

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1256**  
**96TH GENERAL ASSEMBLY**

5067L.06C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 56.807, 67.2010, 211.031, 211.093, 211.177, 400.9-311, 452.402, 453.030, 453.050, 453.080, 456.950, 456.8-808, 476.055, 479.011, 479.040, 483.015, 488.026, 488.426, 488.5320, 513.430, 513.440, 537.345, 537.346, 537.528, 558.019, 559.100, 559.105, and 570.120, RSMo, and to enact in lieu thereof thirty-two new sections relating to the judiciary, with penalty provisions.

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

Section A. Sections 56.807, 67.2010, 211.031, 211.093, 211.177, 400.9-311, 452.402, 2 453.030, 453.050, 453.080, 456.950, 456.8-808, 476.055, 479.011, 479.040, 483.015, 488.026, 3 488.426, 488.5320, 513.430, 513.440, 537.345, 537.346, 537.528, 558.019, 559.100, 559.105, 4 and 570.120, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be 5 known as sections 56.807, 67.136, 67.2010, 210.567, 211.031, 211.093, 211.177, 400.9-311, 6 452.374, 452.402, 453.030, 453.050, 453.080, 456.950, 456.8-808, 476.055, 479.011, 479.040, 7 483.015, 488.026, 488.426, 488.5320, 513.430, 513.440, 537.345, 537.346, 537.351, 537.528, 8 558.019, 559.100, 559.105, and 570.120, to read as follows:

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.

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

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

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.

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.

**67.136. 1. Notwithstanding any other provisions to the contrary, any local**  
2 **governmental agency may utilize collections agencies to collect any debt as defined in this**  
3 **section.**

4 **2. For purposes of this section, the following terms shall mean:**

5 (1) "Debt", any court or administrative fines or costs associated with a criminal  
6 conviction or entry of a civil judgment which are legally owed and enforceable, and which  
7 are past due and remain uncollected;

8 (2) "Debtor", any individual or entity owing a debt.

67.2010. 1. Any county of the first classification with more than eighty-two thousand  
2 but less than eighty-two thousand one hundred inhabitants **and any county of the first**  
3 **classification with more than two hundred sixty thousand but fewer than three hundred**  
4 **thousand inhabitants** may elect to have the violations of county ordinances adopted pursuant  
5 to [section 304.130] **the authority provided by statute** heard and determined by an associate  
6 circuit judge of the circuit in which the county is located; provided, however, if such election is  
7 made, all violations of that county's ordinances adopted pursuant to [section 304.130] **statutory**  
8 **authority** shall be heard and determined before an associate circuit judge or judges. Nothing  
9 in this subsection shall preclude the transfer or assignment of another judge to hear and

10 determine a case or class of cases when otherwise authorized by provisions of the constitution,  
11 law, or court rule.

12         2. If a county elects to have the violations of its county ordinances [adopted pursuant to  
13 section 304.130] heard and determined by an associate circuit judge, the associate circuit judge  
14 or judges shall commence hearing and determining such violations six months after the county  
15 notifies the presiding judge of the circuit of its election. With the consent of the presiding judge,  
16 the associate circuit judge or judges may commence hearing such violations at an earlier date.

**210.567. Except to the extent disclosure is otherwise required by law, a public  
2 governmental body may close meetings, records, and votes to the extent they relate to  
3 personal information of any person obtained in the process of licensing a foster home, as  
4 described and required under sections 210.481 to 210.536; except that, the division, as  
5 defined in section 210.481 and charged with licensing foster homes, shall make available  
6 for disclosure a report containing the following information for each foster home:**

7         **(1) The names of all persons eighteen years of age or older licensed to operate the  
8 foster home and the amount of state funds paid to the licensed operator for a foster care  
9 service;**

10         **(2) A description of the background investigation conducted on all persons  
11 operating or maintaining the foster home, including a list of documents submitted by such  
12 persons, a statement that such documents have been examined and approved as authentic,  
13 and a list of all meetings and classes attended by such persons in order to obtain a license  
14 to operate or maintain a foster home;**

15         **(3) A description of all concerns raised during the background investigation and  
16 foster home licensure process as well as a description of how such concerns were resolved;**

17         **(4) A description of such person's ability to perform the minimum competency  
18 requirements of foster parents in accordance with rules promulgated by the division;**

19         **(5) A list of all references provided by each person, stating the name of the  
20 reference, how and when the reference was contacted, and a brief description of the  
21 reference's opinion of such person;**

22         **(6) The number of the operator's previous foster care assignments, if any;**

23         **(7) Any history of previous complaints involving the foster care operator or the  
24 foster child.**

25

26 **The report shall not contain the address of any residence, nor shall it contain any personal  
27 information not otherwise required in this subdivision which could be used by another to  
28 threaten, harm, harass, or embarrass any person. In the event of serious injury, death, or**

29 **criminal incident involving a foster child, all records, including the address of the foster**  
30 **home, any complaints made by any person since custodial care of the child began, or**  
31 **relating to personal information of any person obtained in the process of licensing a foster**  
32 **home, shall be considered public records, except the records that are otherwise**  
33 **confidential.**

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family  
2 court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have  
3 exclusive original jurisdiction in proceedings:

4 (1) Involving any child or person seventeen years of age who may be a resident of or  
5 found within the county and who is alleged to be in need of care and treatment because:

6 (a) The parents, or other persons legally responsible for the care and support of the child  
7 or person seventeen years of age, neglect or refuse to provide proper support, education which  
8 is required by law, medical, surgical or other care necessary for his or her well-being; except that  
9 reliance by a parent, guardian or custodian upon remedial treatment other than medical or  
10 surgical treatment for a child or person seventeen years of age shall not be construed as neglect  
11 when the treatment is recognized or permitted pursuant to the laws of this state;

12 (b) The child or person seventeen years of age is otherwise without proper care, custody  
13 or support; or

14 (c) The child or person seventeen years of age was living in a room, building or other  
15 structure at the time such dwelling was found by a court of competent jurisdiction to be a public  
16 nuisance pursuant to section 195.130;

17 (d) The child or person seventeen years of age is a child in need of mental health services  
18 and the parent, guardian or custodian is unable to afford or access appropriate mental health  
19 treatment or care for the child;

20 (2) Involving any child who may be a resident of or found within the county and who is  
21 alleged to be in need of care and treatment because:

22 (a) The child while subject to compulsory school attendance is repeatedly and without  
23 justification absent from school; or

24 (b) The child disobeys the reasonable and lawful directions of his or her parents or other  
25 custodian and is beyond their control; or

26 (c) The child is habitually absent from his or her home without sufficient cause,  
27 permission, or justification; or

28 (d) The behavior or associations of the child are otherwise injurious to his or her welfare  
29 or to the welfare of others; or

30 (e) The child is charged with an offense not classified as criminal, or with an offense  
31 applicable only to children; except that, the juvenile court shall not have jurisdiction over any  
32 child fifteen [and one-half] years of age who is alleged to have violated a state or municipal  
33 traffic ordinance or regulation, the violation of which does not constitute a felony, or any child  
34 who is alleged to have violated a state or municipal ordinance or regulation prohibiting  
35 possession or use of any tobacco product;

36 (3) Involving any child who is alleged to have violated a state law or municipal  
37 ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior  
38 to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of  
39 the circuit in which the child or person resides or may be found or in which the violation is  
40 alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child  
41 fifteen [and one-half] years of age who is alleged to have violated a state or municipal traffic  
42 ordinance or regulation, the violation of which does not constitute a felony, and except that the  
43 juvenile court shall have concurrent jurisdiction with the municipal court over any child who is  
44 alleged to have violated a municipal curfew ordinance, and except that the juvenile court shall  
45 have concurrent jurisdiction with the circuit court on any child who is alleged to have violated  
46 a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

47 (4) For the adoption of a person;

48 (5) For the commitment of a child or person seventeen years of age to the guardianship  
49 of the department of social services as provided by law; and

50 (6) Involving an order of protection pursuant to chapter 455 when the respondent is less  
51 than seventeen years of age.

52 2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person  
53 seventeen years of age who resides in a county of this state shall be made as follows:

54 (1) Prior to the filing of a petition and upon request of any party or at the discretion of  
55 the juvenile officer, the matter in the interest of a child or person seventeen years of age may be  
56 transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving  
57 court, to the county of the child's residence or the residence of the person seventeen years of age  
58 for future action;

59 (2) Upon the motion of any party or on its own motion prior to final disposition on the  
60 pending matter, the court in which a proceeding is commenced may transfer the proceeding of  
61 a child or person seventeen years of age to the court located in the county of the child's residence  
62 or the residence of the person seventeen years of age, or the county in which the offense pursuant  
63 to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

64 (3) Upon motion of any party or on its own motion, the court in which jurisdiction has  
65 been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction  
66 of a child or person seventeen years of age to the court located in the county of the child's  
67 residence or the residence of the person seventeen years of age for further action with the prior  
68 consent of the receiving court;

69 (4) Upon motion of any party or upon its own motion at any time following a judgment  
70 of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause  
71 may place the child or person seventeen years of age under the supervision of another juvenile  
72 court within or without the state pursuant to section 210.570 with the consent of the receiving  
73 court;

74 (5) Upon motion of any child or person seventeen years of age or his or her parent, the  
75 court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court  
76 Rules;

77 (6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or  
78 person seventeen years of age, certified copies of all legal and social documents and records  
79 pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the  
80 transfer.

81 3. In any proceeding involving any child or person seventeen years of age taken into  
82 custody in a county other than the county of the child's residence or the residence of a person  
83 seventeen years of age, the juvenile court of the county of the child's residence or the residence  
84 of a person seventeen years of age shall be notified of such taking into custody within  
85 seventy-two hours.

86 4. When an investigation by a juvenile officer pursuant to this section reveals that the  
87 only basis for action involves an alleged violation of section 167.031 involving a child who  
88 alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child  
89 to verify that the child is being home schooled and not in violation of section 167.031 before  
90 making a report of such a violation. Any report of a violation of section 167.031 made by a  
91 juvenile officer regarding a child who is being home schooled shall be made to the prosecuting  
92 attorney of the county where the child legally resides.

93 5. The disability or disease of a parent shall not constitute a basis for a determination that  
94 a child is a child in need of care or for the removal of custody of a child from the parent without  
95 a specific showing that there is a causal relation between the disability or disease and harm to  
96 the child.

211.093. **Except as otherwise provided under section 452.374**, any order or judgment  
2 entered by the court under authority of this chapter or chapter 210 shall, so long as such order

3 or judgment remains in effect, take precedence over any order or judgment concerning the status  
4 or custody of a child under age twenty-one entered by a court under authority of chapter 452,  
5 453, 454 or 455, but only to the extent inconsistent therewith.

211.177. 1. **Except as otherwise prohibited under section 452.374**, a grandparent  
2 shall have a right to intervene in any proceeding initiated pursuant to the provisions of this  
3 chapter, in which the custody of a grandchild is in issue, unless the juvenile judge decides after  
4 considering a motion to intervene by the grandparent that such intervention is against the best  
5 interest of the child.

6 2. The right of a grandparent to intervene pursuant to the provisions of this section may  
7 terminate upon the adoption of the child except where the child is adopted by a stepparent,  
8 another grandparent or other blood relative.

400.9-311. (a) Except as otherwise provided in subsection (d), the filing of a financing  
2 statement is not necessary or effective to perfect a security interest in property subject to:

3 (1) A statute, regulation, or treaty of the United States whose requirements for a security  
4 interest's obtaining priority over the rights of a lien creditor with respect to the property preempt  
5 section 400.9-310(a);

6 (2) Sections 301.600 to 301.661, section 700.350, and section 400.2A-304; or

7 (3) A certificate-of-title statute of another jurisdiction which provides for a security  
8 interest to be indicated on the certificate as a condition or result of the security interest's  
9 obtaining priority over the rights of a lien creditor with respect to the property.

10 (b) Compliance with the requirements of a statute, regulation, or treaty described in  
11 subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing  
12 of a financing statement under this article. Except as otherwise provided in subsection (d) and  
13 sections 400.9-313 and 400.9-316(d) and (e) for goods covered by a certificate of title, a security  
14 interest in property subject to a statute, regulation, or treaty described in subsection (a) may be  
15 perfected only by compliance with those requirements, and a security interest so perfected  
16 remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

17 (c) Except as otherwise provided in subsection (d) and section 400.9-316(d) and (e),  
18 duration and renewal of perfection of a security interest perfected by compliance with the  
19 requirements prescribed by a statute, regulation, or treaty described in subsection (a) are  
20 governed by the statute, regulation, or treaty. In other respects, the security interest is subject to  
21 this article.

22 (d) During any period in which collateral is inventory held for sale or lease by a person  
23 or leased by that person as lessor and that person is in the business of selling [or leasing] goods



24 of that kind, this section does not apply to a security interest in that collateral created by that  
25 person [as debtor].

**452.374. 1. The court shall deny any individual custody, parenting time, and  
2 contact with a biological child, including during the pendency of any criminal  
3 investigation, criminal charges, or any other criminal proceeding resulting from or alleging  
4 an act of rape by such individual, if:**

5 **(1) The individual is a biological parent of the child or alleges to be a biological  
6 parent of the child; and**

7 **(2) The court finds by clear and convincing evidence that the child was conceived  
8 as a the result of an act of rape and the individual described in subdivision (1) of this  
9 subsection was the perpetrator of the act of rape.**

10 **2. If the court denies an individual custody, parenting time, and contact with a  
11 biological child under subsection 1 of this section, the court shall not require the individual  
12 to pay child support for such child.**

13 **3. The court shall order an individual who is denied custody, parenting time, and  
14 contact with a biological child under subsection 1 of this section to pay the prevailing party  
15 a reasonable amount for:**

16 **(1) The cost of maintaining an action under this chapter; and**

17 **(2) Attorney's fees, including amounts for legal services provided and costs  
18 incurred, before the commencement of the proceedings or after entry of judgment.**

19  
20 **The court may order the amount awarded under this subsection to be paid directly to the  
21 attorney of the prevailing party, who may enforce the order in the attorney's name.**

22 **4. No parent of an individual described in subsection 1 of this section shall have  
23 standing as a grandparent or otherwise be permitted to file an action for custody or  
24 parenting time with a child during the pendency of any proceedings under this section or  
25 during the pendency of any criminal investigation, criminal charges, or any other criminal  
26 proceeding resulting from or alleging an act of rape by such parent's child.**

27 **5. This section shall not apply if the biological parents were married at the time the  
28 child was conceived.**

**452.402. 1. Except as otherwise prohibited under section 452.374, the court may  
2 grant reasonable visitation rights to the grandparents of the child and issue any necessary orders  
3 to enforce the decree. The court may grant grandparent visitation when:**

4 **(1) The parents of the child have filed for a dissolution of their marriage. A grandparent  
5 shall have the right to intervene in any dissolution action solely on the issue of visitation rights.**

6 Grandparents shall also have the right to file a motion to modify the original decree of  
7 dissolution to seek visitation rights when visitation has been denied to them; or

8 (2) One parent of the child is deceased and the surviving parent denies reasonable  
9 visitation to a parent of the deceased parent of the child; or

10 (3) The child has resided in the grandparent's home for at least six months within the  
11 twenty-four month period immediately preceding the filing of the petition; and

12 (4) A grandparent is unreasonably denied visitation with the child for a period exceeding  
13 ninety days. However, if the natural parents are legally married to each other and are living  
14 together with the child, a grandparent may not file for visitation pursuant to this subdivision.

15 2. The court shall determine if the visitation by the grandparent would be in the child's  
16 best interest or if it would endanger the child's physical health or impair the child's emotional  
17 development. Visitation may only be ordered when the court finds such visitation to be in the  
18 best interests of the child. However, when the parents of the child are legally married to each  
19 other and are living together with the child, it shall be a rebuttable presumption that such parents  
20 know what is in the best interest of the child. The court may order reasonable conditions or  
21 restrictions on grandparent visitation.

22 3. If the court finds it to be in the best interests of the child, the court may appoint a  
23 guardian ad litem for the child. The guardian ad litem shall be an attorney licensed to practice  
24 law in Missouri. The guardian ad litem may, for the purpose of determining the question of  
25 grandparent visitation rights, participate in the proceedings as if such guardian ad litem were a  
26 party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

27 4. A home study, as described by section 452.390, may be ordered by the court to assist  
28 in determining the best interests of the child.

29 5. The court may, in its discretion, consult with the child regarding the child's wishes in  
30 determining the best interest of the child.

31 6. The right of a grandparent to maintain visitation rights pursuant to this section may  
32 terminate upon the adoption of the child.

33 7. The court may award reasonable attorneys fees and expenses to the prevailing party.

453.030. 1. In all cases the approval of the court of the adoption shall be required and  
2 such approval shall be given or withheld as the welfare of the person sought to be adopted may,  
3 in the opinion of the court, demand.

4 2. The written consent of the person to be adopted shall be required in all cases where  
5 the person sought to be adopted is fourteen years of age or older, except where the court finds  
6 that such child has not sufficient mental capacity to give the same. In a case involving a child  
7 under fourteen years of age, the guardian ad litem shall ascertain the child's wishes and feelings

8 about his or her adoption by conducting an interview or interviews with the child, if appropriate  
9 based on the child's age and maturity level, which shall be considered by the court as a factor in  
10 determining if the adoption is in the child's best interests.

11 3. With the exceptions specifically enumerated in section 453.040, when the person  
12 sought to be adopted is under the age of eighteen years, the written consent of the following  
13 persons shall be required and filed in and made a part of the files and record of the proceeding:

14 (1) The mother of the child; and

15 (2) Only the man who:

16 (a) Is presumed to be the father pursuant to the subdivision (1), (2), or (3) of subsection  
17 1 of section 210.822; or

18 (b) Has filed an action to establish his paternity in a court of competent jurisdiction no  
19 later than fifteen days after the birth of the child and has served a copy of the petition on the  
20 mother in accordance with section 506.100; or

21 (c) Filed with the putative father registry pursuant to section 192.016 a notice of intent  
22 to claim paternity or an acknowledgment of paternity either prior to or within fifteen days after  
23 the child's birth, and has filed an action to establish his paternity in a court of competent  
24 jurisdiction no later than fifteen days after the birth of the child; or

25 (3) The child's current adoptive parents or other legally recognized mother and father.  
26 Upon request by the petitioner and within one business day of such request, the clerk of the local  
27 court shall verify whether such written consents have been filed with the court.

28 4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section  
29 may be executed before or after the commencement of the adoption proceedings, and shall be  
30 **executed in front of a judge or** acknowledged before a notary public. **If consent is executed**  
31 **in front of a judge, it shall be the duty of the judge to advise the consenting birth parent**  
32 **of the consequences of the consent.** In lieu of such acknowledgment, the signature of the  
33 person giving such written consent shall be witnessed by the signatures of at least two adult  
34 persons whose signatures and addresses shall be plainly written thereon. The two adult witnesses  
35 shall not be the prospective adoptive parents or any attorney representing a party to the adoption  
36 proceeding. The notary public or witnesses shall verify the identity of the party signing the  
37 consent.

38 5. The written consent required in subdivision (1) of subsection 3 of this section by the  
39 birth parent shall not be executed anytime before the child is forty-eight hours old. Such written  
40 consent shall be executed in front of a judge or **acknowledged before** a notary public. **If**  
41 **consent is executed in front of a judge, it shall be the duty of the judge to advise the**  
42 **consenting party of the consequences of the consent.** In lieu of such acknowledgment, the

43 signature of the person giving such written consent shall be witnessed by the signatures of at  
44 least two adult persons who are present at the execution whose signatures and addresses shall  
45 be plainly written thereon and who determine and certify that the consent is knowingly and freely  
46 given. The two adult witnesses shall not be the prospective adoptive parents or any attorney  
47 representing a party to the adoption proceeding. The notary public or witnesses shall verify the  
48 identity of the party signing the consent.

49 6. [The written consents shall be reviewed and, if found to be in compliance with this  
50 section, approved by the court within three business days of such consents being presented to the  
51 court. Upon review, in lieu of approving the consent within three business days, the court may  
52 set a date for a prompt evidentiary hearing upon notice to the parties. Failure to review and  
53 approve the written consent within three business days shall not void the consent, but a party may  
54 seek a writ of mandamus from the appropriate court, unless an evidentiary hearing has been set  
55 by the court pursuant to this subsection.

56 7. The written consent required in subsection 3 of this section may be withdrawn anytime  
57 until it has been reviewed and accepted by a judge.

58 **8.] A consent is final when executed, unless the consenting party, prior to a final**  
59 **decree of adoption, alleges and proves by clear and convincing evidence that the consent**  
60 **was not freely and voluntarily given. The burden of proving the consent was not freely and**  
61 **voluntarily given shall rest with the consenting party. Consents in all cases shall have been**  
62 **executed not more than six months prior to the date the petition for adoption is filed.**

63 7. A consent form shall be developed through rules and regulations promulgated by the  
64 department of social services. No rule or portion of a rule promulgated under the authority of  
65 this section shall become effective unless it has been promulgated pursuant to the provisions of  
66 chapter 536. If a written consent is obtained after August 28, 1997, but prior to the development  
67 of a consent form by the department and the written consent complies with the provisions of  
68 subsection [9] 8 of this section, such written consent shall be deemed valid.

69 [9.] 8. However, the consent form must specify that:

70 (1) The birth parent understands the importance of identifying all possible fathers of the  
71 child and may provide the names of all such persons; and

72 (2) The birth parent understands that if he denies paternity, but consents to the adoption,  
73 he waives any future interest in the child.

74 [10.] 9. The written consent to adoption required by subsection 3 and executed through  
75 procedures set forth in subsection 5 of this section shall be valid and effective even though the  
76 parent consenting was under eighteen years of age, if such parent was represented by **an**  
77 **attorney or** a guardian ad litem, at the time of the execution thereof.

78 [11.] **10.** Where the person sought to be adopted is eighteen years of age or older, his **or**  
79 **her** written consent alone to his **or her** adoption shall be sufficient.

80 [12.] **11.** A birth parent, including a birth parent less than eighteen years of age, shall  
81 have the right to legal representation and payment of any reasonable legal fees incurred  
82 throughout the adoption process. In addition, the court may appoint an attorney to represent a  
83 birth parent if:

84 (1) A birth parent requests representation;

85 (2) The court finds that hiring an attorney to represent such birth parent would cause a  
86 financial hardship for the birth parent; and

87 (3) The birth parent is not already represented by counsel.

88 [13.] **12.** Except in cases where the court determines that the adoptive parents are unable  
89 to pay reasonable attorney fees and appoints pro bono counsel for the birth parents, the court  
90 shall order the costs of the attorney fees incurred pursuant to subsection [12] **11** of this section  
91 to be paid by the prospective adoptive parents or the child-placing agency.

453.050. 1. The juvenile court may, upon application, permit a parent to waive the  
2 necessity of [his] **such person's** consent to a future adoption of the child. However, that  
3 approval cannot be granted until the child is at least two days old.

4 2. The waiver of consent may be executed before or after the institution of the adoption  
5 proceedings, and shall be **executed in front of a judge or** acknowledged before a notary public,  
6 or in lieu of such acknowledgment, the signature of the person giving such written consent shall  
7 be witnessed by the signatures of at least two adult persons whose addresses shall be plainly  
8 written thereon. **If waiver of consent is executed in front of a judge, it shall be the duty of**  
9 **the judge to advise the consenting party of the consequences of the waiver of consent.**

10 3. A waiver of consent shall be valid and effective even though the parent waiving  
11 consent was under eighteen years of age at the time of the execution thereof.

453.080. 1. The court shall conduct a hearing to determine whether the adoption shall  
2 be finalized. During such hearing, the court shall ascertain whether:

3 (1) The person sought to be adopted, if a child, has been in the lawful and actual custody  
4 of the petitioner for a period of at least six months prior to entry of the adoption decree; except  
5 that the six-month period may be waived if the person sought to be adopted is a child who is  
6 under the prior and continuing jurisdiction of a court pursuant to chapter 211 and the person  
7 desiring to adopt the child is the child's current foster parent. "Lawful and actual custody" shall  
8 include a transfer of custody pursuant to the laws of this state, another state, a territory of the  
9 United States, or another country;

10 (2) The court has received and reviewed:

- 11           **(a)** A postplacement assessment on the monthly contacts with the adoptive family  
12 pursuant to section 453.077, except for good cause shown in the case of a child adopted from a  
13 foreign country;
- 14           **(b) An investigation report under section 453.070, if any;**
- 15           **(c) An investigation and social study under section 211.455, if any;**
- 16           (3) The court has received and reviewed an updated financial affidavit;
- 17           (4) The court has received the recommendations of the guardian ad litem and has  
18 received and reviewed the recommendations of the person placing the child, the person making  
19 the assessment and the person making the postplacement assessment;
- 20           (5) There is compliance with the uniform child custody jurisdiction act, sections 452.440  
21 to 452.550;
- 22           (6) There is compliance with the Indian Child Welfare Act, if applicable;
- 23           (7) There is compliance with the Interstate Compact on the Placement of Children  
24 pursuant to section 210.620; and
- 25           (8) It is fit and proper that such adoption should be made.
- 26           2. If a petition for adoption has been filed pursuant to section 453.010 and a transfer of  
27 custody has occurred pursuant to section 453.110, the court may authorize the filing for  
28 finalization in another state if the adoptive parents are domiciled in that state.
- 29           3. If the court determines the adoption should be finalized, a decree shall be issued  
30 setting forth the facts and ordering that from the date of the decree the adoptee shall be for all  
31 legal intents and purposes the child of the petitioner or petitioners. The court may decree that  
32 the name of the person sought to be adopted be changed, according to the prayer of the petition.
- 33           4. Before the completion of an adoption, the exchange of information among the parties  
34 shall be at the discretion of the parties. Upon completion of an adoption, further contact among  
35 the parties shall be at the discretion of the adoptive parents. The court shall not have jurisdiction  
36 to deny continuing contact between the adopted person and the birth parent, or an adoptive parent  
37 and a birth parent. Additionally, the court shall not have jurisdiction to deny an exchange of  
38 identifying information between an adoptive parent and a birth parent.
- 39           **5. By July 1, 2013, the Missouri supreme court shall develop a standardized form**  
40 **to be used in all adoption cases which includes a checklist to verify all of the documents and**  
41 **procedures required under this section have been submitted, followed, and reviewed by the**  
42 **judge prior to entering a final order. Such form shall include, but not be limited to,**  
43 **attachment of any written reports or assessments required under this section and the**  
44 **signature of the judge attesting to the submission and review of such form and attachments**

45 **prior to entering a final order. Such form and attachments shall be included as part of the**  
46 **adoption record.**

456.950. 1. As used in this section, "qualified spousal trust" means a trust:

2 (1) The settlors of which are husband and wife at the time of the creation of the trust; and

3 (2) The terms of which provide that during the joint lives of the settlors all property or  
4 interests in property transferred to, or held by, the trustee are [either]:

5 (a) Held and administered in one trust for the benefit of both settlors, revocable by either  
6 or both settlors acting together while either or both are alive, and each settlor having the right  
7 to receive distributions of income or principal, whether mandatory or within the discretion of the  
8 trustee, from the entire trust for the joint lives of the settlors and for the survivor's life; or

9 (b) Held and administered in two separate shares of one trust for the benefit of each of  
10 the settlors, with the trust revocable by each settlor with respect to that settlor's separate share  
11 of that trust without the participation or consent of the other settlor, and each settlor having the  
12 right to receive distributions of income or principal, whether mandatory or within the discretion  
13 of the trustee, from that settlor's separate share for that settlor's life; **or**

14 **(c) Held and administered under the terms and conditions contained in paragraphs**  
15 **(a) and (b) of this subdivision.**

16 2. A qualified spousal trust may contain any other trust terms that are not inconsistent  
17 with the provisions of this section.

18 3. Property or interests in property held as tenants by the entirety by a husband and wife  
19 that is at any time transferred to the trustee of a qualified spousal trust of which the husband and  
20 wife are the settlors shall be held and administered as provided by the trust terms in accordance  
21 with [either] paragraph (a) [or] , (b), **or (c)** of subdivision (2) of subsection 1 of this section, and  
22 all such property and interests in property, including the proceeds thereof, the income thereon,  
23 and any property into which such property, proceeds, or income may be converted, shall  
24 thereafter have the same immunity from the claims of the separate creditors of the settlors as  
25 would have existed if the settlors had continued to hold that property as husband and wife as  
26 tenants by the entirety, so long as:

27 (1) Both settlors are alive and remain married; and

28 (2) The property, proceeds, or income continue to be held in trust by the trustee of the  
29 qualified spousal trust.

30 4. Property or interests in property held by a husband and wife or held in the sole name  
31 of a husband or wife that is not held as tenants by the entirety and is transferred to a qualified  
32 spousal trust shall be held as directed in the qualified spousal trust's governing instrument or in

33 the instrument of transfer and the rights of any claimant to any interest in that property shall not  
34 be affected by this section.

35         5. Upon the death of each settlor, all property and interests in property held by the trustee  
36 of the qualified spousal trust shall be distributed as directed by the then current terms of the  
37 governing instrument of such trust. Upon the death of the first settlor to die, if immediately prior  
38 to death the predeceased settlor's interest in the qualified spousal trust was then held in such  
39 settlor's separate share, the property or interests in property in such settlor's separate share may  
40 pass into an irrevocable trust for the benefit of the surviving settlor upon such terms as the  
41 governing instrument shall direct, including without limitation a spendthrift provision as  
42 provided in section 456.5-502.

43         6. No transfer by a husband and wife as settlors to a qualified spousal trust shall affect  
44 or change either settlor's marital property rights to the transferred property or interest therein  
45 immediately prior to such transfer in the event of dissolution of marriage of the spouses, unless  
46 both spouses otherwise expressly agree in writing.

47         7. This section shall apply to all trusts which fulfill the criteria set forth in this section  
48 for a qualified spousal trust regardless of whether such trust was created before or after August  
49 28, 2011.

456.8-808. 1. While a trust is revocable, the trustee may follow a direction of the settlor  
2 that is contrary to the terms of the trust.

3         2. [If the terms of a trust confer upon a person other than the settlor of a revocable trust  
4 power to direct certain actions of the trustee, the trustee shall act in accordance with an exercise  
5 of the power unless the attempted exercise is contrary to the terms of the trust or the trustee  
6 knows the attempted exercise would constitute a serious breach of a fiduciary duty that the  
7 person holding the power owes to the beneficiaries of the trust.

8         3. The terms of a trust may confer upon a trustee or other person a power to direct the  
9 modification or termination of the trust.

10         4. A person, other than a beneficiary, who holds a power to direct is presumptively a  
11 fiduciary who, as such, is required to act in good faith with regard to the purposes of the trust and  
12 the interests of the beneficiaries. The holder of a power to direct is liable for any loss that results  
13 from breach of a fiduciary duty.] **A trust instrument may provide for the appointment of a**  
14 **trust protector. For purposes of this section, a "trust protector", whether referred to in**  
15 **the trust instrument by that name or by some other name, is a person, other than the**  
16 **settlor, a trustee, or a beneficiary, who is expressly granted in the trust instrument one or**  
17 **more powers over the trust.**



18           **3. A trust protector appointed in the trust instrument shall have only the powers**  
19 **granted to the trust protector by the express terms of the trust instrument, and a trust**  
20 **protector is only authorized to act within the scope of the authority expressly granted in**  
21 **the trust instrument. Without limiting the authority of the settlor to grant powers to a**  
22 **trust protector, the express powers that may be granted include, but are not limited to, the**  
23 **following:**

- 24           **(1) Remove and appoint a trustee or name a successor trustee or trust protector;**  
25           **(2) Modify or amend the trust instrument to:**  
26           **(a) Achieve favorable tax status or respond to changes in the Internal Revenue**  
27 **Code or state law, or the rulings and regulations under such code or law;**  
28           **(b) Reflect legal changes that affect trust administration;**  
29           **(c) Correct errors or ambiguities that might otherwise require court construction;**  
30 **or**  
31           **(d) Correct a drafting error that defeats a grantor's intent;**  
32           **(3) Increase, decrease, modify, or restrict the interests of the beneficiary or**  
33 **beneficiaries of the trust;**  
34           **(4) Terminate the trust in favor of the beneficiary or beneficiaries of the trust;**  
35           **(5) Change the applicable law governing the trust and the trust situs; or**  
36           **(6) Such other powers as are expressly granted to the trust protector in the trust**  
37 **instrument.**

38           **4. Notwithstanding any provision in the trust instrument to the contrary, a trust**  
39 **protector shall have no power to modify a trust to:**

- 40           **(1) Remove a requirement from a trust created to meet the requirements of 42**  
41 **U.S.C. Section 1396p(d)(4) to payback a governmental entity for benefits provided to the**  
42 **permissible beneficiary of the trust at the death of that beneficiary; or**  
43           **(2) Reduce or eliminate an income interest of the income beneficiary of any of the**  
44 **following types of trusts:**  
45           **(a) A trust for which a marital deduction has been taken for federal tax purposes**  
46 **under Section 2056 or 2523 of the Internal Revenue Code or for state tax purposes under**  
47 **any comparable provision of applicable state law, during the life of the settlor's spouse;**  
48           **(b) A charitable remainder trust under Section 664 of the Internal Revenue Code,**  
49 **during the life of the noncharitable beneficiary;**  
50           **(c) A grantor retained annuity trust under Section 2702 of the Internal Revenue**  
51 **Code, during any period in which the settlor is a beneficiary; or**

52           **(d) A trust for which an election as a qualified Sub-Chapter S Trust under Section**  
53 **1361(d) of the Internal Revenue Code is currently in place.**

54           **5. Except to the extent otherwise provided in a trust instrument specifically**  
55 **referring to this subsection, the trust protector shall not exercise a power in a way that**  
56 **would result in a taxable gift for federal gift tax purposes or cause the inclusion of any**  
57 **assets of the trust in the trust protector's gross estate for federal estate tax purposes.**

58           **6. Except to the extent otherwise provided in the trust instrument and in subsection**  
59 **7 of this section, and notwithstanding any provision of sections 456.1-101 to 456.11-1106**  
60 **to the contrary:**

61           **(1) A trust protector shall act in a fiduciary capacity in carrying out the powers**  
62 **granted to the trust protector in the trust instrument, and shall have such duties to the**  
63 **beneficiaries, the settlor, or the trust as set forth in the trust instrument. A trust protector**  
64 **is not a trustee, and is not liable or accountable as a trustee when performing or declining**  
65 **to perform the express powers given to the trust protector in the trust instrument. A trust**  
66 **protector is not liable for the acts or omissions of any fiduciary or beneficiary under the**  
67 **trust instrument;**

68           **(2) A trust protector is exonerated from any and all liability for the trust**  
69 **protector's acts or omissions, or arising from any exercise or nonexercise of the powers**  
70 **expressly conferred on the trust protector in the trust instrument, unless it is established**  
71 **by a preponderance of the evidence that the acts or omissions of the trust protector were**  
72 **done or omitted in breach of the trust protector's duty, in bad faith or with reckless**  
73 **indifference;**

74           **(3) A trust protector is authorized to exercise the express powers granted in the**  
75 **trust instrument at any time and from time to time after the trust protector acquires**  
76 **knowledge of their appointment as trust protector and of the powers granted;**

77           **(4) A trust protector is entitled to receive, from the assets of the trust for which the**  
78 **trust protector is acting, reasonable compensation, and reimbursement of the reasonable**  
79 **costs and expenses incurred, in determining whether to carry out, and in carrying out, the**  
80 **express powers given to the trust protector in the trust instrument;**

81           **(5) A trust protector is entitled to receive, from the assets of the trust for which the**  
82 **trust protector is acting, reimbursement of the reasonable costs and expenses, including**  
83 **attorney's fees, of defending any claim made against the trust protector arising from the**  
84 **acts or omissions of the trust protector acting in that capacity unless it is established by**  
85 **clear and convincing evidence that the trust protector was acting in bad faith or with**  
86 **reckless indifference; and**

87           **(6) The express powers granted in the trust instrument shall not be exercised by the**  
88 **trust protector for the trust protector's own personal benefit.**

89           **7. Notwithstanding the provisions of subsection 6 of this section, if a trust protector**  
90 **is granted a power in the trust instrument under subdivision (6) of subsection 3 of this**  
91 **section to direct, consent to, or disapprove a trustee's actual or proposed investment**  
92 **decision, distribution decision, or other decision of the trustee required to be performed**  
93 **under applicable trust law in carrying out the duties of the trustee in administering the**  
94 **trust, then with respect to such power the trust protector shall have the same duties and**  
95 **liabilities as if serving as a trustee under the trust instrument.**

96           **8. A trustee shall carry out the written directions given to the trustee by a trust**  
97 **protector acting within the scope of the powers expressly granted to the trust protector in**  
98 **the trust instrument. Except in cases of bad faith or reckless indifference on the part of the**  
99 **trustee, or as otherwise provided in the trust instrument, the trustee shall not be liable for**  
100 **any loss resulting directly or indirectly from any act taken or omitted as a result of the**  
101 **written direction of the trust protector or the failure of the trust protector to provide**  
102 **consent. Except as otherwise provided in the trust instrument, the trustee shall have no**  
103 **duty to monitor the conduct of the trust protector, provide advice to or consult with the**  
104 **trust protector, or communicate with or warn or apprise any beneficiary concerning**  
105 **instances in which the trustee would or might have exercised the trustee's own discretion**  
106 **in a manner different from the manner directed by the trust protector.**

107           **9. Except to the extent otherwise expressly provided in the trust instrument, the**  
108 **trust protector shall be entitled to receive information regarding the administration of the**  
109 **trust as follows:**

110           **(1) Upon the request of the trust protector, unless unreasonable under the**  
111 **circumstances, the trustee shall promptly provide to the trust protector any and all**  
112 **information related to the trust that may relate to the exercise or nonexercise of a power**  
113 **expressly granted to the trust protector in the trust instrument. The trustee has no**  
114 **obligation to provide any information to the trust protector except to the extent a trust**  
115 **protector requests information under this section;**

116           **(2) The request of the trust protector for information under this section shall be**  
117 **with respect to a single trust that is sufficiently identified to enable the trustee to locate the**  
118 **records of the trust; and**

119           **(3) If the trustee is bound by any confidentiality restrictions with respect to an asset**  
120 **of a trust, a trust protector who requests information under this section about such asset**  
121 **shall agree to be bound by the confidentiality restrictions that bind the trustee before**  
122 **receiving such information from the trustee.**

123           **10. A trust protector may resign by giving thirty days' written notice to the trustee**  
124 **and any successor trust protector. A successor trust protector, if any, shall have all the**

125 **powers expressly granted in the trust instrument to the resigning trust protector unless**  
126 **such powers are expressly modified for the successor trust protector.**

127 **11. A trust protector of a trust having its principal place of administration in this**  
128 **state submits personally to the jurisdiction of the courts of this state during any period that**  
129 **the principal place of administration of the trust is located in this state and the trust**  
130 **protector is serving in such capacity.**

476.055. 1. There is hereby established in the state treasury the "Statewide Court  
2 Automation Fund". All moneys collected pursuant to section 488.027, as well as gifts,  
3 contributions, devises, bequests, and grants received relating to automation of judicial record  
4 keeping, and moneys received by the judicial system for the dissemination of information and  
5 sales of publications developed relating to automation of judicial record keeping, shall be  
6 credited to the fund. Moneys credited to this fund may only be used for the purposes set forth  
7 in this section and as appropriated by the general assembly. Any unexpended balance remaining  
8 in the statewide court automation fund at the end of each biennium shall not be subject to the  
9 provisions of section 33.080 requiring the transfer of such unexpended balance to general  
10 revenue; except that, any unexpended balance remaining in the fund on September 1, 2013, shall  
11 be transferred to general revenue.

12 2. The statewide court automation fund shall be administered by a court automation  
13 committee consisting of the following: the chief justice of the supreme court, a judge from the  
14 court of appeals, four circuit judges, four associate circuit judges, four employees of the circuit  
15 court, the commissioner of administration, two members of the house of representatives  
16 appointed by the speaker of the house, two members of the senate appointed by the president pro  
17 tem of the senate and two members of the Missouri Bar. The judge members and employee  
18 members shall be appointed by the chief justice. The commissioner of administration shall serve  
19 ex officio. The members of the Missouri Bar shall be appointed by the board of governors of the  
20 Missouri Bar. Any member of the committee may designate another person to serve on the  
21 committee in place of the committee member.

22 3. The committee shall develop and implement a plan for a statewide court automation  
23 system. The committee shall have the authority to hire consultants, review systems in other  
24 jurisdictions and purchase goods and services to administer the provisions of this section. The  
25 committee may implement one or more pilot projects in the state for the purposes of determining  
26 the feasibility of developing and implementing such plan. The members of the committee shall  
27 be reimbursed from the court automation fund for their actual expenses in performing their  
28 official duties on the committee.

29 4. Any purchase of computer software or computer hardware that exceeds five thousand  
30 dollars shall be made pursuant to the requirements of the office of administration for lowest and  
31 best bid. Such bids shall be subject to acceptance by the office of administration. The court  
32 automation committee shall determine the specifications for such bids.

33 5. The court automation committee shall not require any circuit court to change any  
34 operating system in such court, unless the committee provides all necessary personnel, funds and

35 equipment necessary to effectuate the required changes. No judicial circuit or county may be  
36 reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or  
37 county has the approval of the court automation committee prior to incurring the specific cost.

38 6. Any court automation system, including any pilot project, shall be implemented,  
39 operated and maintained in accordance with strict standards for the security and privacy of  
40 confidential judicial records. Any person who knowingly releases information from a  
41 confidential judicial record is guilty of a class B misdemeanor. Any person who, knowing that  
42 a judicial record is confidential, uses information from such confidential record for financial gain  
43 is guilty of a class D felony.

44 7. On the first day of February, May, August and November of each year, the court  
45 automation committee shall file a report on the progress of the statewide automation system with  
46 the joint legislative committee on court automation. Such committee shall consist of the  
47 following:

48 (1) The chair of the house budget committee;

49 (2) The chair of the senate appropriations committee;

50 (3) The chair of the house judiciary committee;

51 (4) The chair of the senate judiciary committee;

52 (5) One member of the minority party of the house appointed by the speaker of the house  
53 of representatives; and

54 (6) One member of the minority party of the senate appointed by the president pro  
55 tempore of the senate.

56 8. The members of the joint legislative committee shall be reimbursed from the court  
57 automation fund for their actual expenses incurred in the performance of their official duties as  
58 members of the joint legislative committee on court automation.

59 9. Section 488.027 shall expire on September 1, [2013] **2018**. The court automation  
60 committee established pursuant to this section may continue to function until completion of its  
61 duties prescribed by this section, but shall complete its duties prior to September 1, [2015] **2020**.

62 10. This section shall expire on September 1, [2015] **2020**.

479.011. 1. (1) The following cities may establish an administrative adjudication  
2 system under this section:

3 (a) Any city not within a county;

4 (b) Any home rule city with more than four hundred thousand inhabitants and located  
5 in more than one county; [and]

6 (c) Any home rule city with more than seventy-three thousand but fewer than  
7 seventy-five thousand inhabitants; **and**

8 **(d) Any home rule city with more than one hundred fifty-five thousand but fewer**  
9 **than two hundred thousand inhabitants.**

10 (2) The cities listed in subdivision (1) of this subsection may establish, by order or  
11 ordinance, an administrative system for adjudicating housing, property maintenance, nuisance,  
12 parking, and other civil, nonmoving municipal code violations consistent with applicable state

13 law. Such administrative adjudication system shall be subject to practice, procedure, and  
14 pleading rules established by the state supreme court, circuit court, or municipal court. This  
15 section shall not be construed to affect the validity of other administrative adjudication systems  
16 authorized by state law and created before August 28, 2004.

17 2. The order or ordinance creating the administrative adjudication system shall designate  
18 the administrative tribunal and its jurisdiction, including the code violations to be reviewed. The  
19 administrative tribunal may operate under the supervision of the municipal court, parking  
20 commission, or other entity designated by order or ordinance and in a manner consistent with  
21 state law. The administrative tribunal shall adopt policies and procedures for administrative  
22 hearings, and filing and notification requirements for appeals to the municipal or circuit court,  
23 subject to the approval of the municipal or circuit court.

24 3. The administrative adjudication process authorized in this section shall ensure a fair  
25 and impartial review of contested municipal code violations, and shall afford the parties due  
26 process of law. The formal rules of evidence shall not apply in any administrative review or  
27 hearing authorized in this section. Evidence, including hearsay, may be admitted only if it is the  
28 type of evidence commonly relied upon by reasonably prudent persons in the conduct of their  
29 affairs. The code violation notice, property record, and related documentation in the proper  
30 form, or a copy thereof, shall be prima facie evidence of the municipal code violation. The  
31 officer who issued the code violation citation need not be present.

32 4. An administrative tribunal may not impose incarceration or any fine in excess of the  
33 amount allowed by law. Any sanction, fine or costs, or part of any fine, other sanction, or costs,  
34 remaining unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures  
35 under chapter 536 shall be a debt due and owing the city, and may be collected in accordance  
36 with applicable law.

37 5. Any final decision or disposition of a code violation by an administrative tribunal shall  
38 constitute a final determination for purposes of judicial review. Such determination is subject  
39 to review under chapter 536 or, at the request of the defendant made within ten days, a trial de  
40 novo in the circuit court. After expiration of the judicial review period under chapter 536, unless  
41 stayed by a court of competent jurisdiction, the administrative tribunal's decisions, findings,  
42 rules, and orders may be enforced in the same manner as a judgment entered by a court of  
43 competent jurisdiction. Upon being recorded in the manner required by state law or the uniform  
44 commercial code, a lien may be imposed on the real or personal property of any defendant  
45 entering a plea of nolo contendere, pleading guilty to, or found guilty of a municipal code  
46 violation in the amount of any debt due the city under this section and enforced in the same  
47 manner as a judgment lien under a judgment of a court of competent jurisdiction. The city may  
48 also issue a special tax bill to collect fines issued for housing, property maintenance, and  
49 nuisance code violations.

2 479.040. 1. **(1)** Any city, town or village with a population of less than four hundred  
3 thousand may elect to have the violations of its municipal ordinances heard and determined by  
an associate circuit judge of the circuit in which the city, town or village, or the major

4 geographical portion thereof, is located; provided, however, if such election is made, all  
5 violations of that municipality's ordinances shall be heard and determined before an associate  
6 circuit judge or judges. If a municipality has elected to have the violations of its municipal  
7 ordinances heard and determined by an associate circuit judge, the municipality may thereafter  
8 elect to provide for a municipal judge or judges to hear such cases; provided, however, if such  
9 later election is made, all violations of that municipality's ordinances shall be heard and  
10 determined before a municipal judge. Nothing in this subsection shall preclude the transfer or  
11 assignment of another judge to hear and determine a case or class of cases when otherwise  
12 authorized by provisions of the constitution, law, or court rule. Nothing in this section shall  
13 preclude an election made under the provisions of subsection 4 of this section.

14 **(2) In lieu of electing to have all violations of municipal ordinances heard and**  
15 **determined before an associate circuit court or a county municipal court, a city, town, or**  
16 **village may, under subdivision (1) of this subsection, elect to have such court only hear and**  
17 **determine those violations of its municipal ordinances as may be designated on the**  
18 **information by the prosecutor as involving an accused with special needs due to mental**  
19 **disorder or mental illness, as defined by section 630.005, or whose special needs,**  
20 **circumstances, and charges cannot be adequately accommodated by the municipal court**  
21 **of the city, town, or village, provided that the associate circuit court or county municipal**  
22 **court has established specialized dockets or courts to provide such adequate**  
23 **accommodations and resources for specifically handling such matters, such as a mental**  
24 **health court, housing court, domestic violence court, family court, or DWI court, and such**  
25 **associate circuit court or county municipal court accepts such election by consent of the**  
26 **presiding judge or by county contract, as applicable, and further provided that upon a**  
27 **determination by the court that the accused does not have such special needs, the matter**  
28 **shall be transferred back to the municipal court.**

29 2. If, after January 1, 1980, a municipality elects to have the violations of its municipal  
30 ordinances heard and determined by an associate circuit judge, the associate circuit judge or  
31 judges shall commence hearing and determining such violations six months after the  
32 municipality notifies the presiding judge of the circuit of its election. With the consent of the  
33 presiding judge, the associate circuit judge or judges may commence hearing such violations at  
34 an earlier date.

35 3. Associate circuit judges of the circuit in which the municipality, or major geographical  
36 portion thereof, is located shall hear and determine violations of municipal ordinances of any  
37 municipality with a population of under four hundred thousand for which a municipal judge is  
38 not provided.

39 4. Any city, town or village with a population of less than four hundred thousand located  
40 in a county which has created a county municipal court under the provisions of section 66.010  
41 may elect to enter into a contract with the county to have violations of municipal ordinances  
42 prosecuted, heard, and determined in the county municipal court. If a contract is entered into  
43 under the provisions of this subsection, all violations of that municipality's ordinances shall be

44 heard and determined in the county municipal court. The contract may provide for a transition  
45 period after an election is made under the provisions of this subsection.

483.015. 1. At the general election in the year 1982, and every four years thereafter,  
2 except as herein provided and except as otherwise provided by law, circuit clerks shall be elected  
3 by the qualified voters of each county [and of the city of St. Louis], who shall be commissioned  
4 by the governor, and shall enter upon the discharge of their duties on the first day in January next  
5 ensuing their election, and shall hold their offices for the term of four years, and until their  
6 successors shall be duly elected and qualified, unless sooner removed from office.

7 2. The court administrator for Jackson County provided by the charter of Jackson County  
8 shall be selected as provided in the county charter and shall exercise all of the powers and duties  
9 of the circuit clerk of Jackson County. The director of judicial administration and the circuit  
10 clerk of St. Louis County shall be selected as provided in the charter of St. Louis County.

11 3. When provision is made in a county charter for the appointment of a court  
12 administrator to perform the duties of a circuit clerk or for the appointment of a circuit clerk,  
13 such provisions shall prevail over the provisions of this chapter providing for a circuit clerk to  
14 be elected. The persons appointed to fill any such appointive positions shall be paid by the  
15 counties as provided by the county charter or ordinance; provided, however, that if provision is  
16 now or hereafter made by law for the salaries of circuit clerks to be paid by the state, the state  
17 shall pay over to the county a sum which is equivalent to the salary that would be payable by law  
18 by the state to an elected circuit clerk in such county if such charter provision was not in effect.  
19 The sum shall be paid in semimonthly or monthly installments, as designated by the  
20 commissioner of administration.

21 4. The circuit clerk in the sixth judicial circuit and in the seventh judicial circuit shall  
22 be appointed by a majority of the circuit judges and associate circuit judges of the circuit court,  
23 en banc. The circuit clerk in those circuits shall be removable for cause by a majority of the  
24 circuit judges and associate circuit judges of such circuit, en banc, in accordance with supreme  
25 court administrative rules governing court personnel. This subsection shall become effective on  
26 January 1, 2004, and the elected circuit clerks in those circuits in office at that time shall  
27 continue to hold such office for the remainder of their elected terms as if they had been appointed  
28 pursuant to the terms of this subsection.

29 **5. The circuit clerk in the twenty-second judicial circuit shall be appointed by a**  
30 **majority of the circuit judges and associate circuit judges of the circuit court, en banc. The**  
31 **circuit clerk in such circuit shall be removable for cause by a majority of the circuit judges**  
32 **and associate circuit judges of such circuit, en banc, in accordance with supreme court**  
33 **administrative rules governing court personnel. The elected circuit clerk in such circuit**  
34 **in office on the effective date of this section shall continue to hold such office for the**  
35 **remainder of his or her elected term.**

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.

488.426. 1. The judges of the circuit court, en banc, in any circuit in this state may  
2 require any party filing a civil case in the circuit court, at the time of filing the suit, to deposit  
3 with the clerk of the court a surcharge in addition to all other deposits required by law or court  
4 rule. Sections 488.426 to 488.432 shall not apply to proceedings when costs are waived or are  
5 to be paid by the county or state or any city.

6 2. The surcharge in effect on August 28, 2001, shall remain in effect until changed by  
7 the circuit court. The circuit court in any circuit, except the circuit court in Jackson County **or**  
8 **the circuit court in any circuit that reimburses the state for the salaries of family court**  
9 **commissioners under section 487.020**, may change the fee to any amount not to exceed fifteen  
10 dollars. The circuit court in Jackson County **or the circuit court in any circuit that reimburses**  
11 **the state for the salaries of family court commissioners under section 487.020** may change  
12 the fee to any amount not to exceed twenty dollars. A change in the fee shall become effective  
13 and remain in effect until further changed.

14 3. Sections 488.426 to 488.432 shall not apply to proceedings when costs are waived or  
15 are paid by the county or state or any city.

16 4. In addition to any fee authorized by subsection 1 of this section, any county of the first  
17 classification with more than ninety-three thousand eight hundred but less than ninety-three  
18 thousand nine hundred inhabitants may impose an additional fee of ten dollars excluding cases  
19 concerning adoption and those in small claims court. The provisions of this subsection shall  
20 expire on December 31, 2014.

488.5320. 1. Sheriffs, county marshals or other officers shall be allowed a charge for  
2 their services rendered in criminal cases and in all proceedings for contempt or attachment, as  
3 required by law, the sum of seventy-five dollars for each felony case or contempt or attachment  
4 proceeding, ten dollars for each misdemeanor case, and six dollars for each infraction,  
5 [excluding] **including** cases disposed of by a [traffic] **central** violations bureau established  
6 pursuant to law or supreme court rule. Such charges shall be charged and collected in the  
7 manner provided by sections 488.010 to 488.020 and shall be payable to the county treasury;  
8 **except that, those charges from cases disposed of by a central violations bureau shall be**  
9 **distributed as follows: one-half of the charges collected shall be forwarded and deposited**  
10 **to the credit of the Missouri MODEX fund established in subsection 5 of this section for**  
11 **the operational cost of the MODEX system, and one-half of the charges collected shall be**

12 **deposited to the credit of the inmate security fund, established in section 488.5026, of the**  
13 **county or municipal political subdivision from which the citation originated. If the county**  
14 **or municipal political subdivision has not established an inmate security fund, the funds**  
15 **shall be deposited in the MODEX fund.**

16 2. The sheriff receiving any charge pursuant to subsection 1 of this section shall  
17 reimburse the sheriff of any other county or the city of St. Louis the sum of three dollars for each  
18 pleading, writ, summons, order of court or other document served in connection with the case  
19 or proceeding by the sheriff of the other county or city, and return made thereof, to the maximum  
20 amount of the total charge received pursuant to subsection 1 of this section.

21 3. The charges provided in subsection 1 of this section shall be taxed as other costs in  
22 criminal proceedings immediately upon a plea of guilty or a finding of guilt of any defendant in  
23 any criminal procedure. The clerk shall tax all the costs in the case against such defendant,  
24 which shall be collected and disbursed as provided by sections 488.010 to 488.020; provided,  
25 that no such charge shall be collected in any proceeding in any court when the proceeding or the  
26 defendant has been dismissed by the court; provided further, that all costs, incident to the issuing  
27 and serving of writs of scire facias and of writs of fieri facias, and of attachments for witnesses  
28 of defendant, shall in no case be paid by the state, but such costs incurred under writs of fieri  
29 facias and scire facias shall be paid by the defendant and such defendant's sureties, and costs for  
30 attachments for witnesses shall be paid by such witnesses.

31 4. Mileage shall be reimbursed to sheriffs, county marshals and guards for all services  
32 rendered pursuant to this section at the rate prescribed by the Internal Revenue Service for  
33 allowable expenses for motor vehicle use expressed as an amount per mile.

34 **5. (1) There is hereby created in the state treasury the "MODEX Fund", which**  
35 **shall consist of money collected under subsection 1 of this section. The fund shall be**  
36 **administered by the Peace Officers Standards and Training Commission established in**  
37 **section 590.120. The state treasurer shall be custodian of the fund. In accordance with**  
38 **sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall**  
39 **be a dedicated fund and, upon appropriation, money in the fund shall be used solely for**  
40 **the operational support and expansion of the MODEX system.**

41 **(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys**  
42 **remaining in the fund at the end of the biennium shall not revert to the credit of the**  
43 **general revenue fund.**

44 **(3) The state treasurer shall invest moneys in the fund in the same manner as other**  
45 **funds are invested. Any interest and moneys earned on such investments shall be credited**  
46 **to the fund.**

513.430. 1. The following property shall be exempt from attachment and execution to  
2 the extent of any person's interest therein:

3 (1) Household furnishings, household goods, wearing apparel, appliances, books,  
4 animals, crops or musical instruments that are held primarily for personal, family or household

5 use of such person or a dependent of such person, not to exceed three thousand dollars in value  
6 in the aggregate;

7 (2) A wedding ring not to exceed one thousand five hundred dollars in value and other  
8 jewelry held primarily for the personal, family or household use of such person or a dependent  
9 of such person, not to exceed five hundred dollars in value in the aggregate;

10 (3) Any other property of any kind, not to exceed in value six hundred dollars in the  
11 aggregate;

12 (4) Any implements or professional books or tools of the trade of such person or the  
13 trade of a dependent of such person not to exceed three thousand dollars in value in the  
14 aggregate;

15 (5) Any motor [vehicle in the aggregate] **vehicles**, not to exceed three thousand dollars  
16 in value **in the aggregate**;

17 (6) Any mobile home used as the principal residence but not [on or] attached to real  
18 property in which the debtor has a fee interest, not to exceed five thousand dollars in value;

19 (7) Any one or more unmaturred life insurance contracts owned by such person, other  
20 than a credit life insurance contract;

21 (8) The amount of any accrued dividend or interest under, or loan value of, any one or  
22 more unmaturred life insurance contracts owned by such person under which the insured is such  
23 person or an individual of whom such person is a dependent; provided, however, that if  
24 proceedings under Title 11 of the United States Code are commenced by or against such person,  
25 the amount exempt in such proceedings shall not exceed in value one hundred fifty thousand  
26 dollars in the aggregate less any amount of property of such person transferred by the life  
27 insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a  
28 premium or to carry out a nonforfeiture insurance option and is required to be so transferred  
29 automatically under a life insurance contract with such company or society that was entered into  
30 before commencement of such proceedings. No amount of any accrued dividend or interest  
31 under, or loan value of, any such life insurance contracts shall be exempt from any claim for  
32 child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such  
33 proceedings under any such insurance contract which was purchased by such person within one  
34 year prior to the commencement of such proceedings;

35 (9) Professionally prescribed health aids for such person or a dependent of such person;

36 (10) Such person's right to receive:

37 (a) A Social Security benefit, unemployment compensation or a [local] public assistance  
38 benefit;

39 (b) A veteran's benefit;

40 (c) A disability, illness or unemployment benefit;

41 (d) Alimony, support or separate maintenance, not to exceed seven hundred fifty dollars  
42 a month;

43 (e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan,  
44 profit-sharing plan, nonpublic retirement plan or any plan described, defined, or established

45 pursuant to section 456.072, the person's right to a participant account in any deferred  
46 compensation program offered by the state of Missouri or any of its political subdivisions, or  
47 annuity or similar plan or contract on account of illness, disability, death, age or length of  
48 service, to the extent reasonably necessary for the support of such person and any dependent of  
49 such person unless:

50 a. Such plan or contract was established by or under the auspices of an insider that  
51 employed such person at the time such person's rights under such plan or contract arose;

52 b. Such payment is on account of age or length of service; and

53 c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A  
54 or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b),  
55 408, 408A or 409);

56

57 except that any such payment to any person shall be subject to attachment or execution pursuant  
58 to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue  
59 Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or  
60 legal separation or a proceeding for disposition of property following dissolution of marriage by  
61 a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to  
62 dispose of marital property at the time of the original judgment of dissolution;

63 (f) Any money or assets, payable to a participant or beneficiary from, or any interest of  
64 any participant or beneficiary in, a retirement plan or profit-sharing plan that is qualified under  
65 Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as  
66 amended, except as provided in this paragraph. Any plan or arrangement described in this  
67 paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic  
68 relations order; however, the interest of any and all alternate payees under a qualified domestic  
69 relations order shall be exempt from any and all claims of any creditor, other than the state of  
70 Missouri through its division of family services. As used in this paragraph, the terms "alternate  
71 payee" and "qualified domestic relations order" have the meaning given to them in Section  
72 414(p) of the Internal Revenue Code of 1986, as amended. If proceedings under Title 11 of the  
73 United States Code are commenced by or against such person, no amount of funds shall be  
74 exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined  
75 in [section 456.630] **subsection 2 of section 428.024** and for the period such person participated  
76 within three years prior to the commencement of such proceedings. For the purposes of this  
77 section, when the fraudulently conveyed funds are recovered and after, such funds shall be  
78 deducted and then treated as though the funds had never been contributed to the plan, contract,  
79 or trust;

80 (11) The debtor's right to receive, or property that is traceable to, a payment on account  
81 of the wrongful death of an individual of whom the debtor was a dependent, to the extent  
82 reasonably necessary for the support of the debtor and any dependent of the debtor.

83 2. Nothing in this section shall be interpreted to exempt from attachment or execution  
84 for a valid judicial or administrative order for the payment of child support or maintenance any

85 money or assets, payable to a participant or beneficiary from, or any interest of any participant  
86 or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal  
87 Revenue Code of 1986, as amended.

513.440. Each head of a family may select and hold, exempt from execution, any other  
2 property, real, personal or mixed, or debts and wages, not exceeding in value the amount of one  
3 thousand two hundred fifty dollars plus three hundred fifty dollars for each of such person's  
4 unmarried dependent children under the age of [eighteen] **twenty-one** years or dependent as  
5 defined by the Internal Revenue Code of 1986, as amended, determined to be disabled by the  
6 Social Security Administration, except ten percent of any debt, income, salary or wages due such  
7 head of a family.

537.345. As used in sections 537.345 to 537.347, **and section 537.351**, the following  
2 terms mean:

3 (1) "Charge", the admission price or fee asked by an owner of land or an invitation or  
4 permission without price or fee to use land for recreational purposes when such invitation or  
5 permission is given for the purpose of sales promotion, advertising or public goodwill in  
6 fostering business purposes;

7 (2) "Land", all real property, land and water, and all structures, fixtures, equipment and  
8 machinery thereon;

9 (3) "Owner", any individual, legal entity or governmental agency that has any ownership  
10 or security interest whatever or lease or right of possession in land;

11 (4) "Recreational use", hunting, fishing, camping, picnicking, biking, nature study,  
12 winter sports, viewing or enjoying archaeological or scenic sites, or other similar activities  
13 undertaken for recreation, exercise, education, relaxation, or pleasure on land owned by another;

14 (5) "**Trespasser**", **any person who enters on the property of another without**  
15 **permission and without an invitation, express or implied regardless of whether actual**  
16 **notice of trespass was given or the land was posted in accordance with the provisions of**  
17 **sections 569.140 and 569.145.**

537.346. Except as provided in sections 537.345 to 537.348, **and section 537.351**, an  
2 owner of land owes no duty of care to any person who enters on the land without charge to keep  
3 his land safe for recreational use or to give any general or specific warning with respect to any  
4 natural or artificial condition, structure, or personal property thereon.

**537.351. 1. Except as provided in subsection 2 of this section, a possessor of real**  
2 **property, including an owner, lessee, or other occupant, or an agent of such owner, lessee,**  
3 **or other occupant, owes no duty of care to a trespasser except to refrain from harming the**  
4 **trespasser by an intentional, willful, or wanton act. As used in this subsection, willful**  
5 **includes but is not limited to the failure of the possessor to remedy or warn against a**  
6 **dangerous artificial condition. A possessor of real property may use justifiable force to**  
7 **repel a criminal trespasser as provided by section 563.074.**

8 **2. A possessor of real property may be subject to liability for physical injury or**  
9 **death to a trespasser in the following situations:**

10           **(1) If the trespasser is a child who is harmed by a dangerous condition on the land;**  
11 **and**

12           **(a) The possessor knew or should have known that children were likely to trespass**  
13 **at the location of the condition;**

14           **(b) The condition is one which the possessor knew or reasonably should have**  
15 **known involved an unreasonable risk of death or serious physical injury to such children;**

16           **(c) The injured child because of the child's youth did not discover the condition or**  
17 **realize the risk involved in the intermeddling with the condition or in coming within the**  
18 **area made dangerous by the condition; and**

19           **(d) The possessor failed to exercise reasonable care to eliminate the danger or**  
20 **otherwise protect the injured child; or**

21           **(2) The possessor knew or should have known that trespassers consistently intrude**  
22 **upon a limited area of the possessor's land where the trespasser was harmed, the harm**  
23 **resulted from a dangerous artificial condition on the land; and**

24           **(a) The possessor created or maintained the artificial condition that caused the**  
25 **injury;**

26           **(b) The possessor knew that the condition was likely to cause death or serious**  
27 **bodily harm to trespassers;**

28           **(c) The possessor knew or should have known that the condition was of such a**  
29 **nature that trespassers would not discover it; and**

30           **(d) The possessor failed to exercise reasonable care to warn trespassers of the**  
31 **condition and the risk involved; or**

32           **(3) If the possessor knew of the trespasser's presence on the land and failed to warn**  
33 **of dangerous conditions on the land or failed to exercise ordinary care as to active**  
34 **operations carried out on the land.**

35           **3. This section does not create or increase the liability of any possessor of real**  
36 **property and does not affect any immunities from or defenses to liability established under**  
37 **state law or available under common law to which a possessor of real property may be**  
38 **entitled under circumstances not covered by this section.**

2           537.528. 1. Any action [seeking money damages] against a person for conduct or speech  
3 undertaken or made in connection with a public hearing or public meeting, in a quasi-judicial  
4 proceeding before a tribunal or decision-making body of the state or any political subdivision of  
5 the state is subject to a special motion to dismiss, motion for judgment on the pleadings, or  
6 motion for summary judgment that shall be considered by the court on a priority or expedited  
7 basis to ensure the early consideration of the issues raised by the motion and to prevent the  
8 unnecessary expense of litigation. Upon the filing of any special motion described in this  
9 subsection, all discovery shall be suspended pending a decision on the motion by the court and  
10 the exhaustion of all appeals regarding the special motion.

11           2. If the rights afforded by this section are raised as an affirmative defense and if a court  
grants a motion to dismiss, a motion for judgment on the pleadings or a motion for summary

12 judgment filed within ninety days of the filing of the moving party's answer, the court shall  
13 award reasonable attorney fees and costs incurred by the moving party in defending the action.  
14 If the court finds that a special motion to dismiss or motion for summary judgment is frivolous  
15 or solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney  
16 fees to the party prevailing on the motion.

17 3. Any party shall have the right to an expedited appeal from a trial court order on the  
18 special motions described in subsection 2 of this section or from a trial court's failure to rule on  
19 the motion on an expedited basis.

20 4. As used in this section, a "public meeting in a quasi-judicial proceeding" means and  
21 includes any meeting established and held by a state or local governmental entity, including  
22 without limitations meetings or presentations before state, county, city, town or village councils,  
23 planning commissions, review boards or commissions.

24 5. Nothing in this section limits or prohibits the exercise of a right or remedy of a party  
25 granted pursuant to another constitutional, statutory, common law or administrative provision,  
26 including civil actions for defamation.

27 6. If any provision of this section or the application of any provision of this section to  
28 a person or circumstance is held invalid, the invalidity shall not affect other provisions or  
29 applications of this section that can be given effect without the invalid provision or application,  
30 and to this end the provisions of this section are severable.

31 7. The provisions of this section shall apply to all causes of actions.

558.019. 1. This section shall not be construed to affect the powers of the governor  
2 under article IV, section 7, of the Missouri Constitution. This statute shall not affect those  
3 provisions of section 565.020, section 558.018 or section 571.015, which set minimum terms of  
4 sentences, or the provisions of section 559.115, relating to probation.

5 2. The provisions of subsections 2 to 5 of this section shall be applicable to all classes  
6 of felonies except those set forth in chapter 195, and those otherwise excluded in subsection 1  
7 of this section. For the purposes of this section, "prison commitment" means and is the receipt  
8 by the department of corrections of an offender after sentencing. For purposes of this section,  
9 prior prison commitments to the department of corrections shall not include commitment to a  
10 regimented discipline program established pursuant to section 217.378. Other provisions of the  
11 law to the contrary notwithstanding, any offender who has pleaded guilty to or has been found  
12 guilty of a felony other than a dangerous felony as defined in section 556.061 and is committed  
13 to the department of corrections shall be required to serve the following minimum prison terms:

14 (1) If the offender has one previous prison commitment to the department of corrections  
15 for a felony offense, the minimum prison term which the offender must serve shall be forty  
16 percent of his or her sentence or until the offender attains seventy years of age, and has served  
17 at least thirty percent of the sentence imposed, whichever occurs first;

18 (2) If the offender has two previous prison commitments to the department of corrections  
19 for felonies unrelated to the present offense, the minimum prison term which the offender must

20 serve shall be fifty percent of his or her sentence or until the offender attains seventy years of  
21 age, and has served at least forty percent of the sentence imposed, whichever occurs first;

22 (3) If the offender has three or more previous prison commitments to the department of  
23 corrections for felonies unrelated to the present offense, the minimum prison term which the  
24 offender must serve shall be eighty percent of his or her sentence or until the offender attains  
25 seventy years of age, and has served at least forty percent of the sentence imposed, whichever  
26 occurs first.

27 3. Other provisions of the law to the contrary notwithstanding, any offender who has  
28 pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061  
29 and is committed to the department of corrections shall be required to serve a minimum prison  
30 term of eighty-five percent of the sentence imposed by the court or until the offender attains  
31 seventy years of age, and has served at least forty percent of the sentence imposed, whichever  
32 occurs first.

33 4. For the purpose of determining the minimum prison term to be served, the following  
34 calculations shall apply:

35 (1) A sentence of life shall be calculated to be thirty years;

36 (2) Any sentence either alone or in the aggregate with other consecutive sentences for  
37 crimes committed at or near the same time which is over seventy-five years shall be calculated  
38 to be seventy-five years.

39 5. For purposes of this section, the term "minimum prison term" shall mean time  
40 required to be served by the offender before he or she is eligible for parole, conditional release  
41 or other early release by the department of corrections.

42 6. (1) A sentencing advisory commission is hereby created to consist of eleven  
43 members. One member shall be appointed by the speaker of the house. One member shall be  
44 appointed by the president pro tem of the senate. One member shall be the director of the  
45 department of corrections. Six members shall be appointed by and serve at the pleasure of the  
46 governor from among the following: the public defender commission; private citizens; a private  
47 member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members  
48 shall be appointed by the supreme court, one from a metropolitan area and one from a rural area.  
49 All members shall be appointed to a four-year term. All members of the sentencing commission  
50 appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory  
51 commission at the pleasure of the governor.

52 (2) The commission shall study sentencing practices in the circuit courts throughout the  
53 state for the purpose of determining whether and to what extent disparities exist among the  
54 various circuit courts with respect to the length of sentences imposed and the use of probation  
55 for offenders convicted of the same or similar crimes and with similar criminal histories. The  
56 commission shall also study and examine whether and to what extent sentencing disparity among  
57 economic and social classes exists in relation to the sentence of death and if so, the reasons  
58 therefor sentences are comparable to other states, if the length of the sentence is appropriate, and  
59 the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw



60 conclusions, and perform other duties relevant to the research and investigation of disparities in  
61 death penalty sentencing among economic and social classes.

62 (3) [The commission shall establish a system of recommended sentences, within the  
63 statutory minimum and maximum sentences provided by law for each felony committed under  
64 the laws of this state. This system of recommended sentences shall be distributed to all  
65 sentencing courts within the state of Missouri. The recommended sentence for each crime shall  
66 take into account, but not be limited to, the following factors:

67 (a) The nature and severity of each offense;

68 (b) The record of prior offenses by the offender;

69 (c) The data gathered by the commission showing the duration and nature of sentences  
70 imposed for each crime; and

71 (d) The resources of the department of corrections and other authorities to carry out the  
72 punishments that are imposed.

73 (4) [The commission shall study alternative sentences, prison work programs, work  
74 release, home-based incarceration, probation and parole options, and any other programs and  
75 report the feasibility of these options in Missouri.

76 [(5) The commission shall publish and distribute its recommendations on or before July  
77 1, 2004. The commission shall study the implementation and use of the recommendations until  
78 July 1, 2005, and return a report to the governor, the speaker of the house of representatives, and  
79 the president pro tem of the senate. Following the July 1, 2005, report, the commission shall  
80 revise the recommended sentences every two years.

81 (6) (4) The governor shall select a chairperson who shall call meetings of the  
82 commission as required or permitted pursuant to the purpose of the sentencing commission.

83 [(7) (5) The members of the commission shall not receive compensation for their duties  
84 on the commission, but shall be reimbursed for actual and necessary expenses incurred in the  
85 performance of these duties and for which they are not reimbursed by reason of their other paid  
86 positions.

87 [(8) (6) The circuit and associate circuit courts of this state, the office of the state courts  
88 administrator, the department of public safety, and the department of corrections shall cooperate  
89 with the commission by providing information or access to information needed by the  
90 commission. The office of the state courts administrator will provide needed staffing resources.

91 7. Courts shall retain discretion to lower or exceed the sentence recommended by the  
92 commission as otherwise allowable by law, and to order restorative justice methods, when  
93 applicable.

94 8. If the imposition or execution of a sentence is suspended, the court may order any or  
95 all of the following restorative justice methods, or any other method that the court finds just or  
96 appropriate:

97 (1) Restitution to any victim or a statutorily created fund for costs incurred as a result  
98 of the offender's actions;

99 (2) Offender treatment programs;

- 100 (3) Mandatory community service;  
101 (4) Work release programs in local facilities; and  
102 (5) Community-based residential and nonresidential programs.

103 9. The provisions of this section shall apply only to offenses occurring on or after August  
104 28, 2003.

105 10. Pursuant to subdivision (1) of subsection 8 of this section, the court may order the  
106 assessment and payment of a designated amount of restitution to a county law enforcement  
107 restitution fund established by the county commission pursuant to section 50.565. Such  
108 contribution shall not exceed three hundred dollars for any charged offense. Any restitution  
109 moneys deposited into the county law enforcement restitution fund pursuant to this section shall  
110 only be expended pursuant to the provisions of section 50.565.

111 11. A judge may order payment to a restitution fund only if such fund had been created  
112 by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall  
113 not have any direct supervisory authority or administrative control over any fund to which the  
114 judge is ordering a defendant to make payment.

115 12. A defendant who fails to make a payment to a county law enforcement restitution  
116 fund may not have his or her probation revoked solely for failing to make such payment unless  
117 the judge, after evidentiary hearing, makes a finding supported by a preponderance of the  
118 evidence that the defendant either willfully refused to make the payment or that the defendant  
119 willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the  
120 resources to pay.

121 **13. Nothing in this section shall be construed to allow the sentencing advisory**  
122 **commission to issue recommended sentences in specific cases pending in the courts of this**  
123 **state.**

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. Such**  
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.

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