

SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 799

AN ACT

To repeal sections 67.320, 476.083, 478.170, 478.191, 478.430, 478.433, 478.463, 478.740, 488.2206, and 600.042, RSMo, and to enact in lieu thereof fourteen new sections relating to judicial circuits.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 67.320, 476.083, 478.170, 478.191,
2 478.430, 478.433, 478.463, 478.740, 488.2206, and 600.042, RSMo,
3 are repealed and fourteen new sections enacted in lieu thereof,
4 to be known as sections 67.320, 476.083, 478.011, 478.170,
5 478.188, 478.191, 478.330, 478.463, 478.740, 479.155, 488.2206,
6 488.2244, 488.2257, and 600.042, to read as follows:

7 67.320. 1. Any county with a charter form of government
8 and with more than two hundred thousand but fewer than three
9 hundred fifty thousand inhabitants, any county of the first
10 classification with more than eighty-three thousand but fewer
11 than ninety-two thousand inhabitants and with a home rule city
12 with more than seventy-six thousand but fewer than ninety-one
13 thousand inhabitants as the county seat, or any county of the
14 first classification with more than one hundred one thousand but
15 fewer than one hundred fifteen thousand inhabitants may prosecute
16 and punish violations of its county orders in the circuit court

1 of such counties in the manner and to the extent herein provided
2 or in a county municipal court if creation of a county municipal
3 court is approved by order of the county commission. The county
4 may adopt orders with penal provisions consistent with state law,
5 but only in the areas of traffic violations, solid waste
6 management, county building codes, on-site sewer treatment,
7 zoning orders, and animal control. Any county municipal court
8 established pursuant to the provisions of this section shall have
9 jurisdiction over violations of that county's orders and the
10 ordinances of municipalities with which the county has a contract
11 to prosecute and punish violations of municipal ordinances of the
12 municipality.

13 2. Except as provided in subsection 5 of this section in
14 any county which has elected to establish a county municipal
15 court pursuant to this section, the judges for such court shall
16 be appointed by the county commission of such county, subject to
17 confirmation by the legislative body of such county in the same
18 manner as confirmation for other county appointed officers. The
19 number of judges appointed, and qualifications for their
20 appointment, shall be established by order of the commission.

21 3. The practice and procedure of each prosecution shall be
22 conducted in compliance with all of the terms and provisions of
23 sections 66.010 to 66.140, except as provided for in this
24 section.

25 4. Any use of the term ordinance in sections 66.010 to
26 66.140 shall be synonymous with the term order for purposes of
27 this section.

28 5. In any county of the first classification with more than

1 one hundred one thousand but fewer than one hundred fifteen
2 thousand inhabitants, the first judges shall be appointed by the
3 county commission for a term of four years, and thereafter the
4 judges shall be elected for a term of four years. The number of
5 judges appointed, and qualifications for their appointment, shall
6 be established by order of the commission.

7 476.083. 1. In addition to any appointments made pursuant
8 to section 485.010, the presiding judge of each circuit
9 containing one or more facilities operated by the department of
10 corrections with an average total inmate population in all such
11 facilities in the circuit over the previous two years of more
12 than two thousand five hundred inmates or containing, as of
13 January 1, 2015, a diagnostic and reception center operated by
14 the department of corrections and a mental health facility
15 operated by the department of mental health which houses persons
16 found not guilty of a crime by reason of mental disease or defect
17 pursuant to chapter 552 and provides sex offender rehabilitation
18 and treatment services (SORTS) may appoint a circuit court
19 marshal to aid the presiding judge in the administration of the
20 judicial business of the circuit by overseeing the physical
21 security of the courthouse, serving court-generated papers and
22 orders, and assisting the judges of the circuit as the presiding
23 judge determines appropriate. Such circuit court marshal
24 appointed pursuant to the provisions of this section shall serve
25 at the pleasure of the presiding judge. The circuit court
26 marshal authorized by this section is in addition to staff
27 support from the circuit clerks, deputy circuit clerks, division
28 clerks, municipal clerks, and any other staff personnel which may

1 otherwise be provided by law.

2 2. The salary of a circuit court marshal shall be
3 established by the presiding judge of the circuit within funds
4 made available for that purpose, but such salary shall not exceed
5 ninety percent of the salary of the highest paid sheriff serving
6 a county wholly or partially within that circuit. Personnel
7 authorized by this section shall be paid from state funds or
8 federal grant moneys which are available for that purpose and not
9 from county funds.

10 3. Any person appointed as a circuit court marshal pursuant
11 to this section shall have at least five years' prior experience
12 as a law enforcement officer. In addition, any such person shall
13 within one year after appointment, or as soon as practicable,
14 attend a court security school or training program operated by
15 the United States Marshal Service. In addition to all other
16 powers and duties prescribed in this section, a circuit court
17 marshal may:

18 (1) Serve process;

19 (2) Wear a concealable firearm; and

20 (3) Make an arrest based upon local court rules and state
21 law, and as directed by the presiding judge of the circuit.

22 478.011. This state is divided into forty-six judicial
23 circuits, numbered consecutively from one to forty-six.

24 478.170. 1. Until December 31, 2016, circuit number
25 thirty-eight shall consist of the counties of Christian and
26 Taney.

27 2. Beginning January 1, 2017, circuit number thirty-eight
28 shall consist of the county of Christian.

1 478.188. Beginning January 1, 2017, circuit number forty-
2 six shall consist of the county of Taney.

3 478.191. The repeal of sections 478.075, 478.077, 478.080,
4 478.085, 478.087, 478.090, 478.093, 478.095, 478.097, 478.100,
5 478.103, 478.105, 478.107, 478.110, 478.113, 478.115, 478.117,
6 478.120, 478.123, 478.125, 478.127, 478.130, 478.133, 478.135,
7 478.137, 478.140, 478.143, 478.145, 478.147, 478.150, 478.153,
8 478.155, 478.157, 478.160, 478.163, 478.165, 478.167, 478.170,
9 478.173, 478.175, 478.177, 478.180, 478.183, 478.185, 478.186,
10 478.188, and the repeal and reenactment of section 487.010 shall
11 become effective December 31, 2020.

12 478.330. 1. When an annual judicial performance report
13 submitted pursuant to section 477.405 indicates for three
14 consecutive calendar years the need for four or more full-time
15 judicial positions in any judicial circuit having a population of
16 one hundred thousand or more, there shall be one additional
17 circuit judge position authorized in such circuit, subject to
18 appropriations made for that purpose.

19 2. Except in circuits where circuit judges are selected
20 under the provisions of article V of sections 25(a) to 25(g) of
21 the Missouri Constitution, the election of circuit judges
22 authorized by this section shall be conducted in accordance with
23 chapter 115.

24 478.463. There shall be nineteen circuit judges in the
25 sixteenth judicial circuit consisting of the county of Jackson.
26 These judges shall sit in nineteen divisions. Divisions one,
27 three, four, six, seven, eight, nine, ten, eleven, [twelve,]
28 thirteen, fourteen, fifteen and eighteen shall sit at the city of

1 Kansas City and divisions two, five, twelve, sixteen and
2 seventeen shall sit at the city of Independence. Division
3 nineteen shall sit at both the city of Kansas City and the city
4 of Independence. Notwithstanding the foregoing provisions, the
5 judge of the probate division shall sit at both the city of
6 Kansas City and the city of Independence.

7 478.740. [1. There shall be two circuit judges in the
8 thirty-eighth judicial circuit. These judges shall sit in
9 divisions numbered one and two.

10 2. The circuit judge in division two shall be elected in
11 2016, and such judicial position shall not be considered vacant
12 or filled until January 1, 2017. The judge in division one shall
13 be elected in 2018.] The circuit judge of judicial circuit number
14 forty-six shall be elected in 2016 for a two-year term and
15 thereafter in 2018 for a full six-year term.

16 479.155. 1. By September 1, 2015, the presiding judge of
17 the circuit court in which the municipal division is located
18 shall report to the clerk of the supreme court the name and
19 address of the municipal division and any other information
20 regarding the municipal division requested by the clerk of the
21 supreme court on a standardized form developed by the clerk of
22 the supreme court.

23 2. If a municipality elects to abolish or establish a
24 municipal division, the presiding judge of the circuit court in
25 which the municipal division is located shall notify the clerk of
26 the supreme court, and the presiding judge of any new municipal
27 division shall complete the report required under subsection 1 of
28 this section within ninety days of the establishment of the

1 division.

2 3. The supreme court shall develop rules regarding conflict
3 of interest for any prosecutor, defense attorney, or judge that
4 has a pending case before the municipal division of any circuit
5 court.

6 488.2206. 1. In addition to all court fees and costs
7 prescribed by law, a surcharge of up to ten dollars shall be
8 assessed as costs in each court proceeding filed in any court
9 within [the thirty-first judicial circuit] any judicial circuit
10 composed of a single noncharter county in all civil and criminal
11 cases including violations of any county or municipal ordinance
12 or any violation of a criminal or traffic law of the state,
13 including an infraction, except that no such surcharge shall be
14 collected in any proceeding in any court when the proceeding or
15 defendant has been dismissed by the court or when costs are to be
16 paid by the state, county, or municipality. For violations of
17 the general criminal laws of the state or county ordinances, no
18 such surcharge shall be collected unless it is authorized, by
19 order, ordinance, or resolution by the county government where
20 the violation occurred. For violations of municipal ordinances,
21 no such surcharge shall be collected unless it is authorized by
22 order, ordinance, or resolution by the municipal government where
23 the violation occurred. Such surcharges shall be collected and
24 disbursed by the clerk of each respective court responsible for
25 collecting court costs in the manner provided by sections 488.010
26 to 488.020, and shall be payable to the treasurer of the
27 political subdivision authorizing such surcharge, who shall
28 deposit the funds in a separate account known as the "justice

1 center fund", to be established and maintained by the political
2 subdivision.

3 2. Each county or municipality shall use all funds received
4 pursuant to this section only to pay for the costs associated
5 with the land assemblage and purchase, planning construction,
6 maintenance, and operation of any county or municipal judicial
7 facility or justice center including, but not limited to,
8 architectural, engineering, and other plans and studies, debt
9 service, utilities, maintenance, and building security. The
10 county or municipality shall maintain records identifying [such
11 operating costs, and any moneys not needed for the operating
12 costs of the county or municipal judicial facility shall be
13 transmitted quarterly to the general revenue fund of the county
14 or municipality respectively] all funds received and expenditures
15 made from their respective justice center funds.

16 488.2244. 1. There is hereby created in the state treasury
17 the "Jasper County Judicial Fund", which shall consist of moneys
18 collected under subsection 2 of this section. The state
19 treasurer shall be custodian of the fund. In accordance with
20 sections 30.170 and 30.180, the state treasurer may approve
21 disbursements. The fund shall be a dedicated fund and, upon
22 appropriation, moneys in the fund shall be used solely as
23 described under subsection 4 of this section. The state
24 treasurer shall invest moneys in the fund in the same manner as
25 other funds are invested. Any interest and moneys earned on such
26 investments shall be credited to the fund.

27 2. In addition to any other court costs prescribed by law,
28 court proceedings in the twenty-ninth judicial circuit shall have

1 additional court costs assessed in the following manner, except
2 that no such additional costs shall be collected for any
3 violation of a traffic law or in any proceeding when the
4 proceeding or defendant has been dismissed by the court or when
5 costs are to be paid by the state, county, or municipality:

6 (1) All civil cases filed shall be assessed a surcharge of
7 ten dollars;

8 (2) All misdemeanor criminal cases filed shall be assessed
9 a surcharge of twenty-five dollars; and

10 (3) All felony criminal cases filed shall be assessed a
11 surcharge of fifty dollars.

12 3. The judge may waive the assessment of the surcharge in
13 those cases where the defendant is found by the judge to be
14 indigent and unable to pay the costs.

15 4. Any county of the first classification with more than
16 one hundred fifteen thousand but fewer than one hundred fifty
17 thousand inhabitants shall use moneys in the Jasper County
18 judicial fund to pay for the costs associated with the purchase,
19 lease, and operation of a county juvenile center and the county
20 judicial facility including, but not limited to, utilities,
21 maintenance, and building security. The county shall maintain
22 records identifying such operating costs, and any moneys not
23 needed for the operation and maintenance of a county juvenile
24 center or county judicial facility shall revert to the credit of
25 the general revenue fund.

26 488.2257. 1. In addition to all other court costs
27 prescribed by law, a surcharge of up to ten dollars shall be
28 assessed as costs in each court proceeding filed in any court in

1 the state located in any county of the third classification
2 without a township form of government and with more than
3 thirty-seven thousand but fewer than forty-one thousand
4 inhabitants and with a city of the third classification with more
5 than eleven thousand five hundred but fewer than thirteen
6 thousand inhabitants as the county seat in all civil and criminal
7 cases including violations of any county or municipal ordinance
8 or infractions, except that no such surcharge shall be collected
9 for any violation of a traffic law or ordinance or in any
10 proceeding when the proceeding or defendant has been dismissed by
11 the court or when costs are to be paid by the state, county, or
12 municipality. For violations of the criminal laws of the state
13 or county ordinances, including infractions, no such surcharge
14 shall be collected unless it is authorized by order, ordinance,
15 or resolution by the county government where the violation
16 occurred. For violations of municipal ordinances, no such
17 surcharge shall be collected unless it is authorized by order,
18 ordinance, or resolution by the municipal government where the
19 violation occurred. Such surcharges shall be collected and
20 disbursed by the clerk of each respective court responsible for
21 collecting court costs in the manner provided by sections 488.010
22 to 488.020, and shall be payable to the treasurer of the
23 political subdivision authorizing such surcharge.

24 2. Each county or municipality shall use all funds received
25 pursuant to this section only to pay for the costs associated
26 with the land assemblage and purchase, planning, and construction
27 of a new facility, maintenance, and operation of any county or
28 municipal judicial facility or justice center including, but not

1 limited to, architectural, engineering, and other plans and
2 studies, utilities, maintenance, and building security of any
3 judicial facility. The county or municipality shall establish
4 and maintain a separate account known as the "justice center
5 fund" limited to the uses authorized by this section. The county
6 or municipality shall maintain records identifying all surcharges
7 and expenditures made from the justice center fund.

8 600.042. 1. The director shall:

9 (1) Direct and supervise the work of the deputy directors
10 and other state public defender office personnel appointed
11 pursuant to this chapter; and he or she and the deputy director
12 or directors may participate in the trial and appeal of criminal
13 actions at the request of the defender;

14 (2) Submit to the commission, between August fifteenth and
15 September fifteenth of each year, a report which shall include
16 all pertinent data on the operation of the state public defender
17 system, the costs, projected needs, and recommendations for
18 statutory changes. Prior to October fifteenth of each year, the
19 commission shall submit such report along with such
20 recommendations, comments, conclusions, or other pertinent
21 information it chooses to make to the chief justice, the
22 governor, and the general assembly. Such reports shall be a
23 public record, shall be maintained in the office of the state
24 public defender, and shall be otherwise distributed as the
25 commission shall direct;

26 (3) With the approval of the commission, establish such
27 divisions, facilities and offices and select such professional,
28 technical and other personnel, including investigators, as he

1 deems reasonably necessary for the efficient operation and
2 discharge of the duties of the state public defender system under
3 this chapter;

4 (4) Administer and coordinate the operations of defender
5 services and be responsible for the overall supervision of all
6 personnel, offices, divisions and facilities of the state public
7 defender system, except that the director shall have no authority
8 to direct or control the legal defense provided by a defender to
9 any person served by the state public defender system;

10 (5) Develop programs and administer activities to achieve
11 the purposes of this chapter;

12 (6) Keep and maintain proper financial records with respect
13 to the provision of all public defender services for use in the
14 calculating of direct and indirect costs of any or all aspects of
15 the operation of the state public defender system;

16 (7) Supervise the training of all public defenders and
17 other personnel and establish such training courses as shall be
18 appropriate;

19 (8) With approval of the commission, promulgate necessary
20 rules, regulations and instructions consistent with this chapter
21 defining the organization of the state public defender system and
22 the responsibilities of division directors, district defenders,
23 deputy district defenders, assistant public defenders and other
24 personnel;

25 (9) With the approval of the commission, apply for and
26 accept on behalf of the public defender system any funds which
27 may be offered or which may become available from government
28 grants, private gifts, donations or bequests or from any other

1 source. Such moneys shall be deposited in the state general
2 revenue fund;

3 (10) Contract for legal services with private attorneys on
4 a case-by-case basis and with assigned counsel as the commission
5 deems necessary considering the needs of the area, for fees
6 approved and established by the commission;

7 (11) With the approval and on behalf of the commission,
8 contract with private attorneys for the collection and
9 enforcement of liens and other judgments owed to the state for
10 services rendered by the state public defender system;

11 (12) Prepare a plan to establish district offices, the
12 boundaries of which shall coincide with existing judicial
13 circuits. Any district office may contain more than one judicial
14 circuit within its boundaries, but in no event shall any district
15 office boundary include any geographic region of a judicial
16 circuit without including the entire judicial circuit. The
17 director shall submit the plan to the chair of the house
18 judiciary committee and the chair of the senate judiciary
19 committee, with fiscal estimates, by December 31, 2014. The plan
20 shall be implemented by December 31, ~~2018~~ 2021.

21 2. No rule or portion of a rule promulgated under the
22 authority of this chapter shall become effective unless it has
23 been promulgated pursuant to the provisions of section 536.024.

24 3. The director and defenders shall, within guidelines as
25 established by the commission and as set forth in subsection 4 of
26 this section, accept requests for legal services from eligible
27 persons entitled to counsel under this chapter or otherwise so
28 entitled under the constitution or laws of the United States or

1 of the state of Missouri and provide such persons with legal
2 services when, in the discretion of the director or the
3 defenders, such provision of legal services is appropriate.

4 4. The director and defenders shall provide legal services
5 to an eligible person:

6 (1) Who is detained or charged with a felony, including
7 appeals from a conviction in such a case;

8 (2) Who is detained or charged with a misdemeanor which
9 will probably result in confinement in the county jail upon
10 conviction, including appeals from a conviction in such a case,
11 unless the prosecuting or circuit attorney has waived a jail
12 sentence;

13 (3) Who is charged with a violation of probation when it
14 has been determined by a judge that the appointment of counsel is
15 necessary to protect the person's due process rights under
16 section 559.036;

17 (4) Who has been taken into custody pursuant to section
18 632.489, including appeals from a determination that the person
19 is a sexually violent predator and petitions for release,
20 notwithstanding any provisions of law to the contrary;

21 (5) For whom the federal constitution or the state
22 constitution requires the appointment of counsel; and

23 (6) Who is charged in a case in which he or she faces a
24 loss or deprivation of liberty, and in which the federal or the
25 state constitution or any law of this state requires the
26 appointment of counsel; however, the director and the defenders
27 shall not be required to provide legal services to persons
28 charged with violations of county or municipal ordinances, or

1 misdemeanor offenses except as provided in this section.

2 5. The director may:

3 (1) Delegate the legal representation of [any] an eligible
4 person to any member of the state bar of Missouri;

5 (2) Designate persons as representatives of the director
6 for the purpose of making indigency determinations and assigning
7 counsel.

8 [478.430. Each circuit judge of the circuit court
9 of the city of St. Louis who is visually impaired or
10 otherwise physically handicapped is hereby authorized
11 to appoint one janitor-messenger whose duty it shall be
12 to keep in an orderly and cleanly manner the chambers
13 and other rooms used by such judge and his reporter in
14 the performance of their respective duties, and
15 equipment in use therein, and also the halls,
16 stairways, and jury rooms used in connection with the
17 courtroom over which such judge presides, and to
18 perform such other duties as said judge shall direct
19 from time to time. And the judge making said
20 appointment shall report the same to the circuit court
21 in general session for certification, and such
22 janitor-messenger shall hold his appointment during the
23 pleasure of the judge making the same.]
24

25 [478.433. The janitor-messenger appointed under
26 section 478.430 shall receive and be paid, after proper
27 appointment and certification by said court, or the
28 presiding judge thereof, an annual salary of not less
29 than two thousand two hundred dollars. Said salary
30 shall be payable at the end of each and every month, in
31 equal monthly installments, by the treasurer of the
32 city of St. Louis out of any moneys appropriated
33 therefor by the municipal assembly upon warrants drawn
34 and countersigned by the proper officers of said city,
35 pursuant to the charter thereof. It shall be the duty
36 of the municipal assembly of said city to appropriate
37 the money necessary for the payment of such salaries;
38 provided further, that the court may, when sitting in
39 general session, recommend to the St. Louis board of
40 estimate and apportionment an increase in salary of
41 janitor-messengers not exceeding two hundred dollars
42 per annum, subject to the approval of said board. If
43 said board of estimate and apportionment concur in such
44 salary increase, the municipal assembly shall
45 appropriate additional moneys for such salaries.]

