

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1256

96TH GENERAL ASSEMBLY

5067L.06P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 32.056, 56.807, 67.2010, 195.222, 195.223, 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, 488.2250, 488.5320, 513.430, 513.440, 537.345, 537.346, 537.528, 542.301, 558.019, 559.100, 559.105, 566.083, 566.151, 569.100, and 570.120, RSMo, and to enact in lieu thereof forty-two new sections relating to the judiciary, with penalty provisions.

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

Section A. Sections 32.056, 56.807, 67.2010, 195.222, 195.223, 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, 488.2250, 488.5320, 513.430, 513.440, 537.345, 537.346, 537.528, 542.301, 558.019, 559.100, 559.105, 566.083, 566.151, 569.100, and 570.120, RSMo, are repealed and forty-two new sections enacted in lieu thereof, to be known as sections 21.771, 32.056, 56.807, 67.136, 67.2010, 195.222, 195.223, 210.567, 211.031, 211.093, 211.177, 400.9-311, 452.374, 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, 488.2250, 488.5320, 488.5375, 513.430, 513.440, 537.345, 537.346, 537.351, 537.528, 542.301, 558.019, 559.100, 559.105, 566.083, 566.151, 569.100, and 570.120, to read as follows:

21.771. 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Child Abuse and Neglect" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member

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.

7 shall continue during the member's term of office as a member of the general assembly or
8 until a successor has been appointed to fill the member's place. No party shall be
9 represented by more than four members from the house of representatives nor more than
10 four members from the senate. A majority of the committee shall constitute a quorum, but
11 the concurrence of a majority of the members shall be required for the determination of
12 any matter within the committee's duties.

13 **2. The joint committee shall:**

14 (1) Make a continuing study and analysis of the state child abuse and neglect
15 reporting and investigation system;

16 (2) Devise a plan for improving the structured decisionmaking regarding the
17 removal of a child from a home;

18 (3) Determine the additional personnel and resources necessary to adequately
19 protect the children of this state and improve their welfare and the welfare of families;

20 (4) Address the need for additional foster care homes and to improve the quality
21 of care provided to abused and neglected children in the custody of the state;

22 (5) Determine from its study and analysis the need for changes in statutory law;
23 and

24 (6) Make any other recommendation to the general assembly necessary to provide
25 adequate protections for the children of our state.

26 **3. The joint committee shall meet within thirty days after its creation and organize**
27 **by selecting a chairperson and a vice chairperson, one of whom shall be a member of the**
28 **senate and the other a member of the house of representatives. The chairperson shall**
29 **alternate between members of the house and senate every two years after the committee's**
30 **organization.**

31 **4. The committee shall meet at least quarterly. The committee may meet at**
32 **locations other than Jefferson City when the committee deems it necessary.**

33 **5. The committee shall be staffed by legislative personnel as is deemed necessary**
34 **to assist the committee in the performance of its duties.**

35 **6. The members of the committee shall serve without compensation but shall be**
36 **entitled to reimbursement for actual and necessary expenses incurred in the performance**
37 **of their official duties.**

38 **7. It shall be the duty of the committee to compile a full report of its activities for**
39 **submission to the general assembly. The report shall be submitted not later than the**
40 **fifteenth of January of each year in which the general assembly convenes in regular session**
41 **and shall include any recommendations which the committee may have for legislative**
42 **action as well as any recommendations for administrative or procedural changes in the**
43 **internal management or organization of state or local government agencies and**
44 **departments. Copies of the report containing such recommendations shall be sent to the**

45 **appropriate directors of state or local government agencies or departments included in the**
46 **report.**

47 **8. The provisions of this section shall expire on January 15, 2018.**

32.056. The department of revenue shall not release the home address of or any [other]
2 information [contained in the department's motor vehicle or driver registration records regarding]
3 **that identifies any vehicle owned or leased by** any person who is a county, state or federal
4 parole officer [or who is] , a federal pretrial officer [or who is] , a peace officer pursuant to
5 section [590.100] **590.010, a person vested by Article V, Section 1 of the Missouri**
6 **Constitution with the judicial power of the state, a member of the federal judiciary,** or a
7 member of [the parole officer's, pretrial officer's or peace officer's] **such person's** immediate
8 family **contained in the department's motor vehicle or driver registration records,** based on
9 a specific request for such information from any person. Any **such** person [who is a county, state
10 or federal parole officer or who is a federal pretrial officer or who is a peace officer pursuant to
11 section 590.100] may notify the department of [such] **his or her** status and the department shall
12 protect the confidentiality of the **home address and vehicle** records on such a person and his or
13 her immediate family as required by this section. **If such member of the judiciary's status**
14 **changes and he or she and his or her immediate family do not qualify for the exemption**
15 **contained in this subsection, such person shall notify the department and the department's**
16 **records shall be revised.** This section shall not prohibit the department from releasing
17 information on a motor registration list pursuant to section 32.055 or from releasing information
18 on any officer who holds a class A, B or C commercial driver's license pursuant to the Motor
19 Carrier Safety Improvement Act of 1999, as amended, 49 U.S.C. 31309.

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

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

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

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

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

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

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

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

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

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

32 (3) For counties of the first classification, counties which pursuant to section 56.363
33 elect to make the position of prosecuting attorney a full-time position after August 28, 2001, or
34 whose county commission has elected a full-time retirement benefit pursuant to subsection 3 of
35 section 56.363, and the city of St. Louis, six hundred forty-six dollars.

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

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

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

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

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

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

**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.

195.222. 1. A person commits the crime of trafficking drugs in the first degree if, except
2 as authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces
3 or attempts to distribute, deliver, manufacture or produce more than thirty grams of a mixture

4 or substance containing a detectable amount of heroin. Violations of this subsection shall be
5 punished as follows:

6 (1) If the quantity involved is more than thirty grams but less than ninety grams the
7 person shall be sentenced to the authorized term of imprisonment for a class A felony;

8 (2) If the quantity involved is ninety grams or more the person shall be sentenced to the
9 authorized term of imprisonment for a class A felony which term shall be served without
10 probation or parole.

11 2. A person commits the crime of trafficking drugs in the first degree if, except as
12 authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or
13 attempts to distribute, deliver, manufacture or produce more than one hundred fifty grams of a
14 mixture or substance containing a detectable amount of coca leaves, except coca leaves and
15 extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts
16 have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers;
17 ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture,
18 or preparation which contains any quantity of any of the foregoing substances. Violations of this
19 subsection shall be punished as follows:

20 (1) If the quantity involved is more than one hundred fifty grams but less than four
21 hundred fifty grams the person shall be sentenced to the authorized term of imprisonment for a
22 class A felony;

23 (2) If the quantity involved is four hundred fifty grams or more the person shall be
24 sentenced to the authorized term of imprisonment for a class A felony which term shall be served
25 without probation or parole.

26 3. A person commits the crime of trafficking drugs in the first degree if, except as
27 authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or
28 attempts to distribute, deliver, manufacture or produce more than [two] **twenty eight** grams of
29 a mixture or substance described in subsection 2 of this section which contains cocaine base.
30 Violations of this subsection shall be punished as follows:

31 (1) If the quantity involved is more than [two] **twenty eight** grams but less than [six] **two**
32 **hundred eighty** grams the person shall be sentenced to the authorized term of imprisonment for
33 a class A felony;

34 (2) If the quantity involved is [six] **two hundred eighty** grams or more the person shall
35 be sentenced to the authorized term of imprisonment for a class A felony which term shall be
36 served without probation or parole.

37 4. A person commits the crime of trafficking drugs in the first degree if, except as
38 authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or
39 attempts to distribute, deliver, manufacture or produce more than five hundred milligrams of a

40 mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD).
41 Violations of this subsection shall be punished as follows:

42 (1) If the quantity involved is more than five hundred milligrams but less than one gram
43 the person shall be sentenced to the authorized term of imprisonment for a class A felony;

44 (2) If the quantity involved is one gram or more the person shall be sentenced to the
45 authorized term of imprisonment for a class A felony which term shall be served without
46 probation or parole.

47 5. A person commits the crime of trafficking drugs in the first degree if, except as
48 authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or
49 attempts to distribute, deliver, manufacture or produce more than thirty grams of a mixture or
50 substance containing a detectable amount of phencyclidine (PCP). Violations of this subsection
51 shall be punished as follows:

52 (1) If the quantity involved is more than thirty grams but less than ninety grams the
53 person shall be sentenced to the authorized term of imprisonment for a class A felony;

54 (2) If the quantity involved is ninety grams or more the person shall be sentenced to the
55 authorized term of imprisonment for a class A felony which term shall be served without
56 probation or parole.

57 6. A person commits the crime of trafficking drugs in the first degree if, except as
58 authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or
59 attempts to distribute, deliver, manufacture or produce more than four grams of phencyclidine.
60 Violations of this subsection shall be punished as follows:

61 (1) If the quantity involved is more than four grams but less than twelve grams the
62 person shall be sentenced to the authorized term of imprisonment for a class A felony;

63 (2) If the quantity involved is twelve grams or more the person shall be sentenced to the
64 authorized term of imprisonment for a class A felony which term shall be served without
65 probation or parole.

66 7. A person commits the crime of trafficking drugs in the first degree if, except as
67 authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or
68 attempts to distribute, deliver, manufacture or produce more than thirty kilograms of a mixture
69 or substance containing marijuana. Violations of this subsection shall be punished as follows:

70 (1) If the quantity involved is more than thirty kilograms but less than one hundred
71 kilograms the person shall be sentenced to the authorized term of imprisonment for a class A
72 felony;

73 (2) If the quantity involved is one hundred kilograms or more the person shall be
74 sentenced to the authorized term of imprisonment for a class A felony which term shall be served
75 without probation or parole.

76 8. A person commits the crime of trafficking drugs in the first degree if, except as
77 authorized by sections 195.005 to 195.425, he distributes, delivers, manufactures, produces or
78 attempts to distribute, deliver, manufacture or produce more than thirty grams of any material,
79 compound, mixture or preparation which contains any quantity of the following substances
80 having a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers
81 and salts of its optical isomers; methamphetamine, its salts, optical isomers and salts of its
82 optical isomers; phenmetrazine and its salts; or methylphenidate. Violations of this subsection
83 or attempts to violate this subsection shall be punished as follows:

84 (1) If the quantity involved is more than thirty grams but less than ninety grams the
85 person shall be sentenced to the authorized term of imprisonment for a class A felony;

86 (2) If the quantity involved is ninety grams or more, or if the quantity involved was thirty
87 grams or more and the location of the offense was within two thousand feet of a school or public
88 housing as defined in section 195.214 or section 195.218 or within a motor vehicle, or any
89 structure or building which contains rooms furnished for the accommodation or lodging of
90 guests, and kept, used, maintained, advertised, or held out to the public as a place where sleeping
91 accommodations are sought for pay or compensation to transient guests or permanent guests, the
92 person shall be sentenced to the authorized term of imprisonment for a class A felony which term
93 shall be served without probation or parole.

94 9. A person commits the crime of trafficking drugs in the first degree if, except as
95 authorized by sections 195.005 to 195.425, he or she distributes, delivers, manufactures,
96 produces or attempts to distribute, deliver, manufacture or produce more than thirty grams of any
97 material, compound, mixture or preparation which contains any quantity of
98 3,4-methylenedioxymethamphetamine. Violations of this subsection or attempts to violate this
99 subsection shall be punished as follows:

100 (1) If the quantity involved is more than thirty grams but less than ninety grams the
101 person shall be sentenced to the authorized term of imprisonment for a class A felony;

102 (2) If the quantity involved is ninety grams or more, or if the quantity involved was thirty
103 grams or more and the location of the offense was within two thousand feet of a school or public
104 housing as defined in section 195.214 or section 195.218 or within a motor vehicle, or any
105 structure or building which contains rooms furnished for the accommodation or lodging of
106 guests, and kept, used, maintained, advertised, or held out to the public as a place where sleeping
107 accommodations are sought for pay or compensation to transient guests or permanent guests, the
108 person shall be sentenced to the authorized term of imprisonment for a class A felony which term
109 shall be served without probation or parole.

195.223. 1. A person commits the crime of trafficking drugs in the second degree if,
2 except as authorized by sections 195.005 to 195.425, he possesses or has under his control,
3 purchases or attempts to purchase, or brings into this state more than thirty grams of a mixture

4 or substance containing a detectable amount of heroin. Violations of this subsection shall be
5 punished as follows:

6 (1) If the quantity involved is more than thirty grams but less than ninety grams the
7 person shall be guilty of a class B felony;

8 (2) If the quantity involved is ninety grams or more the person shall be guilty of a class
9 A felony.

10 2. A person commits the crime of trafficking drugs in the second degree if, except as
11 authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or
12 attempts to purchase, or brings into this state more than one hundred fifty grams of a mixture or
13 substance containing a detectable amount of coca leaves, except coca leaves and extracts of coca
14 leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been
15 removed; cocaine salts and their optical and geometric isomers, and salts of isomers; ecgonine,
16 its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or
17 preparation which contains any quantity of any of the foregoing substances. Violations of this
18 subsection shall be punished as follows:

19 (1) If the quantity involved is more than one hundred fifty grams but less than four
20 hundred fifty grams the person shall be guilty of a class B felony;

21 (2) If the quantity involved is four hundred fifty grams or more the person shall be guilty
22 of a class A felony.

23 3. A person commits the crime of trafficking drugs in the second degree if, except as
24 authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or
25 attempts to purchase, or brings into this state more than [two] **twenty eight** grams of a mixture
26 or substance described in subsection 2 of this section which contains cocaine base. Violations
27 of this subsection shall be punished as follows:

28 (1) If the quantity involved is more than [two] **twenty eight** grams but less than [six] **two**
29 **hundred eighty** grams the person shall be guilty of a class B felony;

30 (2) If the quantity involved is [six] **two hundred eighty** grams or more the person shall
31 be guilty of a class A felony.

32 4. A person commits the crime of trafficking drugs in the second degree if, except as
33 authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or
34 attempts to purchase, or brings into this state more than five hundred milligrams of a mixture or
35 substance containing a detectable amount of lysergic acid diethylamide (LSD). Violations of this
36 subsection shall be punished as follows:

37 (1) If the quantity involved is more than five hundred milligrams but less than one gram
38 the person shall be guilty of a class B felony;

39 (2) If the quantity involved is one gram or more the person shall be guilty of a class A
40 felony.

41 5. A person commits the crime of trafficking drugs in the second degree if, except as
42 authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or
43 attempts to purchase, or brings into this state more than thirty grams of a mixture or substance
44 containing a detectable amount of phencyclidine (PCP). Violations of this subsection shall be
45 punished as follows:

46 (1) If the quantity involved is more than thirty grams but less than ninety grams the
47 person shall be guilty of a class B felony;

48 (2) If the quantity involved is ninety grams or more the person shall be guilty of a class
49 A felony.

50 6. A person commits the crime of trafficking drugs in the second degree if, except as
51 authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or
52 attempts to purchase, or brings into this state more than four grams of phencyclidine. Violations
53 of this subsection shall be punished as follows:

54 (1) If the quantity involved is more than four grams but less than twelve grams the
55 person shall be guilty of a class B felony;

56 (2) If the quantity involved is twelve grams or more the person shall be guilty of a class
57 A felony.

58 7. A person commits the crime of trafficking drugs in the second degree if, except as
59 authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or
60 attempts to purchase, or brings into this state more than thirty kilograms or more of a mixture
61 or substance containing marijuana. Violations of this subsection shall be punished as follows:

62 (1) If the quantity involved is more than thirty kilograms but less than one hundred
63 kilograms the person shall be guilty of a class B felony;

64 (2) If the quantity involved is one hundred kilograms or more the person shall be guilty
65 of a class A felony.

66 8. A person commits the class A felony of trafficking drugs in the second degree if,
67 except as authorized by sections 195.005 to 195.425, he possesses or has under his control,
68 purchases or attempts to purchase, or brings into this state more than five hundred marijuana
69 plants.

70 9. A person commits the crime of trafficking drugs in the second degree if, except as
71 authorized by sections 195.005 to 195.425, he possesses or has under his control, purchases or
72 attempts to purchase, or brings into this state more than thirty grams of any material, compound,
73 mixture or preparation which contains any quantity of the following substances having a
74 stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts
75 of its optical isomers; methamphetamine, its salts, isomers and salts of its isomers;

76 phenmetrazine and its salts; or methylphenidate. Violations of this subsection or attempts to
77 violate this subsection shall be punished as follows:

78 (1) If the quantity involved is more than thirty grams but less than ninety grams the
79 person shall be guilty of a class B felony;

80 (2) If the quantity involved is ninety grams or more but less than four hundred fifty
81 grams, the person shall be guilty of a class A felony;

82 (3) If the quantity involved is four hundred fifty grams or more, the person shall be guilty
83 of a class A felony and the term of imprisonment shall be served without probation or parole.

84 10. A person commits the crime of trafficking drugs in the second degree if, except as
85 authorized by sections 195.005 to 195.425, he or she possesses or has under his or her control,
86 purchases or attempts to purchase, or brings into this state more than thirty grams of any
87 material, compound, mixture or preparation which contains any quantity of
88 3,4-methylenedioxymethamphetamine. Violations of this subsection or attempts to violate this
89 subsection shall be punished as follows:

90 (1) If the quantity involved is more than thirty grams but less than ninety grams the
91 person shall be guilty of a class B felony;

92 (2) If the quantity involved is ninety grams or more but less than four hundred fifty
93 grams, the person shall be guilty of a class A felony;

94 (3) If the quantity involved is four hundred fifty grams or more, the person shall be guilty
95 of a class A felony and the term of imprisonment shall be served without probation or parole.

**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, nor shall it contain any information that**
29 **is otherwise closed, confidential, or privileged. In the event of serious injury, death, or**
30 **criminal incident involving a foster child, all records, including the address of the foster**
31 **home, any complaints made by any person since custodial care of the child began, or**
32 **relating to personal information of any person obtained in the process of licensing a foster**
33 **home, shall be considered public records, except the records that are otherwise**
34 **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 grant reasonable visitation rights to the grandparents of the child and issue any necessary orders to enforce the decree. The court may grant grandparent visitation when:

(1) The parents of the child have filed for a dissolution of their marriage. A grandparent shall have the right to intervene in any dissolution action solely on the issue of visitation rights. Grandparents shall also have the right to file a motion to modify the original decree of dissolution to seek visitation rights when visitation has been denied to them; or

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

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

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

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

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

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

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

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

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 such approval shall be given or withheld as the welfare of the person sought to be adopted may, 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. If a trust protector is granted a power in the trust instrument to direct, consent**
90 **to, or disapprove a trustee's actual or proposed investment decision, distribution decision,**
91 **or other decision of the trustee required to be performed under applicable trust law in**
92 **carrying out the duties of the trustee in administering the trust, then only with respect to**
93 **such power, excluding the powers identified in subsection 3 of this section, the trust**

94 protector shall have the same duties and liabilities as if serving as a trustee under the trust
95 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 Automation Fund". All moneys collected pursuant to section 488.027, as well as gifts, contributions, devises, bequests, and grants received relating to automation of judicial record keeping, and moneys received by the judicial system for the dissemination of information and sales of publications developed relating to automation of judicial record keeping, shall be credited to the fund. Moneys credited to this fund may only be used for the purposes set forth in this section and as appropriated by the general assembly. Any unexpended balance remaining in the statewide court automation fund at the end of each biennium shall not be subject to the provisions of section 33.080 requiring the transfer of such unexpended balance to general revenue; except that, any unexpended balance remaining in the fund on September 1, 2013, shall be transferred to general revenue.

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

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

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

5. The court automation committee shall not require any circuit court to change any operating system in such court, unless the committee provides all necessary personnel, funds and equipment necessary to effectuate the required changes. No judicial circuit or county may be reimbursed for any costs incurred pursuant to this subsection unless such judicial circuit or 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.

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

 488.2250. For all transcripts of testimony given or proceedings had in any circuit court
2 **in cases where an appeal is taken**, the court reporter shall receive the sum of [two dollars]
3 **three dollars and fifty cents** per twenty-five-line page for the original **and up to three copies**
4 of the transcript, and the sum of [thirty-five cents] **fifty cents** per twenty-five-line page for each
5 [carbon] **additional** copy thereof; the page to be approximately eight and one-half inches by
6 eleven inches in size, with left-hand margin of approximately one and one-half inches and the
7 right-hand margin of approximately one-half inch; answer to follow question on same line when
8 feasible; such page to be designated as a legal page. Any judge, in his or her discretion, may
9 order a transcript of all or any part of the evidence or oral proceedings, and the court reporter's
10 fees for making the same shall be paid by the state upon a voucher approved by the court, and
11 taxed against the state. In criminal cases where an appeal is taken by the defendant, and it
12 appears to the satisfaction of the court that the defendant is unable to pay the costs of the
13 transcript for the purpose of perfecting the appeal, the court shall order the court reporter to
14 furnish three **paper or electronic** transcripts in duplication of the notes of the evidence, for the
15 original **and up to three copies of the transcript** [of which] the court reporter shall receive **the**
16 **sum of two dollars and sixty cents** per legal page [and for the copies] **and the sum of** twenty
17 cents per page **for each additional copy thereof**. The payment of court reporter's fees provided
18 in this section shall be made by the state upon a voucher approved by the court. **An electronic**
19 **version of all transcripts mentioned herein shall be provided. All copies shall be provided**
20 **by a Court Reporter certified by the Missouri Supreme Court.**

 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.**

488.5375. Upon a plea of guilty or a finding of guilt for a felony sexual offense in
2 **which computers, computer equipment, computer devices, cellular telephones, or other**
3 **electronic devices were seized, the court may, in addition to imposition of any penalties**
4 **provided by law, order the defendant to reimburse the state or local law enforcement**
5 **agency for the costs incurred by such agency in the examination of any computer,**
6 **computer equipment, computer devices, cellular telephones, or other electronic devices**
7 **seized. Such costs shall include the reasonable costs of performing examinations of the**
8 **seized electronic devices. Each law enforcement agency may establish a schedule of such**
9 **costs; except that, the court may order the costs reduced if the court determines that the**
10 **costs are excessive.**

 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.**

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

10 2. If the rights afforded by this section are raised as an affirmative defense and if a court
11 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.

542.301. 1. Property which comes into the custody of an officer or of a court as the
2 result of any seizure and which has not been forfeited pursuant to any other provisions of law or
3 returned to the claimant shall be disposed of as follows:

4 (1) Stolen property, or property acquired in any other manner declared an offense by
5 chapters 569 and 570, but not including any of the property referred to in subdivision (2) of this
6 subsection, shall be delivered by order of court upon claim having been made and established,
7 to the person who is entitled to possession:

8 (a) The claim shall be made by written motion filed with the court with which a motion
9 to suppress has been, or may be, filed. The claim shall be barred if not made within one year
10 from the date of the seizure;

11 (b) Upon the filing of such motion, the judge shall order notice to be given to all persons
12 interested in the property, including other claimants and the person from whose possession the
13 property was seized, of the time, place and nature of the hearing to be held on the motion. The
14 notice shall be given in a manner reasonably calculated to reach the attention of all interested
15 persons. Notice may be given to unknown persons and to persons whose address is unknown
16 by publication in a newspaper of general circulation in the county. No property shall be
17 delivered to any claimant unless all interested persons have been given a reasonable opportunity
18 to appear and to be heard;

19 (c) After a hearing, the judge shall order the property delivered to the person or persons
20 entitled to possession, if any. The judge may direct that delivery of property required as evidence
21 in a criminal proceeding shall be postponed until the need no longer exists;

22 (d) A law enforcement officer having custody of seized property may, at any time that
23 seized property has ceased to be useful as evidence, request that the prosecuting attorney of the
24 county in which property was seized file a motion with the court of such county for the
25 disposition of the seized property. If the prosecuting attorney does not file such motion within
26 sixty days of the request by the law enforcement officer having custody of the seized property,
27 then such officer may request that the attorney general file a written motion with the circuit court
28 of the county or judicial district in which the seizure occurred. Upon filing of the motion, the
29 court shall issue an order directing the disposition of the property. Such disposition may, if the
30 property is not claimed within one year from the date of the seizure or if no one establishes a
31 right to it, and the seized property has ceased to be useful as evidence, include a public sale of
32 the property. Pursuant to a motion properly filed and granted under this section, the proceeds
33 of any sale, less necessary expenses of preservation and sale, shall be paid into the county
34 treasury for the use of the county. If the property is not salable, the judge may order its
35 destruction. Notwithstanding any other provision of law, if no claim is filed within one year of
36 the seizure and no motion pursuant to this section is filed within six months thereafter, and the
37 seized property has ceased to be useful as evidence, the property shall be deemed abandoned,
38 converted to cash and shall be turned over immediately to the treasurer pursuant to section
39 447.543;

40 (e) If the property is a living animal or is perishable, the judge may, at any time, order
41 it sold at public sale. The proceeds shall be held in lieu of the property. A written description
42 of the property sold shall be filed with the judge making the order of sale so that the claimant
43 may identify the property. If the proceeds are not claimed within the time limited for the claim
44 of the property, the proceeds shall be paid into the county treasury. If the property is not salable,
45 the judge may order its destruction.

46 (2) Weapons, tools, devices, **computers, computer equipment, computer software,**
47 **computer hardware, cellular telephones, or other devices capable of accessing the internet,**
48 and substances other than motor vehicles, aircraft or watercraft, used by the owner or with the
49 owner's consent as a means for committing felonies other than the offense of possessing burglary
50 tools in violation of section 569.180, and property, the possession of which is an offense under
51 the laws of this state or which has been used by the owner, or used with the owner's acquiescence
52 or consent, as a raw material or as an instrument to manufacture [or] , produce, **or distribute,**
53 **or be used as a means of storage of** anything the possession of which is an offense under the
54 laws of this state, or which any statute authorizes or directs to be seized, other than lawfully

55 possessed weapons seized by an officer incident to an arrest, shall be forfeited to the state of
56 Missouri.

57 2. The officer who has custody of the property shall inform the prosecuting attorney of
58 the fact of seizure and of the nature of the property. The prosecuting attorney shall thereupon
59 file a written motion with the court with which the motion to suppress has been, or may be, filed
60 praying for an order directing the forfeiture of the property. If the prosecuting attorney of a
61 county in which property is seized fails to file a motion with the court for the disposition of the
62 seized property within sixty days of the request by a law enforcement officer, the officer having
63 custody of the seized property may request the attorney general to file a written motion with the
64 circuit court of the county or judicial district in which the seizure occurred. Upon filing of the
65 motion, the court shall issue an order directing the disposition of the property. The signed
66 motion shall be returned to the requesting agency. A motion may also be filed by any person
67 claiming the right to possession of the property praying that the court declare the property not
68 subject to forfeiture and order it delivered to the moving party.

69 3. Upon the filing of a motion either by the prosecuting attorney or by a claimant, the
70 judge shall order notice to be given to all persons interested in the property, including the person
71 out of whose possession the property was seized and any lienors, of the time, place and nature
72 of the hearing to be held on the motion. The notice shall be given in a manner reasonably
73 calculated to reach the attention of all interested persons. Notice may be given to unknown
74 persons and to persons of unknown address by publication in a newspaper of general circulation
75 in the county. Every interested person shall be given a reasonable opportunity to appear and to
76 be heard as to the nature of the person's claim to the property and upon the issue of whether or
77 not it is subject to forfeiture.

78 4. If the evidence is clear and convincing that the property in issue is in fact of a kind
79 subject to forfeiture under this subsection, the judge shall declare it forfeited and order its
80 destruction or sale. The judge shall direct that the destruction or sale of property needed as
81 evidence in a criminal proceeding shall be postponed until this need no longer exists.

82 5. If the forfeited property can be put to a lawful use, it may be ordered sold after any
83 alterations which are necessary to adapt it to a lawful use have been made. **In the case of**
84 **computers, computer equipment, computer software, computer hardware, cellular**
85 **telephones, or other devices capable of accessing the internet, or other devices used in the**
86 **acquisition, possession, or distribution of child pornography or obscene material, the law**
87 **enforcement agency in possession of such items may, upon court order, retain possession**
88 **of such property and convert such property to the use of the law enforcement agency for**
89 **use in criminal investigations.** If there is a holder of a bona fide lien against property which
90 has been used as a means for committing an offense or which has been used as a raw material

91 or as an instrument to manufacture or produce anything which is an offense to possess, who
92 establishes that the use was without the lienholder's acquiescence or consent, the proceeds, less
93 necessary expenses of preservation and sale, shall be paid to the lienholder to the amount of the
94 lienholder's lien. The remaining amount shall be paid into the county treasury.

95 6. If the property is perishable the judge may order it sold at a public sale or destroyed,
96 as may be appropriate, prior to a hearing. The proceeds of a sale, less necessary expenses of
97 preservation and sale, shall be held in lieu of the property.

98 7. When a warrant has been issued to search for and seize allegedly obscene matter for
99 forfeiture to the state, after an adversary hearing, the judge, upon return of the warrant with the
100 matter seized, shall give notice of the fact to the prosecuting attorney of the county in which the
101 matter was seized and the dealer, exhibitor or displayer and shall conduct further adversary
102 proceedings to determine whether the matter is subject to forfeiture. If the evidence is clear and
103 convincing that the matter is obscene as defined by law and it was being held or displayed for
104 sale, exhibition, distribution or circulation to the public, the judge shall declare it to be obscene
105 and forfeited to the state and order its destruction or other disposition; except that, no forfeiture
106 shall be declared without the dealer, distributor or displayer being given a reasonable opportunity
107 to appear in opposition and without the judge having thoroughly examined each item. If the
108 material to be seized is the same as or another copy of matter that has already been determined
109 to be obscene in a criminal proceeding against the dealer, exhibitor, displayer or such person's
110 agent, the determination of obscenity in the criminal proceeding shall constitute clear and
111 convincing evidence that the matter to be forfeited pursuant to this subsection is obscene. Except
112 when the dealer, exhibitor or displayer consents to a longer period, or by such person's actions
113 or pleadings willfully prevents the prompt resolution of the hearing, judgment shall be rendered
114 within ten days of the return of the warrant. If the matter is not found to be obscene or is not
115 found to have been held or displayed for sale, exhibition or distribution to the public, or a
116 judgment is not entered within the time provided for, the matter shall be restored forthwith to the
117 dealer, exhibitor or displayer.

118 8. If an appeal is taken by the dealer, exhibitor or displayer from an adverse judgment,
119 the case should be assigned for hearing at the earliest practicable date and expedited in every
120 way. Destruction or disposition of a matter declared forfeited shall be postponed until the
121 judgment has become final by exhaustion of appeal, or by expiration of the time for appeal, and
122 until the matter is no longer needed as evidence in a criminal proceeding.

123 9. A determination of obscenity, pursuant to this subsection, shall not be admissible in
124 any criminal proceeding against any person or corporation for sale or possession of obscene
125 matter; except that dealer, distributor or displayer from which the obscene matter was seized for
126 forfeiture to the state.

127 10. When allegedly obscene matter or pornographic material for minors has been seized
128 under a search warrant issued pursuant to subsection 2 of section 542.281 and the matter is no
129 longer needed as evidence in a criminal proceeding the prosecuting attorney of the county in
130 which the matter was seized may file a written motion with the circuit court of the county or
131 judicial district in which the seizure occurred praying for an order directing the forfeiture of the
132 matter. Upon filing of the motion, the court shall set a date for a hearing. Written notice of date,
133 time, place and nature of the hearing shall be personally served upon the owner, dealer, exhibitor,
134 displayer or such person's agent. Such notice shall be served no less than five days before the
135 hearing.

136 11. If the evidence is clear and convincing that the matter is obscene as defined by law,
137 and that the obscene material was being held or displayed for sale, exhibition, distribution or
138 circulation to the public or that the matter is pornographic for minors and that the pornographic
139 material was being held or displayed for sale, exhibition, distribution or circulation to minors,
140 the judge shall declare it to be obscene or pornographic for minors and forfeited to the state and
141 order its destruction or other disposition. A determination that the matter is obscene in a
142 criminal proceeding as well as a determination that such obscene material was held or displayed
143 for sale, exhibition, distribution or circulation to the public or a determination that the matter is
144 pornographic for minors in a criminal proceeding as well as a determination that such
145 pornographic material was held or displayed for sale, exhibition, distribution or circulation to
146 minors shall be clear and convincing evidence that such material should be forfeited to the state;
147 except that, no forfeiture shall be declared without the dealer, distributor or displayer being given
148 a reasonable opportunity to appear in opposition and without a judge having thoroughly
149 examined each item. A dealer, distributor or displayer shall have had reasonable opportunity to
150 appear in opposition if the matter the prosecutor seeks to destroy is the same matter that formed
151 the basis of a criminal proceeding against the dealer, distributor or displayer where the dealer,
152 distributor or displayer has been charged and found guilty of holding or displaying for sale,
153 exhibiting, distributing or circulating obscene material to the public or pornographic material for
154 minors to minors. If the matter is not found to be obscene, or if obscene material is not found
155 to have been held or displayed for sale, exhibition, distribution or circulation to the public, or if
156 the matter is not found to be pornographic for minors or if pornographic material is not found
157 to have been held or displayed for sale, exhibition, distribution or circulation to minors, the
158 matter shall be restored forthwith to the dealer, exhibitor or displayer.

159 12. If an appeal is taken by the dealer, exhibitor or displayer from an adverse judgment,
160 the case shall be assigned for hearing at the earliest practicable date and expedited in every way.
161 Destruction or disposition of matter declared forfeited shall be postponed until the judgment has
162 become final by exhaustion of appeal, or by expiration of the time for appeal, and until the matter
163 is no longer needed as evidence in a criminal proceeding.

164 13. A determination of obscenity shall not be admissible in any criminal proceeding
165 against any person or corporation for sale or possession of obscene matter.

166 14. An appeal by any party shall be allowed from the judgment of the court as in other
167 civil actions.

168 15. All other property still in the custody of an officer or of a court as the result of any
169 seizure and which has not been forfeited pursuant to this section or any other provision of law
170 after three years following the seizure and which has ceased to be useful as evidence shall be
171 deemed abandoned, converted to cash and shall be turned over immediately to the treasurer
172 pursuant to section 447.543.

173 16. In fiscal year 2003, the commissioner of administration shall estimate the amount
174 of any additional state revenue received pursuant to this section and section 447.532, shall
175 transfer an equivalent amount of general revenue to the schools of the future fund created in
176 section 163.005.

 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.**

566.083. 1. A person commits the crime of sexual misconduct involving a child if [the]
2 **such** person:

3 (1) Knowingly exposes his or her genitals to a child less than fifteen years of age under
4 circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm
5 to the child;

6 (2) Knowingly exposes his or her genitals to a child less than fifteen years of age for the
7 purpose of arousing or gratifying the sexual desire of any person, including the child; [or]

8 (3) Knowingly coerces or induces a child less than fifteen years of age to expose the
9 child's genitals for the purpose of arousing or gratifying the sexual desire of any person,
10 including the child; **or**

11 **(4) Knowingly coerces or induces a child who is known by such person to be less**
12 **than fifteen years of age to expose the breasts of a female child through the Internet or**
13 **other electronic means for the purpose of arousing or gratifying the sexual desire of any**
14 **person, including the child.**

15 2. The provisions of this section shall apply regardless of whether the person violates
16 [the] **this** section in person or via the Internet or other electronic means.

17 3. It is not an affirmative defense to prosecution for a violation of this section that the
18 other person was a peace officer masquerading as a minor.

19 4. Sexual misconduct involving a child or attempted sexual misconduct involving a child
20 is a class D felony unless the actor has previously pleaded guilty to or been found guilty of an
21 offense pursuant to this chapter or the actor has previously pleaded guilty to or has been
22 convicted of an offense against the laws of another state or jurisdiction which would constitute
23 an offense under this chapter, in which case it is a class C felony.

566.151. 1. A person at least twenty-one years of age or older commits the crime of
2 enticement of a child **in the first degree** if that person persuades, solicits, coaxes, entices, or
3 lures whether by words, actions or through communication via the Internet or any electronic
4 communication, any person who is less than fifteen years of age for the purpose of engaging in
5 sexual conduct.

6 2. It is not an affirmative defense to a prosecution for a violation of this section that the
7 other person was a peace officer masquerading as a minor.

8 3. Enticement of a child or an attempt to commit enticement of a child **in the first**
9 **degree** is a felony for which the authorized term of imprisonment shall be not less than five years
10 and not more than thirty years. No person convicted under this section shall be eligible for
11 parole, probation, conditional release, or suspended imposition or execution of sentence for a
12 period of five calendar years.

 569.100. 1. A person commits the crime of property damage in the first degree if **such**
2 **person:**

3 (1) [He] Knowingly damages property of another to an extent exceeding seven hundred
4 and fifty dollars; or

5 (2) [He] Damages property to an extent exceeding one thousand dollars for the purpose
6 of defrauding an insurer; or

7 **_____ (3) Knowingly damages a motor vehicle of another and the damage occurs while**
8 **such person is making entry into the motor vehicle for the purpose of committing the crime**
9 **of stealing therein or the damage occurs while such person is committing the crime of**
10 **stealing within the motor vehicle.**

11 2. Property damage in the first degree **committed under subdivision (1) or (2) of**
12 **subsection 1 of this section** is a class D felony. **Property damage in the first degree**
13 **committed under subdivision (3) of subsection 1 of this section is a class C felony unless**
14 **committed as a second or subsequent violation of subdivision (3) of subsection 1 of this**
15 **section in which case it is a class B felony.**

 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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