty dollars if the requestor has an individual gross monthly**  
39 **income equal to or greater than four hundred percent of the federal poverty level based on**  
40 **a household size of one.**

41 **4. The division shall charge a fee in the amount of twenty-five dollars for**  
42 **submitting past-due child and spousal support debts for collection through federal income**  
43 **tax refund offset. The fee shall be assessed only if the division collects support on a case**  
44 **through federal income tax refund offset. The fee shall be assessed each time a federal**  
45 **income tax intercept is distributed to a case receiving services under this chapter. The**  
46 **obligor shall receive credit against the support order for the entire federal income tax**  
47 **refund offset. The fee shall be collected from the obligee by deducting the fee from the**  
48 **amount payable to the obligee. In accordance with subsection 1 of this section, the division**  
49 **shall waive the federal income tax refund offset fee if the obligee currently receives**  
50 **assistance under a state program funded under Part A of Title IV of the Social Security Act**  
51 **or if the fee is otherwise prohibited by state or federal law or regulation.**

2 454.548. In addition to any fees imposed pursuant to section 454.425 and if allowed by  
3 federal law **or regulation**, the division [may] **shall** charge and collect a fee of ten dollars from  
4 support received through the payment center for each order for every year or portion of a year  
5 during which payments are received by the payment center. Such fee shall be used to reimburse  
the state for the costs associated with processing support payments.

2 **455.007. Notwithstanding any other provision of law to the contrary, the public**  
3 **interest exception to the mootness doctrine shall apply to an appeal of a full order of**  
4 **protection which:**

5 **(1) Has expired; and**

6 **(2) Subjects the person against whom such order is issued to significant collateral**  
7 **consequences by the mere existence of such full order of protection after its expiration.**

8 **455.040. 1. This act shall be known as "Sam and Lindsey's Law".**

9 **2.** Not later than fifteen days after the filing of a petition pursuant to sections 455.010  
10 to 455.085 a hearing shall be held unless the court deems, for good cause shown, that a  
11 continuance should be granted. At the hearing, if the petitioner has proved the allegation of  
12 abuse or stalking by a preponderance of the evidence, the court shall issue a full order of  
13 protection for a period of time the court deems appropriate, except that the protective order shall  
14 be valid for at least one hundred eighty days and not more than one year. Upon motion by the  
15 petitioner, and after a hearing by the court, the full order of protection may be renewed for a  
16 period of time the court deems appropriate, except that the protective order shall be valid for at  
17 least one hundred eighty days and not more than one year from the expiration date of the  
18 originally issued full order of protection. If for good cause a hearing cannot be held on the  
19 motion to renew the full order of protection prior to the expiration date of the originally issued  
20 full order of protection, an ex parte order of protection may be issued until a hearing is held on  
21 the motion. Upon motion by the petitioner, and after a hearing by the court, the second full order  
22 of protection may be renewed for an additional period of time the court deems appropriate,  
23 except that the protective order shall be valid for at least one hundred eighty days and not more  
24 than one year. For purposes of this subsection, a finding by the court of a subsequent act of  
25 abuse is not required for a renewal order of protection.

26 **[2.] 3.** The court shall cause a copy of the petition and notice of the date set for the  
27 hearing on such petition and any ex parte order of protection to be served upon the respondent  
28 as provided by law or by any sheriff or police officer at least three days prior to such hearing.  
29 Such notice shall be served at the earliest time, and service of such notice shall take priority over  
30 service in other actions, except those of a similar emergency nature. The court shall cause a copy  
of any full order of protection to be served upon or mailed by certified mail to the respondent at  
the respondent's last known address. Failure to serve or mail a copy of the full order of  
protection to the respondent shall not affect the validity or enforceability of a full order of  
protection.

**[3.] 4.** A copy of any order of protection granted pursuant to sections 455.010 to 455.085  
shall be issued to the petitioner and to the local law enforcement agency in the jurisdiction where  
the petitioner resides. The clerk shall also issue a copy of any order of protection to the local law

31 enforcement agency responsible for maintaining the Missouri uniform law enforcement system  
32 or any other comparable law enforcement system the same day the order is granted. The law  
33 enforcement agency responsible for maintaining MULES shall [enter information contained in  
34 the order] , for purposes of verification, within twenty-four hours from the time the order is  
35 granted, **enter information contained in the order including but not limited to any orders**  
36 **regarding child custody or visitation and all specifics as to times and dates of custody or**  
37 **visitation that are provided in the order.** A notice of expiration or of termination of any order  
38 of protection **or any change in child custody or visitation within that order** shall be issued  
39 to the local law enforcement agency and to the law enforcement agency responsible for  
40 maintaining MULES or any other comparable law enforcement system. The law enforcement  
41 agency responsible for maintaining the applicable law enforcement system shall enter such  
42 information in the system. The information contained in an order of protection may be entered  
43 in the Missouri uniform law enforcement system or comparable law enforcement system using  
44 a direct automated data transfer from the court automated system to the law enforcement system.

456.3-301. 1. Notice to a person who may represent and bind another person under  
2 sections 456.3-301 to 456.3-305 has the same effect as if notice were given directly to the other  
3 person.

4 2. The consent of a person who may represent and bind another person under sections  
5 456.3-301 to 456.3-305 is binding on the person represented unless the person represented  
6 objects to the representation before the consent would otherwise have become effective. **Except**  
7 **that, such consent is binding on the person represented regardless of whether the person**  
8 **represented objects pursuant to this subsection, if the person who may represent and bind**  
9 **is:**

10 (1) **The holder of a testamentary power of appointment described in section 456.3-**  
11 **302 and the interests of the person represented are subject to the power;**

12 (2) **The conservator, conservator ad litem, or guardian described in subdivisions**  
13 **(1), (2), or (3) of section 456.3-303 and the person represented is disabled; or**

14 (3) **A parent described in subdivision (4) of section 456.3-303 and the person**  
15 **represented is a minor or unborn child of the parent.**

16 3. Except as otherwise provided in sections 456.4A-411 and 456.6-602, a person who  
17 under sections 456.3-301 to 456.3-305 may represent a settlor who lacks capacity may receive  
18 notice and give a binding consent on the settlor's behalf.

19 4. A settlor may not represent and bind a beneficiary under sections 456.3-301 to  
20 456.3-305 with respect to the termination or modification of a trust under section 456.4A-411.

**456.4-419. 1. Unless the terms of the trust instrument expressly provide otherwise,**  
2 **a trustee who has discretionary power under the terms of a trust to make a distribution of**

3 income or principal, whether or not limited by an ascertainable standard, to or for the  
4 benefit of one or more beneficiaries of a trust, the "first trust", may instead exercise such  
5 discretionary power by appointing all or part of the income or principal subject to such  
6 discretionary power in favor of a trustee of a second trust, the "second trust", created  
7 under either the same or different trust instrument in the event that the trustee of the first  
8 trust decides that the appointment is necessary or desirable after taking into account the  
9 terms and purposes of the first trust, the terms and purposes of the second trust, and the  
10 consequences of the distribution.

11 2. The following provisions apply to any exercise of the authority granted by  
12 subsection 1 of this section:

13 (1) The second trust may have as beneficiaries only one or more of those  
14 beneficiaries of the first trust to or for whom any discretionary distribution may be made  
15 from the first trust and who are proper objects of the exercise of the power, or one or more  
16 of those other beneficiaries of the first trust to or for whom a distribution of income or  
17 principal may have been made in the future from the first trust at a time or upon the  
18 happening of an event specified under the first trust;

19 (2) Unless the exercise of such power is limited by an ascertainable standard, no  
20 trustee of the first trust may exercise such authority to make a distribution from the first  
21 trust if:

22 (a) Such trustee is a beneficiary of the first trust; or

23 (b) Any beneficiary may remove and replace the trustee of the first trust with a  
24 related or subordinate party to such beneficiary within the meaning of Section 672(c) of  
25 the Internal Revenue Code;

26 (3) Except if participating in a change that is needed for a distribution to any such  
27 beneficiary under an ascertainable standard, no trustee shall exercise such authority to the  
28 extent that doing so would have the effect either of:

29 (a) Increasing the distributions that can be made in the future from the second trust  
30 to the trustee of the first trust or to a beneficiary who can remove and replace the trustee  
31 of the first trust with a related or subordinate party to such beneficiary within the meaning  
32 of Section 672(c) of the Internal Revenue Code; or

33 (b) Removing restrictions on discretionary distributions imposed by the instrument  
34 under which the first trust was created;

35 (4) In the case of any trust contributions which have been treated as gifts qualifying  
36 for the exclusion from gift tax described in Section 2503(b) of the Internal Revenue Code,  
37 by reason of the application of Section 2503(c), the governing instrument for the second  
38 trust shall provide that the beneficiary's remainder interest shall vest no later than the date

39 upon which such interest would have vested under the terms of the governing instrument  
40 for the first trust;

41 (5) The exercise of such authority may not reduce any income interest of any  
42 income beneficiary of any of the following trusts:

43 (a) A trust for which a marital deduction has been taken for federal tax purposes  
44 under Section 2056 or 2523 of the Internal Revenue Code or for state tax purposes under  
45 any comparable provision of applicable state law;

46 (b) A charitable remainder trust under Section 664 of the Internal Revenue Code;

47 (c) A grantor retained annuity trust under Section 2702 of the Internal Revenue  
48 Code; or

49 (d) A trust which has been qualified as a Subchapter S trust under Section 1361(d)  
50 of the Internal Revenue Code or an electing small business trust under Section 1361(e) of  
51 the Internal Revenue Code;

52 (6) The exercise of such authority does not apply to trust property subject to a  
53 presently exercisable power of withdrawal held by a trust beneficiary to whom, or for the  
54 benefit of whom, the trustee has authority to make distributions, unless after the exercise  
55 of such authority, such beneficiary's power of withdrawal is unchanged with respect to the  
56 trust property; and

57 (7) A spendthrift clause or a provision in the trust instrument that prohibits  
58 amendment or revocation of the trust shall not preclude the trustee from exercising the  
59 authority granted by subsection 1 of this section.

60 3. At least sixty days prior to making a discretionary distribution under subsection  
61 1 of this section, the trustee of the first trust shall notify the permissible distributees of the  
62 second trust, or the qualified beneficiaries of the second trust if there are no permissible  
63 distributees of the second trust, of the distribution. A beneficiary may waive the right to  
64 the notice required by this subsection and, with respect to future distributions, may  
65 withdraw a waiver previously given.

66 4. In exercising the authority granted by subsection 1 of this section, the trustee  
67 shall remain subject to all fiduciary duties otherwise imposed under the trust instrument  
68 and Missouri law.

69 5. This section does not impose on a trustee a duty to exercise the authority granted  
70 by subsection 1 of this section in favor of another trust or to consider exercising such  
71 authority in favor of another trust.

72 6. This section is intended to codify and, from and after enactment, to provide  
73 certain limitations to the common law of this state, and this section applies to any trust

74 **governed by the laws of this state, including a trust whose principal place of administration**  
75 **is transferred to this state before or after the enactment of this section.**

456.5-505. 1. Whether or not the terms of a trust contain a spendthrift provision, during  
2 the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's  
3 creditors.

4 2. With respect to an irrevocable trust without a spendthrift provision, a creditor or  
5 assignee of the settlor may reach the maximum amount that can be distributed to or for the  
6 settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a  
7 particular settlor may reach may not exceed the settlor's interest in the portion of the trust  
8 attributable to that settlor's contribution.

9 3. With respect to an irrevocable trust with a spendthrift provision, a spendthrift  
10 provision will prevent the settlor's creditors from satisfying claims from the trust assets except:

11 (1) Where the conveyance of assets to the trust was fraudulent as to creditors pursuant  
12 to the provisions of chapter 428; or

13 (2) To the extent of the settlor's beneficial interest in the trust assets, if at the time the  
14 trust became irrevocable:

15 (a) The settlor was the sole beneficiary of either the income or principal of the trust or  
16 retained the power to amend the trust; or

17 (b) The settlor was one of a class of beneficiaries and retained a right to receive a  
18 specific portion of the income or principal of the trust that was determinable solely from the  
19 provisions of the trust instrument.

20 4. **In the event that a trust meets the requirements set forth in subsection 3 of this**  
21 **section, a settlor's creditors may not reach the settlor's beneficial interest in that trust**  
22 **regardless of any testamentary power of appointment retained by the settlor that is**  
23 **exercisable by the settlor in favor of any appointees other than the settlor, the settlor's**  
24 **estate, the settlor's creditors, or the creditors of the settlor's estate.**

25 5. Any trustee who has a duty or power to pay the debts of a deceased settlor may publish  
26 a notice in a newspaper published in the county designated in subdivision (3) of this subsection  
27 once a week for four consecutive weeks in substantially the following form:

28 To all persons interested in the estate of ....., decedent. The  
29 undersigned ..... is acting as Trustee under a trust the terms of which  
30 provide that the debts of the decedent may be paid by the Trustee(s) upon receipt of proper proof  
31 thereof. The address of the Trustee is ..... All creditors of the  
32 decedent are noticed to present their claims to the undersigned within six (6) months from the  
33 date of the first publication of this notice or be forever barred.

34 .....

35 Trustee

36 (1) If such publication is duly made by the trustee, any debts not presented to the trustee  
37 within six months from the date of the first publication of the preceding notice shall be forever  
38 barred as against the trustee and the trust property.

39 (2) A trustee shall not be liable to account to the decedent's personal representative under  
40 the provisions of section 461.300 by reason of any debt barred under the provisions of this  
41 subsection.

42 (3) Such publication shall be in a newspaper published in:

43 (a) The county in which the domicile of the settlor at the time of his or her death is  
44 situated;

45 (b) If the settlor had no domicile in this state at the time of his or her death, any county  
46 wherein trust assets are located; except that, when the major part of the trust assets in this state  
47 consist of real estate, the notice shall be published in the county in which the real estate or the  
48 major part thereof is located; or

49 (c) If the settlor had no domicile in this state at the time of his or her death and no trust  
50 assets are located therein, the county wherein the principal place of administration of the trust  
51 is located.

52 (4) For purposes of this subsection, the term "domicile" means the place in which the  
53 settlor voluntarily fixed his or her abode, not for a mere special or temporary purpose, but with  
54 a present intention of remaining there permanently or for an indefinite term.

55 [5.] 6. For purposes of this section:

56 (1) During the period the power may be exercised, the holder of a power of withdrawal  
57 is treated in the same manner as the settlor of a revocable trust to the extent of the property  
58 subject to the power; and

59 (2) Upon the lapse, release, or waiver of the power, the holder is treated as the settlor of  
60 the trust only to the extent the value of the property affected by the lapse, release, or waiver  
61 exceeds the greater of the amount specified in Sections 2041(b)(2), 2514(e) or 2503(b) of the  
62 Internal Revenue Code.

63 [6.] 7. This section shall not apply to a spendthrift trust described, defined, or established  
64 in section 456.014.

**456.5-508. 1. A creditor or other claimant of a beneficiary or other person holding  
2 a special power of appointment or a testamentary general power of appointment may not  
3 attach trust property or beneficial interests subject to the power, obtain an order from a  
4 court forcing a judicial sale of the trust property, compel the exercise of the power, or  
5 reach the trust property or beneficial interests by any other means.**

6           **2. This section shall not limit the ability of a creditor or other claimant to reach a**  
7 **beneficial interest as otherwise provided in sections 456.5-501 to 456.5-507.**

8           **3. In this section "special power of appointment" means a power of appointment**  
9 **exercisable in favor of one or more appointees other than the holder, the holder's estate,**  
10 **the holder's creditors, or the creditors of the holder's estate, and a "testamentary general**  
11 **power of appointment" means a power of appointment exercisable at the death of the**  
12 **holder, without the consent of the creator of the power or of a person holding an adverse**  
13 **interest in favor of the holder, the holder's estate, the holder's creditors, or the creditors**  
14 **of the holder's estate.**

          456.8-813. 1. (1) A trustee shall keep the qualified beneficiaries of the trust reasonably  
2 informed about the administration of the trust and of the material facts necessary for them to  
3 protect their interests. A trustee shall be presumed to have fulfilled this duty if the trustee  
4 complies with the notice and information requirements prescribed in subsections 2 to 7 of this  
5 section.

6           (2) Unless unreasonable under the circumstances, a trustee shall promptly respond to a  
7 beneficiary's request for information related to the administration of the trust.

8           2. A trustee:

9           (1) upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of the  
10 trust instrument;

11           (2) within [60] **one hundred and twenty** days after accepting a trusteeship, shall notify  
12 the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone  
13 number;

14           (3) within [sixty] **one hundred and twenty** days after the date the trustee acquires  
15 knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that  
16 a formerly revocable trust has become irrevocable, whether by the death of the settlor or  
17 otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the  
18 settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a  
19 trustee's report as provided in subsection 3 of this section; and

20           (4) shall notify the qualified beneficiaries in advance of any change in the method or rate  
21 of the trustee's compensation.

22           3. A trustee shall send to the permissible distributees of trust income or principal, and  
23 to other beneficiaries who request it, at least annually and at the termination of the trust, a report  
24 of the trust property, liabilities, receipts, and disbursements, including the source and amount of  
25 the trustee's compensation, a listing of the trust assets and, if feasible, their respective market  
26 values. Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a report must be  
27 sent to the qualified beneficiaries by the former trustee. A personal representative, conservator,

28 or guardian may send the qualified beneficiaries a report on behalf of a deceased or incapacitated  
29 trustee.

30 4. A beneficiary may waive the right to a trustee's report or other information otherwise  
31 required to be furnished under this section. A beneficiary, with respect to future reports and  
32 other information, may withdraw a waiver previously given.

33 5. A trustee may charge a reasonable fee to a beneficiary for providing information under  
34 this section.

35 6. The request of any beneficiary for information under any provision of this section shall  
36 be with respect to a single trust that is sufficiently identified to enable the trustee to locate the  
37 records of the trust.

38 7. If the trustee is bound by any confidentiality restrictions with respect to an asset of a  
39 trust, any beneficiary who is eligible to receive information pursuant to this section about such  
40 asset shall agree to be bound by the confidentiality restrictions that bind the trustee before  
41 receiving such information from the trustee.

42 8. This section does not apply to a trust created under a trust instrument that became  
43 irrevocable before January 1, 2005, and the law in effect prior to January 1, 2005, regarding the  
44 subject matter of this section shall continue to apply to those trusts.

469.411. 1. If the provisions of this section apply to a trust, the unitrust amount [shall  
2 be determined as follows:] **determined for each accounting year of the trust shall be a**  
3 **percentage between three and five percent of the average net fair market value of the trust,**  
4 **as of the first day of the trust's current accounting year. The percentage applicable to a**  
5 **trust shall be that percentage specified by the terms of the governing instrument or by the**  
6 **election made in accordance with subdivision (2) of subsection 5 of this section.**

7 (1) [For the first three accounting periods of the trust, the unitrust amount for a current  
8 valuation year of the trust shall be a percentage between three and five percent that is specified  
9 by the terms of the governing instrument or by the election made in accordance with subdivision  
10 (2) of subsection 5 of this section, of the net fair market values of the assets held in the trust on  
11 the first business day of the current valuation year;

12 (2) Beginning with the fourth accounting period of the trust, the unitrust amount for a  
13 current valuation year of the trust shall be a percentage between three and five percent that is  
14 specified by the terms of the governing instrument or by the election made in accordance with  
15 subdivision (2) of subsection 5 of this section, of the average of the net fair market values of the  
16 assets held in the trust on the first business day of the current valuation year and the net fair  
17 market values of the assets held in the trust on the first business day of each prior valuation year,  
18 regardless of whether this section applied to the ascertainment of net income for all valuation  
19 years;

20 (3) The unitrust amount for the current [valuation] **accounting** year computed pursuant  
21 to [subdivision (1) or (2) of this subsection] **this section** shall be proportionately reduced for any  
22 distributions, in whole or in part, other than distributions of the unitrust amount, and for any  
23 payments of expenses, including debts, disbursements and taxes, from the trust within a current  
24 [valuation] **accounting** year that the trustee determines to be material and substantial, and shall  
25 be proportionately increased for the receipt, other than a receipt that represents a return on  
26 investment, of any additional property into the trust within a current [valuation] **accounting** year;

27 [(4)] (2) For purposes of [subdivision (2) of this subsection] **this section**, the net fair  
28 market values of the assets held in the trust on the first business day of a prior [valuation year]  
29 **accounting quarter** shall be adjusted to reflect any reduction, in the case of a distribution or  
30 payment, or increase, in the case of a receipt, for the prior [valuation] **accounting** year pursuant  
31 to subdivision [(3)] (1) of this subsection, as if the distribution, payment or receipt had occurred  
32 on the first day of the prior [valuation] **accounting** year;

33 [(5)] (3) In the case of a short accounting period, the trustee shall prorate the unitrust  
34 amount on a daily basis;

35 [(6)] (4) In the case where the net fair market value of an asset held in the trust has been  
36 incorrectly determined [either in a current valuation year or in a prior valuation year] **in any**  
37 **quarter**, the unitrust amount shall be increased in the case of an undervaluation, or be decreased  
38 in the case of an overvaluation, by an amount equal to the difference between the unitrust amount  
39 determined based on the correct valuation of the asset and the unitrust amount originally  
40 determined.

41 2. As used in this section, the following terms mean:

42 (1) "**Average net fair market value**", a **rolling average of the fair market value of**  
43 **the assets held in the trust on the first business day of the lessor of the number of**  
44 **accounting quarters of the trust from the date of inception of the trust to the determination**  
45 **of the trust's average net fair market value, or twelve accounting quarters of the trust,**  
46 **regardless of whether this section applied to the ascertainment of net income for all**  
47 **valuation quarters;**

48 (2) "Current [valuation] **accounting** year", the accounting period of the trust for which  
49 the unitrust amount is being determined[;

50 (2) "Prior valuation year", each of the two accounting periods of the trust immediately  
51 preceding the current valuation year].

52 3. In determining the [sum of the] **average** net fair market [values] **value** of the assets  
53 held in the trust [for purposes of subdivisions (1) and (2) of subsection 1 of this section], there  
54 shall not be included the value of:

55 (1) Any residential property or any tangible personal property that, as of the first business  
56 day of the current valuation year, one or more income beneficiaries of the trust have or had the  
57 right to occupy, or have or had the right to possess or control, other than in a capacity as trustee,  
58 and instead the right of occupancy or the right to possession or control shall be deemed to be the  
59 unitrust amount with respect to the residential property or the tangible personal property; or

60 (2) Any asset specifically given to a beneficiary under the terms of the trust and the  
61 return on investment on that asset, which return on investment shall be distributable to the  
62 beneficiary.

63 4. In determining the **average** net fair market value of [each asset] **the assets** held in the  
64 trust pursuant to [subdivisions (1) and (2) of] subsection 1 of this section, the trustee shall, not  
65 less often than annually, determine the fair market value of each asset of the trust that consists  
66 primarily of real property or other property that is not traded on a regular basis in an active  
67 market by appraisal or other reasonable method or estimate, and that determination, if made  
68 reasonably and in good faith, shall be conclusive as to all persons interested in the trust. Any  
69 claim based on a determination made pursuant to this subsection shall be barred if not asserted  
70 in a judicial proceeding brought by any beneficiary with any interest whatsoever in the trust  
71 within two years after the trustee has sent a report to all qualified beneficiaries that adequately  
72 discloses the facts constituting the claim. The rules set forth in subsection 2 of section 469.409  
73 shall apply to the barring of claims pursuant to this subsection.

74 5. This section shall apply to the following trusts:

75 (1) Any trust created after August 28, 2001, with respect to which the terms of the trust  
76 clearly manifest an intent that this section apply;

77 (2) Any trust created under an instrument that became irrevocable on, before, or after  
78 August 28, 2001, if the trustee, in the trustee's discretion, elects to have this section apply unless  
79 the instrument creating the trust specifically prohibits an election under this subdivision. The  
80 trustee shall deliver notice to all qualified beneficiaries and the settlor of the trust, if he or she  
81 is then living, of the trustee's intent to make such an election at least sixty days before making  
82 that election. The trustee shall have sole authority to make the election. Section 469.402 shall  
83 apply for all purposes of this subdivision. An action or order by any court shall not be required.  
84 The election shall be made by a signed writing delivered to the settlor of the trust, if he or she  
85 is then living, and to all qualified beneficiaries. The election is irrevocable, unless revoked by  
86 order of the court having jurisdiction of the trust. The election may specify the percentage used  
87 to determine the unitrust amount pursuant to this section, provided that such percentage is  
88 between three and five percent, or if no percentage is specified, then that percentage shall be  
89 three percent. In making an election pursuant to this subsection, the trustee shall be subject to

90 the same limitations and conditions as apply to an adjustment between income and principal  
91 pursuant to subsections 3 and 4 of section 469.405; **and**

92 (3) No action of any kind based on an election made by a trustee pursuant to subdivision  
93 (2) of this subsection shall be brought against the trustee by any beneficiary of that trust three  
94 years from the effective date of that election[;

95 (4) If this section is made applicable under this subdivision to an institutional  
96 endowment fund, as defined in section 402.130, the restrictions contained in section 402.134  
97 shall not apply to the extent payment of a unitrust amount would otherwise be prohibited].

98 **6. Once the provisions of this section become applicable to a trust, the net income**  
99 **of the trust shall be the unitrust amount.**

100 (1) **Unless otherwise provided by the governing instrument, the unitrust amount**  
101 **distributed each year shall be paid from the following sources for that year up to the full**  
102 **value of the unitrust amount in the following order:**

103 (a) **Net income as determined if the trust were not a unitrust;**

104 (b) **Other ordinary income as determined for federal income tax purposes;**

105 (c) **Assets of the trust principal for which there is a readily available market value;**

106 **and**

107 (d) **Other trust principal.**

108 (2) **Additionally, the trustee may allocate to trust income for each taxable year of**  
109 **the trust, or portion thereof:**

110 (a) **Net short-term capital gain described in the Internal Revenue Code, 26 U.S.C.**  
111 **s. 1222(5), for such year, or portion thereof, but only to the extent that the amount so**  
112 **allocated together with all other amounts to trust income, as determined under the**  
113 **provisions of this chapter without regard to this section, for such year, or portion thereof,**  
114 **does not exceed the unitrust amount for such year, or portion thereof;**

115 (b) **Net long-term capital gain described in the Internal Revenue Code, 26 U.S.C.**  
116 **s. 1222(7), for such year, or portion thereof, but only to the extent that the amount so**  
117 **allocated together with all other amounts, including amounts described in paragraph (a),**  
118 **allocated to trust income for such year, or portion thereof, does not exceed the unitrust**  
119 **amount for such year, or portion thereof.**

120 **7. A trust with respect to which this section applies on August 28, 2011, may**  
121 **calculate the unitrust amount in accordance with the provisions of this section, as it existed**  
122 **either before or after such date, as the trustee of such trust shall determine in a writing**  
123 **kept with the records of the trust in the trustee's discretion.**

469.437. 1. As used in this section, the following terms mean:

2 (1) "Payment", an amount that is:

3 (a) Received or withdrawn from a plan; or

4 (b) One of a series of distributions that have been or will be received over a fixed  
5 number of years or during the life of one or more individuals under any contractual or other  
6 arrangement, or is a single payment from a plan that the trustee could have received over a fixed  
7 number of years or during the life of one or more individuals;

8 (2) "Plan", a contractual, custodial, trust or other arrangement that provides for  
9 distributions to the trust, including, but not limited to, qualified retirement plans, Individual  
10 Retirement Accounts, Roth Individual Retirement Accounts, public and private annuities, and  
11 deferred compensation, including payments received directly from an entity as defined in section  
12 469.423 regardless of whether or not such distributions are made from a specific fund or account.

13 2. If any portion of a payment is characterized as a distribution to the trustee of interest,  
14 dividends or a dividend equivalent, the trustee shall allocate the portion so characterized to  
15 income. The trustee shall allocate the balance of that payment to principal.

16 3. If no part of a payment is allocated to income pursuant to subsection 2 of this section,  
17 then for each accounting period of the trust that any payment is received by the trust with respect  
18 to the trust's interest in a plan, the trustee shall allocate to income that portion of the aggregate  
19 value of all payments received by the trustee in that accounting period equal to the amount of  
20 plan income attributable to the trust's interest in the plan for that calendar year. The trustee shall  
21 allocate the balance of that payment to principal.

22 4. For purposes of this section, if a payment is received from a plan that maintains a  
23 separate account or fund for its participants or account holders, including, but not limited to,  
24 defined contribution retirement plans, Individual Retirement Accounts, Roth Individual  
25 Retirement Accounts, and some types of deferred compensation plans, the phrase "plan income"  
26 shall mean either the amount of the plan account or fund held for the benefit of the trust that, if  
27 the plan account or fund were a trust, would be allocated to income pursuant to sections 469.401  
28 to 469.467 for that accounting period, or four percent of the value of the plan account or fund  
29 on the first day of that accounting period. The method of determining plan income pursuant to  
30 this subsection shall be chosen by the trustee in the trustee's discretion. The trustees may change  
31 the method of determining plan income pursuant to this subsection for any future accounting  
32 period.

33 5. For purposes of this section if the payment is received from a plan that does not  
34 maintain a separate account or fund for its participants or account holders, including by way of  
35 example and not limitation defined benefit retirement plans and some types of deferred  
36 compensation plans, the term "plan income" shall mean four percent of the total present value  
37 of the trust's interest in the plan as of the first day of the accounting period, based on reasonable  
38 actuarial assumptions as determined by the trustee.

39           6. **Notwithstanding subsections 1 to 5 of this section, with respect to a trust where**  
 40 **an election to qualify for a marital deduction under Section 2056(b)(7) or Section 2523(f)**  
 41 **of the Internal Revenue Code of 1986, as amended, has been made, or a trust that qualified**  
 42 **for the marital deduction under either Section 2056(b)(5) or Section 2523(e) of the Internal**  
 43 **Revenue Code of 1986, as amended, a trustee shall determine the plan income for the**  
 44 **accounting period as if the plan were a trust subject to sections 469.401 to 469.467. Upon**  
 45 **request of the surviving spouse, the trustee shall demand that the person administering the**  
 46 **plan distribute the plan income to the trust. The trustee shall allocate a payment from the**  
 47 **plan to income to the extent of the plan income and distribute that amount to the surviving**  
 48 **spouse. The trustee shall allocate the balance of the payment to principal. Upon request**  
 49 **of the surviving spouse, the trustee shall allocate principal to income to the extent the plan**  
 50 **income exceeds payments made from the plan to the trust during the accounting period.**

51           7. If, to obtain an estate or gift tax marital deduction for a trust, a trustee shall allocate  
 52 more of a payment to income than provided for by this section, the trustee shall allocate to  
 53 income the additional amount necessary to obtain the marital deduction.

469.459. 1. A tax required to be paid by a trustee based on receipts allocated to income  
 2 shall be paid from income.

3           2. A tax required to be paid by a trustee based on receipts allocated to principal shall be  
 4 paid from principal, even if the tax is called an income tax by the taxing authority.

5           3. A tax required to be paid by a trustee on the trust's share of an entity's taxable income  
 6 shall be paid [proportionately]:

7           (1) From income to the extent that receipts from the entity are allocated to income; and

8           (2) From principal to the extent that[:

9           (a)] receipts from the entity are allocated **only** to principal[: and

10           (b) The trust's share of the entity's taxable income exceeds the total receipts described  
 11 in subdivision (1) of this subsection and paragraph (a) of this subdivision].

12           4. [For purposes of this section, receipts allocated to principal or income shall be reduced  
 13 by the amount distributed to a beneficiary from principal or income for which the trust receives  
 14 a deduction in calculating the tax] **After applying subsections 1 to 3 of this section, the trustee**  
 15 **shall adjust income or principal receipts to the extent that the trust's taxes are reduced**  
 16 **because the trust receives a deduction for payment made to a beneficiary.**

475.060. 1. Any person may file a petition for the appointment of himself **or herself** or  
 2 some other qualified person as guardian of a minor [or guardian of an incapacitated person].  
 3 Such petition shall state:

4 (1) The name, age, domicile, actual place of residence and post office address of the  
5 minor [or incapacitated person] if known and if any of these facts is unknown, the efforts made  
6 to ascertain that fact;

7 (2) The estimated value of [his] **the minor's** real and personal property, **and the location**  
8 **and value of any real property owned by the minor outside of this state;**

9 (3) If the minor [or incapacitated person] has no domicile or place of residence in this  
10 state, the county in which the property or major part thereof of the minor [or incapacitated  
11 person] is located;

12 (4) The name and address of the parents of the minor [or incapacitated person] and  
13 whether they are living or dead;

14 (5) The name and address of the spouse, and the names, ages and addresses of all living  
15 children of the minor [or incapacitated person];

16 (6) The name and address of the person having custody of the person of the minor [or  
17 incapacitated person];

18 (7) The name and address of any guardian of the person or conservator of the estate of  
19 the minor [or incapacitated person] appointed in this or any other state;

20 (8) If appointment is sought for a natural person, other than the public administrator, the  
21 names and addresses of wards and disabled persons for whom such person is already guardian  
22 or conservator;

23 (9) [In the case of an incapacitated person, the fact that the person for whom  
24 guardianship is sought is unable by reason of some specified physical or mental condition to  
25 receive and evaluate information or to communicate decisions to such an extent that the person  
26 lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care such  
27 that serious physical injury, illness or disease is likely to occur] **The name and address of the**  
28 **trustees and the purpose of any trust of which the minor is a qualified beneficiary;**

29 (10) The reasons why the appointment of a guardian is sought;

30 (11) A petition for the appointment of a guardian of a minor may be filed for the sole and  
31 specific purpose of school registration or medical insurance coverage. Such a petition shall  
32 clearly set out this limited request and shall not be combined with a petition for conservatorship.

33 **2. Any person may file a petition for the appointment of himself or herself or some**  
34 **other qualified person as guardian of an incapacitated person. Such petition shall state:**

35 (1) **The name, age, domicile, actual place of residence and post office address of the**  
36 **alleged incapacitated person, if known, and if any of these facts is unknown, the efforts**  
37 **made to ascertain that fact; in addition, for the period of three years before the filing of the**  
38 **petition, the most recent addresses, up to three, at which the alleged incapacitated person**  
39 **lived prior to the most recent address. In the case of a petition filed by a public official in**

40 his or her official capacity, the information required by this subdivision need only be  
41 supplied to the extent it is reasonably available to the petitioner; in the case of any other  
42 petition, if any information required by this subdivision is not available, the petition shall  
43 state the efforts made to obtain such information;

44 (2) The estimated value of the alleged incapacitated person's real and personal  
45 property, and the location and value of any real property owned by the alleged  
46 incapacitated person outside of this state;

47 (3) If the alleged incapacitated person has no domicile or place of residence in this  
48 state, the county in which the property or major part thereof of the alleged incapacitated  
49 person is located;

50 (4) The name and address of the parents of the alleged incapacitated person and  
51 whether they are living or dead;

52 (5) The name and address of the spouse, the names, ages, and addresses of all living  
53 children of the alleged incapacitated person, the names and addresses of the alleged  
54 incapacitated person's closest known relatives, and the names and relationship, if known,  
55 of any adults living with the alleged incapacitated person; if no spouse, adult child, or  
56 parent is listed, the names and addresses of the siblings and children of deceased siblings  
57 of the alleged incapacitated person; the name and address of any agent appointed by the  
58 alleged incapacitated person in any durable power of attorney, and of the presently acting  
59 trustees of any trust of which the alleged incapacitated person is the grantor or is a  
60 qualified beneficiary or is or was the trustee or co-trustee and the purpose of the power of  
61 attorney or trust;

62 (6) The name and address of the person having custody of the person of the alleged  
63 incapacitated person;

64 (7) The name and address of any guardian of the person or conservator of the  
65 estate of the alleged incapacitated person appointed in this or any other state;

66 (8) If appointment is sought for a natural person, other than the public  
67 administrator, the names and addresses of wards and disabled persons for whom such  
68 person is already guardian or conservator;

69 (9) The fact that the person for whom guardianship is sought is unable by reason  
70 of some specified physical or mental condition to receive and evaluate information or to  
71 communicate decisions to such an extent that the person lacks capacity to meet essential  
72 requirements for food, clothing, shelter, safety, or other care such that serious physical  
73 injury, illness, or disease is likely to occur;

74 (10) The reasons why the appointment of a guardian is sought.

475.115. **1.** When a guardian or conservator dies, is removed by order of the court, or resigns and his **or her** resignation is accepted by the court, the court shall have the same authority as it has in like cases over personal representatives and their sureties and may appoint another guardian or conservator in the same manner and subject to the same requirements as are herein provided for an original appointment of a guardian or conservator.

**2. A public administrator may request transfer of any case to the jurisdiction of another county by filing a petition for transfer. If the receiving county meets the venue requirements of section 475.035 and the public administrator of the receiving county consents to the transfer, the court shall transfer the case. The court with jurisdiction over the receiving county shall, without the necessity of any hearing as required by section 475.075, appoint the public administrator of the receiving county as successor guardian and/or successor conservator and issue letters therein. In the case of a conservatorship, the final settlement of the public administrator's conservatorship shall be filed within thirty days of the court's transfer of the case, in the court with jurisdiction over the original conservatorship, and forwarded to the receiving county upon audit and approval.**

**475.501. Sections 475.501 to 475.555 may be cited as the "Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act".**

**475.502. Notwithstanding the definitions in section 475.010, when used in sections 475.501 to 475.555, the following terms mean:**

- (1) "Adult", an individual who has attained eighteen years of age;**
- (2) "Conservator", a person appointed by the court to administer the property of an adult, including a person appointed under this chapter;**
- (3) "Guardian", a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under this chapter;**
- (4) "Guardianship order", an order appointing a guardian;**
- (5) "Guardianship proceeding", a proceeding in which an order for the appointment of a guardian is sought or has been issued;**
- (6) "Incapacitated person", an adult for whom a guardian has been appointed;**
- (7) "Party", the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding;**
- (8) "Person", except in the term "incapacitated person" or "protected person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;**
- (9) "Protected person", an adult for whom a protective order has been issued;**

19           (10) "Protective order", an order appointing a conservator or other order related  
20 to management of an adult's property;

21           (11) "Protective proceeding", a judicial proceeding in which a protective order is  
22 sought or has been issued;

23           (12) "Record", information that is inscribed on a tangible medium or that is stored  
24 in an electronic or other medium and is retrievable in perceivable form;

25           (13) "Respondent", an adult for whom a protective order or the appointment of a  
26 guardian is sought;

27           (14) "State", a state of the United States, the District of Columbia, Puerto Rico, the  
28 United States Virgin Islands, a federally recognized Indian tribe, or any territory or  
29 insular possession subject to the jurisdiction of the United States.

**475.503.** A court of this state may treat a foreign country as if it were a state for the  
2 purpose of applying this article and articles 2, 3, and 5.

**475.504.** 1. A court of this state may communicate with a court in another state  
2 concerning a proceeding arising under sections 475.501 to 475.555. The court may allow  
3 the parties to participate in the communication. Except as otherwise provided in  
4 subsection 2 of this section, the court shall make a record of the communication. The  
5 record may be limited to the fact that the communication occurred.

6           2. Courts may communicate concerning schedules, calendars, court records, and  
7 other administrative matters without making a record.

**475.505.** 1. In a guardianship or protective proceeding in this state, a court of this  
2 state may request the appropriate court of another state to:

3           (1) Hold an evidentiary hearing;

4           (2) Order a person in that state to produce evidence or give testimony pursuant to  
5 procedures of that state;

6           (3) Order that an evaluation or assessment be made of the respondent;

7           (4) Order any appropriate investigation of a person involved in a proceeding;

8           (5) Forward to the court of this state a certified copy of the transcript or other  
9 record of a hearing under subdivision (1) of subsection 1 of this section or any other  
10 proceeding, any evidence otherwise produced under subdivision (2) of subsection 1 of this  
11 section, and any evaluation or assessment prepared in compliance with an order under  
12 subdivisions (3) and (4) of subsection 1 of this section;

13           (6) Issue any order necessary to assure the appearance in the proceeding of a  
14 person whose presence is necessary for the court to make a determination, including the  
15 respondent or the incapacitated or protected person;

16 (7) Issue an order authorizing the release of medical, financial, criminal, or other  
17 relevant information in that state, including protected health information as defined in 45  
18 CFR 160.103, as amended.

19 2. If a court of another state in which a guardianship or protective proceeding is  
20 pending requests assistance of the kind provided in subsection 1 of this section, a court of  
21 this state has jurisdiction for the limited purpose of granting the request or making  
22 reasonable efforts to comply with the request.

475.506. 1. In a guardianship or protective proceeding, in addition to other  
2 procedures that may be available, testimony of a witness who is located in another state  
3 may be offered by deposition or other means allowable in this state for testimony taken in  
4 another state. The court on its own motion may order that the testimony of a witness be  
5 taken in another state and may prescribe the manner in which and the terms upon which  
6 the testimony is to be taken.

7 2. In a guardianship or protective proceeding, a court in this state may permit a  
8 witness located in another state to be deposed or to testify by telephone or audiovisual or  
9 other electronic means. A court of this state shall cooperate with court of the other state  
10 in designating an appropriate location for the deposition or testimony.

11 3. Documentary evidence transmitted from another state to a court of this state by  
12 technological means that do not produce an original writing may not be excluded from  
13 evidence on an objection based on the best evidence rule.

## ARTICLE 2 JURISDICTION

475.521. 1. In this article, the following terms mean:

2 (1) "Emergency", a circumstance that likely will result in substantial harm to a  
3 respondent's health, safety, or welfare, and for which the appointment of a guardian is  
4 necessary because no other person has authority and is willing to act on the respondent's  
5 behalf;

6 (2) "Home state", the state in which the respondent was physically present,  
7 including any period of temporary absence, for at least six consecutive months immediately  
8 before the filing of a petition for a protective order or the appointment of a guardian; or  
9 if none, the state in which the respondent was physically present, including any period of  
10 temporary absence, for at least six consecutive months ending within the six months prior  
11 to the filing of the petition;

12 (3) "Significant-connection state", a state, other than the home state, with which  
13 a respondent has a significant connection other than mere physical presence and in which  
14 substantial evidence concerning the respondent is available.

15           **2. In determining under section 475.523 and subsection 5 of section 475.531**  
16 **whether a respondent has a significant connection with a particular state, the court shall**  
17 **consider:**

18           **(1) The location of the respondent's family and other persons required to be**  
19 **notified of the guardianship or protective proceeding;**

20           **(2) The length of time the respondent at any time was physically present in the state**  
21 **and the duration of any absence;**

22           **(3) The location of the respondent's property; and**

23           **(4) The extent to which the respondent has ties to the state such as voting**  
24 **registration, state or local tax return filing, vehicle registration, driver's license, social**  
25 **relationship, and receipt of services.**

**475.522. This article provides the exclusive jurisdictional basis for a court of this**  
2 **state to appoint a guardian or issue a protective order for an adult.**

**475.523. A court of this state has jurisdiction to appoint a guardian or issue a**  
2 **protective order for a respondent if:**

3           **(1) This state is the respondent's home state;**

4           **(2) On the date a petition is filed, this state is a significant-connection state and:**

5           **(a) The respondent does not have a home state or a court of the respondent's home**  
6 **state has declined to exercise jurisdiction because this state is a more appropriate forum;**  
7 **or**

8           **(b) The respondent has a home state, a petition for an appointment or order is not**  
9 **pending in a court of that state or another significant-connection state, and, before the**  
10 **court makes the appointment or issues the order:**

11           **a. A petition for an appointment or order is not filed in the respondent's home**  
12 **state;**

13           **b. An objection to the court's jurisdiction is not filed by a person required to be**  
14 **notified of the proceeding; and**

15           **c. The court in this state concludes that it is an appropriate forum under the factors**  
16 **set forth in section 475.526;**

17           **(3) This state does not have jurisdiction under either subdivisions (1) or (2) of this**  
18 **section, the respondent's home state and all significant-connection states have declined to**  
19 **exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in**  
20 **this state is consistent with the constitutions of this state and the United States; or**

21           **(4) The requirements for special jurisdiction under section 475.524 are met.**

**475.524. 1. A court of this state lacking jurisdiction under section 475.523 has**  
2 **special jurisdiction to do any of the following:**

3           **(1) Appoint a guardian in an emergency for a term not exceeding ninety days for**  
4 **a respondent who is physically present in this state;**

5           **(2) Issue a protective order with respect to real or tangible personal property**  
6 **located in this state;**

7           **(3) Appoint a guardian or conservator for an incapacitated or protected person for**  
8 **whom a provisional order to transfer the proceeding from another state has been issued**  
9 **under procedures similar to section 475.531.**

10           **2. If a petition for the appointment of a guardian in an emergency is brought in this**  
11 **state and this state was not the respondent's home state on the date the petition was filed,**  
12 **the court shall dismiss the proceeding at the request of the court of the home state, if any,**  
13 **whether dismissal is requested before or after the emergency appointment.**

**475.525. Except as otherwise provided in section 475.524, a court that has**  
2 **appointed a guardian or issued a protective order consistent with sections 475.501 to**  
3 **475.555 has exclusive and continuing jurisdiction over the proceeding until it is terminated**  
4 **by the court or the appointment or order expires by its own terms.**

**475.526. 1. A court of this state having jurisdiction under section 475.523 to**  
2 **appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it**  
3 **determines at any time that a court of another state is a more appropriate forum.**

4           **2. If a court of this state declines to exercise its jurisdiction under subsection 1 of**  
5 **this section, it shall either dismiss or stay the proceeding. The court may impose any**  
6 **condition the court considers just and proper, including the condition that a petition for**  
7 **the appointment of a guardian or protective order be promptly filed in another state.**

8           **3. In determining whether it is an appropriate forum, the court shall consider all**  
9 **relevant factors, including:**

10           **(1) Any expressed preference of the respondent;**

11           **(2) Whether abuse, neglect, or exploitation of the respondent has occurred or is**  
12 **likely to occur and which state could best protect the respondent from the abuse, neglect,**  
13 **or exploitation;**

14           **(3) The length of time the respondent was physically present in or was a legal**  
15 **resident of this or another state;**

16           **(4) The distance of the respondent from the court in each state;**

17           **(5) The financial circumstances of the respondent's estate;**

18           **(6) The nature and location of the evidence;**

19           **(7) The ability of the court in each state to decide the issue expeditiously and the**  
20 **procedures necessary to present evidence;**

21 (8) The familiarity of the court of each state with the facts and issues in the  
22 proceeding; and

23 (9) If an appointment were made, the court's ability to monitor the conduct of the  
24 guardian or conservator.

475.527. 1. If at any time a court of this state determines that it acquired  
2 jurisdiction to appoint a guardian or issue a protective order because of unjustifiable  
3 conduct, the court may:

4 (1) Decline to exercise jurisdiction;

5 (2) Exercise jurisdiction for the limited purpose of fashioning an appropriate  
6 remedy to ensure the health, safety, and welfare of the respondent or the protection of the  
7 respondent's property or prevent a repetition of the unjustifiable conduct, including  
8 staying the proceeding until a petition for the appointment of a guardian or issuance of a  
9 protective order is filed in a court of another state having jurisdiction; or

10 (3) Continue to exercise jurisdiction after considering:

11 (a) The extent to which the respondent and all persons required to be notified of  
12 the proceedings have acquiesced in the exercise of the court's jurisdiction;

13 (b) Whether it is a more appropriate forum than the court of any other state under  
14 the factors set forth in subsection 3 of section 475.526; and

15 (c) Whether the court of any other state would have jurisdiction under factual  
16 circumstances in substantial conformity with the jurisdictional standards of section  
17 475.523.

18 2. If a court of this state determines that it acquired jurisdiction to appoint a  
19 guardian or issue a protective order because a party seeking to invoke its jurisdiction  
20 engaged in unjustifiable conduct, it may assess against that party necessary and reasonable  
21 expenses, including attorney's fees, investigative fees, court costs, communication expenses,  
22 witness fees and expenses, and travel expenses. The court may not assess fees, costs, or  
23 expenses of any kind against this state or a governmental subdivision, agency, or  
24 instrumentality of this state unless authorized by law other than sections 475.501 to  
25 475.555.

475.528. If a petition for the appointment of a guardian or issuance of a protective  
2 order is brought in this state and this state was not the respondent's home state on the date  
3 the petition was filed, in addition to complying with the notice requirements of this state,  
4 notice of the petition shall be given to those persons who would be entitled to notice of the  
5 petition if a proceeding were brought in the respondent's home state. The notice shall be  
6 given in the same manner as notice is required to be given in this state.

**475.529.** Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state as provided in subdivision (1) or (2) of subsection 1 of section 475.524, if a petition for the appointment of a guardian or issuance of a protective order is filed in this and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) If the court in this state has jurisdiction under section 475.523, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to section 475.523 before the appointment or issuance of the order.

(2) If the court in this state does not have jurisdiction under section 475.523, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this state shall dismiss the petition unless the court in the other state determines that the court in this state is a more appropriate forum.

### ARTICLE 3

#### TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

**475.531. 1.** A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

2. Notice of a petition under subsection 1 of this section shall be given to those persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

3. On the court's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to subsection 1 of this section.

4. The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:

(1) The incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and

(3) Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

20           **5. The court shall issue a provisional order granting a petition to transfer a**  
21 **conservatorship and shall direct the conservator to petition for conservatorship in the**  
22 **other state if the court is satisfied that the conservatorship will be accepted by the court of**  
23 **the other state and the court finds that:**

24           **(1) The protected person is physically present in or is reasonably expected to move**  
25 **permanently to the other state, or the protected person has a significant connection to the**  
26 **other state considering the factors set forth in subsection 2 of section 475.521;**

27           **(2) An objection to the transfer has not been made or, if an objection has been**  
28 **made, the objector has not established that the transfer would be contrary to the interests**  
29 **of the protected person; and**

30           **(3) Adequate arrangements will be made for management of the protected person's**  
31 **property.**

32           **6. The court shall issue a final order confirming the transfer and terminating the**  
33 **guardianship or conservatorship upon its receipt of:**

34           **(1) A provisional order accepting the proceeding from the court to which the**  
35 **proceeding is to be transferred which is issued under provisions similar to section 475.532;**  
36 **and**

37           **(2) The documents required to terminate a guardianship or conservatorship in this**  
38 **state.**

**475.532. 1. To confirm transfer of a guardianship or conservatorship transferred**  
2 **to this state under provisions similar to those in section 475.531, the guardian or**  
3 **conservator shall petition the court in this state to accept the guardianship or**  
4 **conservatorship. The petition shall include a certified copy of the other state's provisional**  
5 **order of transfer.**

6           **2. Notice of a petition under subsection 1 of this section shall be given to those**  
7 **persons that would be entitled to notice if the petition were a petition for the appointment**  
8 **of a guardian or issuance of a protective order in both the transferring state and this state.**  
9 **The notice shall be given in the same manner as notice is required to be given in this state.**

10           **3. On the court's own motion or on request of the guardian or conservator, the**  
11 **incapacitated or protected person, or other person required to be notified of the**  
12 **proceeding, the court shall hold a hearing on a petition filed pursuant to subsection 1 of**  
13 **this section.**

14           **4. The court shall issue an order provisionally granting a petition filed under**  
15 **subsection 1 of this section unless:**

16           **(1) An objection is made and the objector establishes that transfer of the**  
17 **proceeding would be contrary to the interests of the incapacitated or protected person; or**

18           **(2) The guardian or conservator is ineligible for appointment in this state.**

19           **5. The court shall issue a final order accepting the proceeding and appointing the**  
20 **guardian or conservator as guardian or conservator in this state upon its receipt from the**  
21 **court from which the proceeding is being transferred of a final order issued under**  
22 **provisions similar to section 475.531 transferring the proceeding to this state.**

23           **6. Not later than ninety days after issuance of a final order accepting transfer of a**  
24 **guardianship or conservatorship, the court shall determine whether the guardianship or**  
25 **conservatorship needs to be modified to conform to the law of this state.**

26           **7. In granting a petition under this section, the court shall recognize a guardianship**  
27 **or conservatorship order from the other state, including the determination of the**  
28 **incapacitated or protected person's incapacity and the appointment of the guardian or**  
29 **conservator.**

30           **8. The denial by a court of this state of a petition to accept guardianship or**  
31 **conservatorship transferred from another state does not affect the ability of the guardian**  
32 **or conservator to seek appointment as guardian or conservator in this state under this**  
33 **chapter if the court has jurisdiction to make an appointment other than by reason of the**  
34 **provisional order of transfer.**

#### **ARTICLE 4**

##### **REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES**

2           **475.541. If a guardian has been appointed in another state and a petition for the**  
3 **appointment of a guardian is not pending in this state, the guardian appointed in the other**  
4 **state, after giving notice to the appointing court of an intent to register, may register the**  
5 **guardianship order in this state by filing as a foreign judgment in a court, in any**  
6 **appropriate county of this state, certified copies of the order and letters of office.**

2           **475.542. If a conservator has been appointed in another state and a petition for a**  
3 **protective order is not pending in this state, the conservator appointed in the other state,**  
4 **after giving notice to the appointing court of an intent to register, may register the**  
5 **protective order in this state by filing as a foreign judgment in a court of this state, in any**  
6 **county in which property belonging to the protected person is located, certified copies of**  
7 **the order and letters of office and of any bond.**

2           **475.543. 1. Upon registration of a guardianship or protective order from another**  
3 **state, the guardian or conservator may exercise in this state all powers authorized in the**  
4 **order of appointment except as prohibited under the laws of this state, including**  
5 **maintaining actions and proceedings in this state and, if the guardian or conservator is not**  
6 **a resident of this state, subject to any conditions imposed upon nonresident parties.**

2           **2. A court of this state may grant any relief available under sections 475.501 to**

7 **475.555 and other law of this state to enforce a registered order.**

2 **475.544. Except where inconsistent with sections 475.541, 475.542, and 475.543, the**  
3 **laws of this state relating to the registration and recognition of the acts of a foreign**  
4 **guardian, curator, or conservator contained in sections 475.335 to 475.340 shall be**  
5 **applicable.**

## ARTICLE 5

### MISCELLANEOUS PROVISIONS

2 **475.551. In applying and construing this uniform act, consideration shall be given**  
3 **to the need to promote uniformity of the law with respect to its subject matter among states**  
4 **that enact it.**

2 **475.552. Sections 475.501 to 475.555 modify, limit, and supersede the federal**  
3 **Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et**  
4 **seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section**  
5 **7001(c), or authorize electronic delivery of any of the notices described in Section 103(b)**  
6 **of that act, 15 U.S.C. Section 7003(b).**

2 **475.555. 1. Sections 475.501 to 475.555 apply to guardianship and protective**  
3 **proceedings begun on or after August 28, 2011.**

4 **2. Articles 1, 3, 4, and sections 475.551 and 475.552 apply to proceedings begun**  
5 **before August 28, 2011, regardless of whether a guardianship or protective order has been**  
6 **issued.**

7 **484.500. 1. This act shall be known as the "Private Attorney Retention Act".**

8 **2. (1) For the purposes of this section, a contract in excess of one million dollars is**  
9 **one which the fee paid to an attorney or group of attorneys, either in the form of a flat,**  
10 **hourly, or contingent fee, and their expenses, exceeds or can be reasonably expected to**  
11 **exceed one million dollars.**

12 **(2) For purposes of this section "fees" shall include any compensation for legal**  
13 **services however measured, including but not limited to flat, hourly, and contingent fees.**

14 **3. Any state agency or state agent that wishes to retain a lawyer or law firm to**  
15 **perform legal services on behalf of this state, where the fees and expenses for such services**  
16 **will exceed or can be reasonably expected to exceed one hundred thousand dollars, shall**  
17 **not do so until an open and competitive bidding process has been undertaken.**

18 **4. No state agency or state agent shall enter into a contract for legal services**  
19 **exceeding one million dollars without the opportunity for legislative review of the terms**  
20 **of the contract in accordance with the provisions of subsection 5 of this section.**

21 **5. (1) Except as provided in subdivision (5) of this subsection, any state agency or**  
22 **state agent proposing to enter into a contract for legal services exceeding one million**

17 dollars shall file a copy of the proposed contract with the clerk of the house of  
18 representatives and shall also accompany such proposed contract with a written statement  
19 that identifies:

20 (a) The reasons the state should retain private counsel and the consideration of  
21 alternatives;

22 (b) The open and competitive bidding process that has been undertaken with  
23 respect to the proposed legal services;

24 (c) The reasons for the selection of the lawyer or law firm that is the proposed  
25 contracting party;

26 (d) The past or present relationship, if any, between such lawyer, law firm, or any  
27 partner or other principal in such law firm and the state agency or state agent proposing  
28 to enter into the contract; and

29 (e) If the contract contemplates that all or part of the fee is contingent on the  
30 outcome of the legal proceeding, the reasons the contingent fee arrangement is believed to  
31 be in the state's interest and any efforts undertaken to obtain private counsel on a  
32 noncontingent fee basis.

33 (2) Except as provided in subdivision (6) of this subsection, the clerk of the house  
34 of representatives, with the approval of the president of the senate and speaker of the house  
35 of representatives, shall promptly refer such proposed contract and written statement to  
36 the appropriate committee for review.

37 (3) Within forty-five days after the filing of the proposed contract and statement  
38 with the clerk, the reviewing committee may hold a public hearing on the proposed  
39 contract and, whether or not a public hearing is held, shall issue a report to the referring  
40 state agency or state agent. The report shall include any recommended changes to the  
41 proposed contract approved by the committee. If the reviewing committee recommends  
42 no changes to the proposed contract within forty-five days of the initial filing of the  
43 proposed contract with the clerk of the house of representatives, the referring state agency  
44 or state agent may enter into the proposed contract. If the report of the reviewing  
45 committee recommends changes to the proposed contract in accordance with the provisions  
46 of this subdivision, the state agency or state agent shall review the report and prepare a  
47 revised contract as deemed appropriate in view of the report and shall file with the clerk  
48 of the house of representatives a copy of the revised contract.

49 (4) If the revised contract does not contain all changes recommended by the  
50 reviewing committee, the referring state agency or state agent shall include with the revised  
51 contract filed with the clerk a letter stating the reasons why the recommended changes  
52 were not adopted. The clerk shall promptly refer such letter and revised contract to the

53 reviewing committee, which may hold additional hearings and issue additional reports in  
54 its discretion. Not earlier than forty-five days after the filing of such letter and revised  
55 contract with the clerk, the referring state agency or state agent may enter into the revised  
56 contract. Notwithstanding any provision of this subsection, any revised contract  
57 containing terms not previously reviewed or recommended by the reviewing committee  
58 that can reasonably be expected to increase the fees and expenses to be paid shall be  
59 treated as a new proposed contract and shall be filed and reviewed in accordance with  
60 subdivisions (1), (2), (3), and (4) of this subsection.

61 (5) In the event that the legislature is not in session and the state agency or state  
62 agent wishes to enter into a contract for legal services exceeding one million dollars, the  
63 proposed contract and written statement described in paragraphs (a) and (b) of subdivision  
64 (1) of this subsection shall be filed with the governor in addition to the clerk of the house  
65 of representatives. Except as provided in subdivision (6) of this subsection the governor  
66 shall establish a five-member interim committee consisting of five state legislators, one each  
67 to be appointed by the governor, the speaker of the house of representatives, the president  
68 pro tem of the senate, and the minority leader in each house of the legislature, to execute  
69 the legislative oversight duties set forth in subdivisions (2) and (3) of this subsection. All  
70 deadlines and responsibilities set forth in those subdivisions shall apply as though the  
71 interim committee were a committee of the legislature.

72 (6) In the event the state agency or state agent in a writing filed with the governor  
73 and the clerk of the house of representatives states that time exigencies require that the  
74 state retain counsel before the periods provided in subdivisions (1), (2), (3), and (4) of this  
75 subsection have elapsed, and provides the reasons therefor, the governor shall establish a  
76 five-member committee, with members appointed as provided in subdivision (5) of this  
77 subsection to which the proposed contract and written statement described in paragraphs  
78 (a) and (b) of subdivision (1) of this subsection shall be referred. The committee shall  
79 consult with the state agency or state agent to establish an expedited schedule for review  
80 and recommendations on the proposed contract.

81 6. (1) At the conclusion of any legal proceeding for which a state agency or state  
82 agent retained outside counsel on a contingent fee basis, the state shall receive from counsel  
83 a statement of the hours worked on the case, expenses incurred, the aggregate fee amount,  
84 and a breakdown as to the hourly rate, based on hours worked divided into fee recovered,  
85 less expenses.

86 (2) In no case shall the state incur fees and expenses in excess of two hundred fifty  
87 dollars per hour for legal services. In cases where a disclosure submitted in accordance  
88 with subdivision (1) of this subsection indicates an hourly rate in excess of two hundred

89 **fifty dollars per hour, the fee amount shall be reduced to an amount equivalent to two**  
90 **hundred fifty dollars per hour.**

91 **7. Nothing in this section shall be construed to expand the authority of any state**  
92 **agency or state agent to enter into contracts where no such authority previously existed.**

488.026. As provided by section 56.807, there shall be assessed and collected a  
2 surcharge of four dollars in all criminal cases filed in the courts of this state, including violations  
3 of any county ordinance or any violation of criminal or traffic laws of this state, including  
4 infractions, **or against any person who pled guilty and paid a fine through a fine collection**  
5 **center**, but no such surcharge shall be assessed when the costs are waived or are to be paid by  
6 the state, county, or municipality or when a criminal proceeding or the defendant has been  
7 dismissed by the court [or against any person who has pled guilty and paid their fine pursuant  
8 to subsection 4 of section 476.385]. For purposes of this section, the term "county ordinance"  
9 shall include any ordinance of the city of St. Louis. The clerk responsible for collecting court  
10 costs in criminal cases shall collect and disburse such amounts as provided by sections 488.010  
11 to 488.020. Such funds shall be payable to the prosecuting attorneys and circuit attorneys'  
12 retirement fund.

488.432. **1.** If in any suit in which a deposit is provided for under sections 488.426 to  
2 488.432, the party filing the suit shall prevail, the amount of said deposit required at the time of  
3 filing said suit shall be awarded and collectable as a judgment entered in said suit in favor of the  
4 prevailing party making said deposit.

5 **2. If in any suit in which a deposit is not required by the filing party because that**  
6 **party is a city, county, or the state of Missouri under subsection 1 of section 488.426, the**  
7 **party filing the suit shall prevail, the amount of said deposit that would otherwise have**  
8 **been awarded and collectable as a judgment entered in said suit in favor of the prevailing**  
9 **party under subsection 1 of this section had the prevailing party been required to make a**  
10 **deposit shall be paid from the respondent to the prevailing party and the prevailing party**  
11 **shall then pay such amount collected to the clerk of the appropriate court.**

516.098. [1.] Except where fraud is involved, no action to recover damages for an error  
2 or omission in the survey of land, nor any action for contribution or indemnity for damages  
3 sustained on account of an error or omission may be brought against any person performing the  
4 survey more than [five years after the discovery of the error or omission] **ten years from the**  
5 **completion of the survey.**

6 [2. This section shall become effective January 1, 1990.]

516.140. Within two years: An action for libel, slander, **injurious falsehood**, assault,  
2 battery, false imprisonment, criminal conversation, malicious prosecution or actions brought  
3 under section 290.140. An action by an employee for the payment of unpaid minimum wages,

4 unpaid overtime compensation or liquidated damages by reason of the nonpayment of minimum  
5 wages or overtime compensation, and for the recovery of any amount under and by virtue of the  
6 provisions of the Fair Labor Standards Act of 1938 and amendments thereto, such act being an  
7 act of Congress, shall be brought within two years after the cause accrued.

544.455. 1. Any person charged with a bailable offense, at his **or her** appearance before  
2 an associate circuit judge or judge may be ordered released pending trial, appeal, or other stage  
3 of the proceedings against him on his personal recognizance, unless the associate circuit judge  
4 or judge determines, in the exercise of his discretion, that such a release will not reasonably  
5 assure the appearance of the person as required. When such a determination is made, the  
6 associate circuit judge or judge may either in lieu of or in addition to the above methods of  
7 release, impose any or any combination of the following conditions of release which will  
8 reasonably assure the appearance of the person for trial:

9 (1) Place the person in the custody of a designated person or organization agreeing to  
10 supervise him;

11 (2) Place restriction on the travel, association, or place of abode of the person during the  
12 period of release;

13 (3) Require the execution of a bail bond with sufficient solvent sureties, or the deposit  
14 of cash in lieu thereof;

15 (4) Require the person to report regularly to some officer of the court, or peace officer,  
16 in such manner as the associate circuit judge or judge directs;

17 (5) Require the execution of a bond in a given sum and the deposit in the registry of the  
18 court of ten percent, or such lesser percent as the judge directs, of the sum in cash or negotiable  
19 bonds of the United States or of the state of Missouri or any political subdivision thereof;

20 (6) Impose any other condition deemed reasonably necessary to assure appearance as  
21 required, including a condition requiring that the person return to custody after specified hours.

22 2. In determining which conditions of release will reasonably assure appearance, the  
23 associate circuit judge or judge shall, on the basis of available information, take into account the  
24 nature and circumstances of the offense charged, the weight of the evidence against the accused,  
25 the accused's family ties, employment, financial resources, character and mental condition, the  
26 length of his residence in the community, his record of convictions, and his record of appearance  
27 at court proceedings or flight to avoid prosecution or failure to appear at court proceedings.

28 3. An associate circuit judge or judge authorizing the release of a person under this  
29 section shall issue an appropriate order containing a statement of the conditions imposed, if any,  
30 shall inform such person of the penalties applicable to violations of the conditions of his release  
31 and shall advise him that a warrant for his arrest will be issued immediately upon any such  
32 violation.

33           4. A person for whom conditions of release are imposed and who after twenty-four hours  
34 from the time of the release hearing continues to be detained as a result of his inability to meet  
35 the conditions of release, shall, upon application, be entitled to have the condition reviewed by  
36 the associate circuit judge or judge who imposed them. The motion shall be determined  
37 promptly.

38           5. An associate circuit judge or judge ordering the release of a person on any condition  
39 specified in this section may at any time amend his order to impose additional or different  
40 conditions of release; except that, if the imposition of such additional or different conditions  
41 results in the detention of the person as a result of his inability to meet such conditions or in the  
42 release of the person on a condition requiring him to return to custody after specified hours, the  
43 provisions of subsection 4 shall apply.

44           6. Information stated in, or offered in connection with, any order entered pursuant to this  
45 section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

46           7. Nothing contained in this section shall be construed to prevent the disposition of any  
47 case or class of cases by forfeiture of collateral security where such disposition is authorized by  
48 the court.

49           8. Persons charged with violations of municipal ordinances may be released by a  
50 municipal judge or other judge who hears and determines municipal ordinance violation cases  
51 of the municipality involved under the same conditions and in the same manner as provided in  
52 this section for release by an associate circuit judge.

53           **9. Any person charged with aailable nonviolent offense who does not post bail**  
54 **prior to his or her appearance before an associate circuit judge or judge may be ordered**  
55 **to be placed on house arrest with electronic monitoring.**

544.470. 1. If the offense is notailable, **or if the individual is not granted electronic**  
2 **monitoring** or if the person does not meet the conditions for release, as provided in section  
3 544.455, the prisoner shall be committed to the jail of the county in which the same is to be tried,  
4 there to remain until he be discharged by due course of law.

5           2. There shall be a presumption that releasing the person under any conditions as  
6 provided by section 544.455 shall not reasonably assure the appearance of the person as required  
7 if the circuit judge or associate circuit judge reasonably believes that the person is an alien  
8 unlawfully present in the United States. If such presumption exists, the person shall be  
9 committed to the jail, as provided in subsection 1 of this section, until such person provides  
10 verification of his or her lawful presence in the United States to rebut such presumption. If the  
11 person adequately proves his or her lawful presence, the circuit judge or associate circuit judge  
12 shall review the issue of release, as provided under section 544.455, without regard to previous  
13 issues concerning whether the person is lawfully present in the United States. If the person

14 cannot prove his or her lawful presence, the person shall continue to be committed to the jail and  
15 remain until discharged by due course of law.

557.011. 1. Every person found guilty of an offense shall be dealt with by the court in  
2 accordance with the provisions of this chapter, except that for offenses defined outside this code  
3 and not repealed, the term of imprisonment or the fine that may be imposed is that provided in  
4 the statute defining the offense; however, the conditional release term of any sentence of a term  
5 of years shall be determined as provided in subsection 4 of section 558.011.

6 2. Whenever any person has been found guilty of a felony or a misdemeanor the court  
7 shall make one or more of the following dispositions of the offender in any appropriate  
8 combination. The court may:

- 9 (1) Sentence the person to a term of imprisonment as authorized by chapter 558;
- 10 (2) Sentence the person to pay a fine as authorized by chapter 560;
- 11 (3) Suspend the imposition of sentence, with or without placing the person on probation;
- 12 (4) Pronounce sentence and suspend its execution, placing the person on probation;
- 13 (5) Impose a period of detention as a condition of probation, as authorized by section  
14 559.026.

15 3. Whenever any person has been found guilty of an infraction, the court shall make one  
16 or more of the following dispositions of the offender in any appropriate combination. The court  
17 may:

- 18 (1) Sentence the person to pay a fine as authorized by chapter 560;
- 19 (2) Suspend the imposition of sentence, with or without placing the person on probation;
- 20 (3) Pronounce sentence and suspend its execution, placing the person on probation.

21 4. Whenever any organization has been found guilty of an offense, the court shall make  
22 one or more of the following dispositions of the organization in any appropriate combination.  
23 The court may:

- 24 (1) Sentence the organization to pay a fine as authorized by chapter 560;
- 25 (2) Suspend the imposition of sentence, with or without placing the organization on  
26 probation;
- 27 (3) Pronounce sentence and suspend its execution, placing the organization on probation;
- 28 (4) Impose any special sentence or sanction authorized by law.

29 5. This chapter shall not be construed to deprive the court of any authority conferred by  
30 law to decree a forfeiture of property, suspend or cancel a license, remove a person from office,  
31 or impose any other civil penalty. An appropriate order exercising such authority may be  
32 included as part of any sentence.

33 **6. In the event a sentence of confinement is ordered executed, a court may order**  
34 **that an individual serve all or any portion of such sentence on electronic monitoring with**

35 **such conditions and limitations as the court shall deem appropriate in the circumstances**  
36 **including a condition that the individual pay the cost of the electronic monitoring.**

37 **7. A circuit court may adopt a local rule authorizing the pretrial release on**  
38 **electronic monitoring in lieu of incarceration of individuals charged with offenses**  
39 **specifically identified therein.**

559.100. 1. The circuit courts of this state shall have power, herein provided, to place  
2 on probation or to parole persons convicted of any offense over which they have jurisdiction,  
3 except as otherwise provided in sections 195.275 to 195.296, section 558.018, section 559.115,  
4 section 565.020, sections 566.030, 566.060, 566.067, 566.151, and 566.213, section 571.015,  
5 and subsection 3 of section 589.425.

6 2. The circuit court shall have the power to revoke the probation or parole previously  
7 granted and commit the person to the department of corrections. The circuit court shall  
8 determine any conditions of probation or parole for the defendant that it deems necessary to  
9 ensure the successful completion of the probation or parole term, including the extension of any  
10 term of supervision for any person while on probation or parole. The circuit court may require  
11 that the defendant pay restitution for his crime. The probation or parole may be revoked for  
12 failure to pay restitution or for failure to conform his behavior to the conditions imposed by the  
13 circuit court. The circuit court may, in its discretion, credit any period of probation or parole as  
14 time served on a sentence.

15 **3. Restitution, whether court ordered as provided in subsection 2 of this section or**  
16 **agreed to by the parties, or as enforced under section 558.011, shall be paid through the**  
17 **office of the prosecuting attorney or circuit attorney. Nothing in this section shall prohibit**  
18 **the prosecuting attorney or circuit attorney from contracting with or utilizing another**  
19 **entity for the collection of restitution and costs under this section. When ordered by the**  
20 **court, interest shall be allowed under subsection 1 of section 408.040. In addition to all**  
21 **other costs and fees allowed by law, each prosecuting attorney or circuit attorney who**  
22 **takes any action to collect restitution shall collect from the person paying restitution an**  
23 **administrative handling cost. The cost shall be twenty-five dollars for restitution less than**  
24 **one hundred dollars and fifty dollars for restitution of one hundred dollars but less than**  
25 **two hundred fifty dollars. For restitution of two hundred fifty dollars or more an**  
26 **additional fee of ten percent of the total restitution shall be assessed, with a maximum fee**  
27 **for administrative handling costs not to exceed seventy-five dollars total. In addition to the**  
28 **administrative handling costs, an installment cost shall be assessed in the amount of two**  
29 **dollars per installment, excepting the first installment, until such total amount of**  
30 **restitution is paid in full. Notwithstanding the provisions of sections 50.525 to 50.745, the**  
31 **costs provided for in this subsection shall be deposited by the county treasurer into a**

32 separate interest-bearing fund to be expended by the prosecuting attorney or circuit  
33 attorney. This fund shall be known as the "Administrative Handling Cost Fund", and it  
34 shall be the fund for deposits under this section and under section 570.120. The funds shall  
35 be expended, upon warrants issued by the prosecuting attorney or circuit attorney  
36 directing the treasurer to issue checks thereon, only for purposes related to that authorized  
37 by subsection 4 of this section. Notwithstanding the provisions of any other law, in  
38 addition to the administrative handling cost, the prosecuting attorney or circuit attorney  
39 shall collect an additional cost of five dollars per each crime victim to whom restitution is  
40 paid for deposit to the Missouri office of prosecution services fund established in  
41 subsection 2 of section 56.765. All moneys collected under this section which are payable  
42 to the Missouri office of prosecution services fund shall be transmitted at least monthly by  
43 the county treasurer to the director of revenue who shall deposit the amount collected to  
44 the credit of the Missouri office of prosecution services fund under the procedure  
45 established under subsection 2 of section 56.765. As used in this subsection, "crime victim"  
46 means any natural person or their survivors or legal guardians, the estate of a deceased  
47 person, a for-profit corporation or business entity, a nonprofit corporation or entity, a  
48 charitable entity, or any governmental body or a political subdivision thereof.

49 **4. The moneys deposited in the fund may be used by the prosecuting attorney or**  
50 **circuit attorney for office supplies, postage, books, training, office equipment, capital**  
51 **outlay, expenses of trial and witness preparation, additional employees for the staff of the**  
52 **prosecuting or circuit attorney, employees' salaries, and for other lawful expenses incurred**  
53 **by the prosecuting or circuit attorney in the operation of that office.**

54 **5. This fund may be audited by the state auditor's office or the appropriate**  
55 **auditing agency.**

56 **6. If the moneys collected and deposited into this fund are not totally expended**  
57 **annually, then the unexpended balance shall remain in the fund and the balance shall be**  
58 **kept in the fund to accumulate from year to year.**

59 **7. Nothing in this section shall be construed to prohibit a crime victim from**  
60 **pursuing other lawful remedies against a defendant for restitution.**

559.105. 1. Any person who has been found guilty [of] or has pled guilty to [a violation  
2 of subdivision (2) of subsection 1 of section 569.080 or paragraph (a) of subdivision (3) of  
3 subsection 3 of section 570.030] **an offense** may be ordered by the court to make restitution to  
4 the victim for the victim's losses due to such offense. Restitution pursuant to this section shall  
5 include, but not be limited to[, the following:

6 (1)] a victim's reasonable expenses to participate in the prosecution of the crime[;

7 (2) A victim's payment for any repairs or replacement of the motor vehicle, watercraft,  
8 or aircraft; and

9 (3) A victim's costs associated with towing or storage fees for the motor vehicle caused  
10 by the acts of the defendant].

11 2. No person ordered by the court to pay restitution pursuant to this section shall be  
12 released from probation until such restitution is complete. If full restitution is not made within  
13 the original term of probation, the court shall order the maximum term of probation allowed for  
14 such offense.

15 3. Any person eligible to be released on parole [for a violation of subdivision (2) of  
16 subsection 1 of section 569.080 or paragraph (a) of subdivision (3) of subsection 3 of section  
17 570.030 may] **shall** be required, as a condition of parole, to make restitution pursuant to this  
18 section. The board of probation and parole shall not release any person from any term of parole  
19 for such offense until the person has completed such restitution, or until the maximum term of  
20 parole for such offense has been served.

21 **4. The court may set an amount of restitution to be paid by the defendant. Said**  
22 **amount may be taken from the inmate's account at the department of corrections while the**  
23 **defendant is incarcerated. Upon conditional release or parole, if any amount of such court-**  
24 **ordered restitution is unpaid, the payment of the unpaid balance may be collected as a**  
25 **condition of conditional release or parole by the prosecuting attorney or circuit attorney**  
26 **under section 559.100. The prosecuting attorney or circuit attorney may refer any failure**  
27 **to make such restitution as a condition of conditional release or parole to the parole board**  
28 **for enforcement.**

570.120. 1. A person commits the crime of passing a bad check when:

2 (1) With purpose to defraud, the person makes, issues or passes a check or other similar  
3 sight order or any other form of presentment involving the transmission of account information  
4 for the payment of money, knowing that it will not be paid by the drawee, or that there is no such  
5 drawee; or

6 (2) The person makes, issues, or passes a check or other similar sight order or any other  
7 form of presentment involving the transmission of account information for the payment of  
8 money, knowing that there are insufficient funds in or on deposit with that account for the  
9 payment of such check, sight order, or other form of presentment involving the transmission of  
10 account information in full and all other checks, sight orders, or other forms of presentment  
11 involving the transmission of account information upon such funds then outstanding, or that  
12 there is no such account or no drawee and fails to pay the check or sight order or other form of  
13 presentment involving the transmission of account information within ten days after receiving

14 actual notice in writing that it has not been paid because of insufficient funds or credit with the  
15 drawee or because there is no such drawee.

16         2. As used in subdivision (2) of subsection 1 of this section, "actual notice in writing"  
17 means notice of the nonpayment which is actually received by the defendant. Such notice may  
18 include the service of summons or warrant upon the defendant for the initiation of the  
19 prosecution of the check or checks which are the subject matter of the prosecution if the  
20 summons or warrant contains information of the ten-day period during which the instrument may  
21 be paid and that payment of the instrument within such ten-day period will result in dismissal  
22 of the charges. The requirement of notice shall also be satisfied for written communications  
23 which are tendered to the defendant and which the defendant refuses to accept.

24         3. The face amounts of any bad checks passed pursuant to one course of conduct within  
25 any ten-day period may be aggregated in determining the grade of the offense.

26         4. Passing bad checks is a class A misdemeanor, unless:

27             (1) The face amount of the check or sight order or the aggregated amounts is five  
28 hundred dollars or more; or

29             (2) The issuer had no account with the drawee or if there was no such drawee at the time  
30 the check or order was issued, in which cases passing bad checks is a class C felony.

31         5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney  
32 or circuit attorney who takes any action pursuant to the provisions of this section shall collect  
33 from the issuer in such action an administrative handling cost. The cost shall be twenty-five  
34 dollars for checks of less than one hundred dollars, and fifty dollars for checks of one hundred  
35 dollars but less than two hundred fifty dollars. For checks of two hundred fifty dollars or more  
36 an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for  
37 administrative handling costs not to exceed seventy-five dollars total. Notwithstanding the  
38 provisions of sections 50.525 to 50.745, the costs provided for in this subsection shall be  
39 deposited by the county treasurer into a separate interest-bearing fund to be expended by the  
40 prosecuting attorney or circuit attorney. **This fund shall be known as the "Administrative**  
41 **Handling Cost Fund", and it shall be the fund for deposits under this section and under**  
42 **section 559.100.** The funds shall be expended, upon warrants issued by the prosecuting attorney  
43 or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that  
44 previously authorized in this section. Any revenues that are not required for the purposes of this  
45 section may be placed in the general revenue fund of the county or city not within a county.  
46 Notwithstanding any law to the contrary, in addition to the administrative handling cost, the  
47 prosecuting attorney or circuit attorney shall collect an additional cost of five dollars per check  
48 for deposit to the Missouri office of prosecution services fund established in subsection 2 of  
49 section 56.765. All moneys collected pursuant to this section which are payable to the Missouri

50 office of prosecution services fund shall be transmitted at least monthly by the county treasurer  
51 to the director of revenue who shall deposit the amount collected pursuant to the credit of the  
52 Missouri office of prosecution services fund under the procedure established pursuant to  
53 subsection 2 of section 56.765.

54 (2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney  
55 for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial  
56 and witness preparation, additional employees for the staff of the prosecuting or circuit attorney,  
57 employees' salaries, and for other lawful expenses incurred by the circuit or prosecuting attorney  
58 in operation of that office.

59 (3) This fund may be audited by the state auditor's office or the appropriate auditing  
60 agency.

61 (4) If the moneys collected and deposited into this fund are not totally expended  
62 annually, then the unexpended balance shall remain in said fund and the balance shall be kept  
63 in said fund to accumulate from year to year.

64 6. Notwithstanding any other provision of law to the contrary:

65 (1) In addition to the administrative handling costs provided for in subsection 5 of this  
66 section, the prosecuting attorney or circuit attorney may collect from the issuer, in addition to the  
67 face amount of the check, a reasonable service charge, which along with the face amount of the  
68 check, shall be turned over to the party to whom the bad check was issued;

69 (2) If a check that is dishonored or returned unpaid by a financial institution is not  
70 referred to the prosecuting attorney or circuit attorney for any action pursuant to the provisions  
71 of this section, the party to whom the check was issued, or his or her agent or assignee, or a  
72 holder, may collect from the issuer, in addition to the face amount of the check, a reasonable  
73 service charge, not to exceed twenty-five dollars, plus an amount equal to the actual charge by  
74 the depository institution for the return of each unpaid or dishonored instrument.

75 7. When any financial institution returns a dishonored check to the person who deposited  
76 such check, it shall be in substantially the same physical condition as when deposited, or in such  
77 condition as to provide the person who deposited the check the information required to identify  
78 the person who wrote the check.

**571.092. 1. Any individual over the age of eighteen years who has been adjudged  
2 incapacitated under chapter 475, who has been involuntarily committed under chapter 632,  
3 or who is otherwise subject to the firearms-related disabilities of 18 U.S.C. Section  
4 922(d)(4) or (g)(4) as a result of an adjudication or commitment that occurred in this state  
5 may file a petition for the removal of the disqualification to ship, transport, receive,  
6 purchase, possess, or transfer a firearm imposed under 18 U.S.C. Section 922(d)(4) or (g)(4)  
7 and the laws of this state.**

8           **2. The petition shall be filed in the circuit court with jurisdiction in the petitioner's**  
9 **place of residence or that entered the letters of guardianship or the most recent order for**  
10 **involuntary commitment, or the most recent disqualifying order, whichever is later. The**  
11 **petition shall include:**

12           **(1) The circumstances regarding the firearms disabilities;**

13           **(2) The applicant's record which at a minimum shall include the applicant's mental**  
14 **health and criminal history records, if any;**

15           **(3) The applicant's reputation through character witness statements, testimony, or**  
16 **other character evidence; and**

17           **(4) Any other information or evidence relevant to the relief sought, including but**  
18 **not limited to evidence concerning any changes in the petitioner's condition since the**  
19 **disqualifying commitment or adjudication occurred.**

20

21 **Upon receipt of the petition, the clerk shall schedule a hearing and provide notice of the**  
22 **hearing to the petitioner.**

23           **3. The court shall grant the requested relief if it finds by a preponderance of**  
24 **evidence that:**

25           **(1) The petitioner will not be likely to act in a manner dangerous to public safety;**  
26 **and**

27           **(2) Granting the relief is not contrary to the public interest.**

28           **4. In order to determine whether to grant relief under this section, the court may**  
29 **request the local prosecuting attorney, circuit attorney, or attorney general to provide a**  
30 **written recommendation as to whether relief should be granted. In any order requiring**  
31 **such review the court may grant access to any and all mental health records, juvenile**  
32 **records, and criminal history of the petitioner wherever maintained. The court may allow**  
33 **presentation of evidence at the hearing if requested by the petitioner or by the local**  
34 **prosecuting attorney, circuit attorney, or attorney general. A record shall be kept of the**  
35 **proceedings.**

36           **5. If the petitioner is filing the petition as a result of an involuntary commitment**  
37 **under chapter 632, the hearing and records shall be closed to the public, unless the court**  
38 **finds that public interest would be better served by conducting the hearing in public. If**  
39 **the court determines the hearing should be open to the public, upon motion by the**  
40 **petitioner, the court may allow for the in-camera inspection of mental health records. The**  
41 **court may allow the use of the record but shall restrict it from public disclosure, unless it**  
42 **finds that the public interest would be better served by making the record public.**

43           **6. The court shall include in its order the specific findings of fact on which it bases**  
44 **its decision.**

45           **7. Upon a judicial determination to grant a petition under this section, the clerk in**  
46 **the county where the petition was granted shall forward the order to the Missouri state**  
47 **highway patrol for updating of the petitioner's record with the National Instant Criminal**  
48 **Background Check System (NICS). The Missouri state highway patrol shall contact the**  
49 **Federal Bureau of Investigation to effect this updating no later than twenty-one days from**  
50 **receipt of the order.**

51           **8. Any person who has been denied a petition for the removal of the disqualification**  
52 **to ship, transport, receive, purchase, possess, or transfer a firearm under this section shall**  
53 **not be eligible to file another petition for removal of such disqualification until the**  
54 **expiration of one year from the date of such denial.**

55           **9. In the event a petition is denied under this section, the petitioner may appeal**  
56 **such denial, and review shall be de novo.**

          [475.375. 1. Any individual over the age of eighteen years who has been  
2 adjudged incapacitated under this chapter or who has been involuntarily  
3 committed under chapter 632 may file a petition for the removal of the  
4 disqualification to purchase, possess, or transfer a firearm when:

5           (1) The individual no longer suffers from the condition that resulted in  
6 the individual's incapacity or involuntary commitment;

7           (2) The individual no longer poses a danger to self or others for purposes  
8 of the purchase, possession, or transfer of firearms under 18 U.S.C. Section 922;  
9 and

10          (3) Granting relief under this section is not contrary to the public interest.  
11 No individual who has been found guilty by reason of mental disease or defect  
12 may petition a court for restoration under this section.

13          2. The petition shall be filed in the circuit court that entered the letters of  
14 guardianship or the most recent order for involuntary commitment, whichever is  
15 later. Upon receipt of the petition, the clerk shall schedule a hearing and provide  
16 notice of the hearing to the petitioner.

17          3. The burden is on the petitioner to establish by clear and convincing  
18 evidence that:

19           (1) The petitioner no longer suffers from the condition that resulted in the  
20 incapacity or the involuntary commitment;

21           (2) The individual no longer poses a danger to self or others for purposes  
22 of the purchase, possession, or transfer of firearms under 18 U.S.C. Section 922;  
23 and

24           (3) Granting relief under this section is not contrary to the public interest.

25          4. Upon the filing of the petition the court shall review the petition and  
26 determine if the petition is based upon frivolous grounds and if so may deny the  
27 petition without a hearing. In order to determine whether petitioner has met the

28 burden pursuant to this section, the court may request the local prosecuting  
29 attorney, circuit attorney, or attorney general to provide a written  
30 recommendation as to whether relief should be granted. In any order requiring  
31 such review the court may grant access to any and all mental health records,  
32 juvenile records, and criminal history of the petitioner wherever maintained. The  
33 court may allow presentation of evidence at the hearing if requested by the local  
34 prosecuting attorney, circuit attorney, or attorney general.

35 5. If the petitioner is filing the petition as a result of an involuntary  
36 commitment under chapter 632, the hearing and records shall be closed to the  
37 public, unless the court finds that public interest would be better served by  
38 conducting the hearing in public. If the court determines the hearing should be  
39 open to the public, upon motion by the petitioner, the court may allow for the  
40 in-camera inspection of mental health records. The court may allow the use of  
41 the record but shall restrict from public disclosure, unless it finds that the public  
42 interest would be better served by making the record public.

43 6. The court shall enter an order that:

44 (1) The petitioner does or does not continue to suffer from the condition  
45 that resulted in commitment;

46 (2) The individual does or does not continue to pose a danger to self or  
47 others for purposes of the purchase, possession, or transfer of firearms under 18  
48 U.S.C. Section 922; and

49 (3) Granting relief under this section is not contrary to the public interest.  
50 The court shall include in its order the specific findings of fact on which it bases  
51 its decision.

52 7. Upon a judicial determination to grant a petition under this section, the  
53 clerk in the county where the petition was granted shall forward the order to the  
54 Missouri state highway patrol for updating of the petitioner's record with the  
55 National Instant Criminal Background Check System (NICS).

56 8. (1) Any person who has been denied a petition for the removal of the  
57 disqualification to purchase, possess, or transfer a firearm pursuant to this section  
58 shall not be eligible to file another petition for removal of the disqualification to  
59 purchase, possess, or transfer a firearm until the expiration of one year from the  
60 date of such denial.

61 (2) If a person has previously filed a petition for the removal of the  
62 disqualification to purchase, possess, or transfer a firearm and the court  
63 determined that:

64 (a) The petitioner's petition was frivolous; or

65 (b) The petitioner's condition had not so changed such that the person  
66 continued to suffer from the condition that resulted in the individual's incapacity  
67 or involuntary commitment and continued to pose a danger to self or others for  
68 purposes of the purchase, possession, or transfer of firearms under 18 U.S.C.  
69 Section 922; or

70                   (3) Granting relief under this section would be contrary to the public  
71                   interest, then the court shall deny the subsequent petition unless the petition  
72                   contains the additional facts upon which the court could find the condition of the  
73                   petitioner had so changed that a hearing was warranted.]

T