

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

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FOR

SENATE BILL NO. 230

AN ACT

To repeal sections 209.625, 472.010, 475.035, 475.115, 476.001, 508.010, and 600.042, RSMo, and to enact in lieu thereof seven new sections relating to judicial proceedings.

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

1           Section A. Sections 209.625, 472.010, 475.035, 475.115,  
2 476.001, 508.010, and 600.042, RSMo, are repealed and seven new  
3 sections enacted in lieu thereof, to be known as sections  
4 209.625, 472.010, 475.035, 475.115, 476.001, 508.010, and  
5 600.042, to read as follows:

6           209.625. 1. Notwithstanding any law to the contrary, the  
7 assets of the ABLE program held by the board and the assets of  
8 any ABLE account and any income therefrom shall be exempt from  
9 all taxation by the state or any of its political subdivisions.  
10 Income earned or received from an ABLE account or deposit shall  
11 not be subject to state income tax imposed pursuant to chapter  
12 143. The exemption from taxation pursuant to this section shall  
13 apply only to assets and income maintained, accrued, or expended

1 pursuant to the requirements of the ABLE program established  
2 pursuant to sections 209.600 to 209.645, and no exemption shall  
3 apply to assets and income expended for any other purposes.  
4 Annual contributions made to the ABLE program held by the board  
5 up to and including eight thousand dollars per participating  
6 taxpayer, and up to sixteen thousand dollars for married  
7 individuals filing a joint tax return, shall be subtracted in  
8 determining Missouri adjusted gross income pursuant to section  
9 143.121.

10 2. If any deductible contributions to or earnings from any  
11 such program referred to in this section are distributed and not  
12 used to pay qualified disability expenses or are not held for the  
13 minimum length of time established by the appropriate Missouri  
14 board, the amount so distributed shall be added to the Missouri  
15 adjusted gross income of the participant, or, if the participant  
16 is not living, the designated beneficiary.

17 3. The provisions of this section shall apply to tax years  
18 beginning on or after January 1, 2015.

19 4. The assets held in an ABLE account under sections  
20 209.600 to 209.645 shall not be considered the property of a  
21 conservatorship estate established under chapter 475.

22 5. The provisions of subsection 4 of this section shall not  
23 apply to ABLE accounts in the charge and custody of a public  
24 administrator.

25 472.010. When used in this code, unless otherwise apparent  
26 from the context:

27 (1) "Administrator" includes any administrator de bonis  
28 non, administrator cum testamento annexo, administrator ad litem

1 and administrator during absence or minority;

2 (2) "Child" includes an adopted child and a child born out  
3 of wedlock, but does not include a grandchild or other more  
4 remote descendants;

5 (3) "Claims" include liabilities of the decedent which  
6 survive whether arising in contract, tort or otherwise, funeral  
7 expenses, the expense of a tombstone, and costs and expenses of  
8 administration;

9 (4) "Clerk" means clerk of the probate division of the  
10 circuit court;

11 (5) "Code" or "probate code" means chapters 472, 473, 474  
12 and 475;

13 (6) "Court" or "probate court" means the probate division  
14 of the circuit court;

15 (7) "Devise", when used as a noun, means a testamentary  
16 disposition of real or personal property or both; when used as a  
17 verb it means to dispose of real or personal property or both by  
18 will;

19 (8) "Devisee" includes legatee;

20 (9) "Distributee" denotes those persons who are entitled to  
21 the real and personal property of a decedent under his will,  
22 under the statutes of intestate succession or who take as  
23 surviving spouse under section 474.160, upon election to take  
24 against the will;

25 (10) "Domicile" means the place in which a person has  
26 voluntarily fixed his abode, not for a mere special or temporary  
27 purpose, but with a present intention of remaining there  
28 permanently or for an indefinite time;

1           (11) "Estate" means the real and personal property of the  
2 decedent or ward, as from time to time changed in form by sale,  
3 reinvestment or otherwise, and augmented by any accretions and  
4 additions thereto and substitutions therefor, and diminished by  
5 any decreases and distributions therefrom. Under the provisions  
6 of subsections 4 and 5 of section 209.625, assets held in an ABLE  
7 account established under sections 209.600 to 209.645 shall not  
8 be considered the property of the designated beneficiary of said  
9 account for purposes of this subdivision when applied in chapter  
10 475, unless the estate is in the charge and custody of a public  
11 administrator;

12           (12) "Exempt property" means that property of a decedent's  
13 estate which is not subject to be applied to the payment of  
14 claims, charges, legacies or bequests as described in section  
15 474.250;

16           (13) "Fiduciary" includes executor, administrator,  
17 guardian, conservator, and trustee;

18           (14) "Heirs" means those persons, including the surviving  
19 spouse, who are entitled under the statutes of intestate  
20 succession to the real and personal property of a decedent on his  
21 death intestate;

22           (15) "Interested persons" mean heirs, devisees, spouses,  
23 creditors or any others having a property right or claim against  
24 the estate of a decedent being administered and includes children  
25 of a protectee who may have a property right or claim against or  
26 an interest in the estate of a protectee. This meaning may vary  
27 at different stages and different parts of a proceeding and must  
28 be determined according to the particular purpose and matter

1 involved;

2 (16) "Issue" of a person, when used to refer to persons who  
3 take by intestate succession, includes adopted children and all  
4 lawful lineal descendants, except those who are the lineal  
5 descendants of living lineal descendants of the intestate;

6 (17) "Lease" includes an oil and gas lease or other mineral  
7 lease, but does not include month-to-month or year-to-year  
8 tenancies under oral contracts;

9 (18) "Legacy" means a testamentary disposition of personal  
10 property;

11 (19) "Legatee" means a person entitled to personal property  
12 under a will;

13 (20) "Letters" include letters testamentary, letters of  
14 administration and letters of guardianship;

15 (21) "Lien" includes all liens except general judgment,  
16 execution and attachment liens;

17 (22) "Lineal descendants" include adopted children and  
18 their descendants;

19 (23) "Mortgage" includes deed of trust, vendor's lien and  
20 chattel mortgage;

21 (24) "Person" includes natural persons and corporations;

22 (25) "Personal property" includes interests in goods,  
23 money, choses in action, evidences of debt, shares of corporate  
24 stock, and chattels real;

25 (26) "Personal representative" means executor or  
26 administrator. It includes an administrator with the will  
27 annexed, an administrator de bonis non, an administrator pending  
28 contest, an administrator during minority or absence, and any

1 other type of administrator of the estate of a decedent whose  
2 appointment is permitted. It does not include an executor de son  
3 tort;

4 (27) "Property" includes both real and personal property;

5 (28) "Real property" includes estates and interests in  
6 land, corporeal or incorporeal, legal or equitable, other than  
7 chattels real;

8 (29) "Registered mail" includes "certified mail" as defined  
9 and certified under regulations of the United States Postal  
10 Service;

11 (30) "Will" includes codicil; it also includes a  
12 testamentary instrument which merely appoints an executor and a  
13 testamentary instrument which merely revokes or revives another  
14 will.

15 475.035. 1. The venue for the appointment of a guardian or  
16 conservator shall be:

17 (1) In the county in this state where the minor or alleged  
18 incapacitated or disabled person is domiciled. Domicile for a  
19 minor is the domicile of the custodial parent, custodial parents,  
20 or guardian. Placement by a court, fiduciary, or agency for  
21 evaluation, treatment, or residential care shall not constitute a  
22 choice of domicile by the minor or alleged incapacitated or  
23 disabled person; however, for the purpose of determining  
24 domicile, the court may consider the desire or intent of the  
25 alleged incapacitated or disabled person to the extent he or she  
26 has capacity; or

27 (2) If the minor or alleged incapacitated or disabled  
28 person has no domicile in this state, then in the county in which

1 the minor or alleged incapacitated or disabled person [actually  
2 resides, or if he or she does not reside in any county, then in  
3 any county wherein there is any property of the minor or alleged  
4 incapacitated or disabled person; or

5 (3) In the county, or on any federal reservation within the  
6 county, wherein the minor or alleged incapacitated or disabled  
7 person or his or her property is found; or

8 (4) In a county of this state which is within a judicial  
9 circuit which has prior and continuing jurisdiction over the  
10 minor pursuant to subdivision (1) of subsection 1 of section  
11 211.031] has a significant connection. In determining under this  
12 section whether a minor or alleged incapacitated or disabled  
13 person has a significant connection, the court shall consider:

14 (a) Whether a juvenile, criminal, or probate court in a  
15 county of this state has previously or currently assumed  
16 jurisdiction over the minor or alleged incapacitated or disabled  
17 person under chapter 211 or 552;

18 (b) The location of the minor's or alleged incapacitated or  
19 disabled person's family and other persons required to be  
20 notified of the guardianship or conservatorship;

21 (c) Whether the minor or alleged incapacitated or disabled  
22 person has a residence or is physically present in the county and  
23 the duration of his or her physical presence or absence;

24 (d) The location of the minor's or alleged incapacitated or  
25 disabled person's property; and

26 (e) The extent to which the minor or alleged incapacitated  
27 or disabled person has ties such as voting registration, local  
28 tax return filing, vehicle registration, driver's license, social

1 relationships, or receipt of services.

2 2. [If the alleged incapacitated or disabled person has  
3 resided in a county other than the county of his or her domicile  
4 for more than one year, the court of that county may assume venue  
5 for the purpose of appointment of a guardian or conservator] In  
6 the event the venue for purposes of guardianship and  
7 conservatorship are in different counties, venue shall be in the  
8 county of the guardianship.

9 3. If proceedings are commenced in more than one county,  
10 they shall be stayed except in the county where first commenced  
11 until final determination of venue in the county where first  
12 commenced. The proceeding is deemed commenced by the filing of a  
13 petition[; and the proceeding first legally commenced to appoint  
14 a conservator of the estate extends to all of the property of the  
15 protectee in this state].

16 475.115. 1. When a guardian or conservator dies, is  
17 removed by order of the court, or resigns and his or her  
18 resignation is accepted by the court, the court shall have the  
19 same authority as it has in like cases over personal  
20 representatives and their sureties and may appoint another  
21 guardian or conservator in the same manner and subject to the  
22 same requirements as are herein provided for an original  
23 appointment of a guardian or conservator.

24 2. A public administrator may request transfer of any case  
25 to the jurisdiction of another county by filing a petition for  
26 transfer. If [the receiving county meets the venue requirements  
27 of section 475.035 and] the public administrator of the receiving  
28 county consents to the transfer, the court shall transfer the

1 case. The court with jurisdiction over the receiving county  
2 shall, without the necessity of any hearing as required by  
3 section 475.075, appoint the public administrator of the  
4 receiving county as successor guardian and/or successor  
5 conservator and issue letters therein. In the case of a  
6 conservatorship, the final settlement of the public  
7 administrator's conservatorship shall be filed within thirty days  
8 of the court's transfer of the case, in the court with  
9 jurisdiction over the original conservatorship, and forwarded to  
10 the receiving county upon audit and approval.

11 476.001. An efficient, well operating and productive  
12 judiciary is essential to the preservation of the people's  
13 liberty and prosperity. In order to achieve this goal, the  
14 general assembly and the supreme court must constantly be aware  
15 of the operations, needs, strengths and weaknesses of the  
16 judicial system. It is the purpose of sections 476.001, 476.055,  
17 476.330 to 476.380, 476.412, 476.681, and 477.405 to provide the  
18 general assembly and the supreme court with the mechanisms to  
19 obtain on a continuing basis a comprehensive analysis of judicial  
20 resources and an efficient and organized method of identifying  
21 the problems and needs as they occur. It is the further purpose  
22 of sections 476.001, 476.055, 476.330 to 476.380, 476.412,  
23 476.681, 477.405, 478.073, and 478.320[, and subdivision (12) of  
24 subsection 1 of section 600.042] to provide a system for the  
25 efficient allocation of available personnel, facilities and  
26 resources to achieve a uniform and effective operation of the  
27 judicial system.

28 508.010. 1. As used in this section, "principal place of

1 residence" shall mean the county which is the main place where an  
2 individual resides in the state of Missouri. [There shall be a  
3 rebuttable presumption that the county of voter registration at  
4 the time of injury is the principal place of residence.] There  
5 shall be only one principal place of residence.

6 (1) For an individual person, there shall be a rebuttable  
7 presumption that the county of voter registration at the time of  
8 injury is the principal place of residence.

9 (2) Notwithstanding subdivision (1) of this subsection, for  
10 an individual whose conduct at issue was alleged in at least one  
11 count to be in the course and scope of his or her employment with  
12 a corporation, the individual's principal place of residence for  
13 venue purposes shall be deemed to be the applicable corporation's  
14 principal place of residence.

15 (3) For a corporation that, either directly or through its  
16 subsidiaries, wholly owns or operates a railroad, the place where  
17 the corporation has its registered agent is its principal place  
18 of residence for the purposes of venue, provided that the  
19 registered agent is in a city not within a county, a charter  
20 county, or a first class county.

21 2. In all actions in which there is no count alleging a  
22 tort, venue shall be determined as follows:

23 (1) When the defendant is a resident of the state, either  
24 in the county within which the defendant resides, or in the  
25 county within which the plaintiff resides, and the defendant may  
26 be found;

27 (2) When there are several defendants, and they reside in  
28 different counties, the suit may be brought in any such county;

1 (3) When there are several defendants, some residents and  
2 others nonresidents of the state, suit may be brought in any  
3 county in this state in which any defendant resides;

4 (4) When all the defendants are nonresidents of the state,  
5 suit may be brought in any county in this state, provided there  
6 is personal jurisdiction over each defendant, independent of each  
7 other defendant.

8 3. The term "tort" shall include claims based upon improper  
9 health care, under the provisions of chapter 538.

10 4. Notwithstanding any other provision of law, in all  
11 actions in which there is any count alleging a tort and in which  
12 the plaintiff was first injured in the state of Missouri, venue  
13 shall be in the county where the plaintiff was first injured by  
14 the [wrongful] acts or [negligent] conduct alleged in the action.

15 5. Notwithstanding any other provision of law, in all  
16 actions in which there is any count alleging a tort and in which  
17 the plaintiff was first injured outside the state of Missouri,  
18 venue as to that individual plaintiff shall be determined as  
19 follows:

20 (1) If the defendant is a corporation, then venue shall be  
21 in any county where a defendant corporation's registered agent is  
22 located or, if the plaintiff's principal place of residence was  
23 in the state of Missouri on the date the plaintiff was first  
24 injured, then venue may be in the county of the plaintiff's  
25 principal place of residence on the date the plaintiff was first  
26 injured;

27 (2) If the defendant is an individual, then venue shall be  
28 in [any] the county [of] where the [individual defendant's]

1 defendant has his or her principal place of residence in the  
2 state of Missouri, which for venue purposes shall be deemed to be  
3 that of his or her employer corporation if any count alleges  
4 conduct in the course and scope of his or her employment with  
5 that corporation, or, if the plaintiff's principal place of  
6 residence was in the state of Missouri on the date the plaintiff  
7 was first injured, then venue as to that individual plaintiff may  
8 be in the county containing the plaintiff's principal place of  
9 residence on the date the plaintiff was first injured;

10 (3) Notwithstanding subdivisions (1) and (2) of this  
11 subsection, if the plaintiff was first injured in a foreign  
12 country in connection with any railroad operations therein and  
13 any defendant is a:

14 (a) Corporation that, either directly or through its  
15 subsidiaries, wholly owns or operates the foreign railroad; or

16 (b) Wholly owned subsidiary of a corporation that, either  
17 directly or through its subsidiaries, wholly owns or operates the  
18 foreign railroad;

19  
20 then venue shall exclusively be in the county where any such  
21 defendant corporation's registered agent is located, regardless  
22 of venue as to any other defendant or, if the plaintiff's  
23 principal place of residence was in the state of Missouri on the  
24 date the plaintiff was first injured, then venue may be in the  
25 county of the plaintiff's principal place of residence on the  
26 date the plaintiff was first injured.

27 6. Any action, in which any county shall be a plaintiff,  
28 may be commenced and prosecuted to final judgment in the county

1 in which the defendant or defendants reside, or in the county  
2 suing and where the defendants, or one of them, may be found.

3 7. In all actions, process shall be issued by the court in  
4 which the action is filed and process may be served in any county  
5 within the state.

6 8. In any action for defamation or for invasion of privacy,  
7 the plaintiff shall be considered first injured in the county in  
8 which the defamation or invasion was first published.

9 9. In all actions, venue shall be determined as of the date  
10 the plaintiff was first injured.

11 10. All motions to dismiss or to transfer based upon a  
12 claim of improper venue shall be deemed granted if not denied  
13 within ninety days of filing of the motion unless such time  
14 period is waived in writing by all parties.

15 11. In a wrongful death action, the plaintiff shall be  
16 considered first injured where the decedent was first injured by  
17 the wrongful acts or negligent conduct alleged in the action. In  
18 any spouse's claim for loss of consortium, the plaintiff claiming  
19 consortium shall be considered first injured where the other  
20 spouse was first injured by the wrongful acts or negligent  
21 conduct alleged in the action.

22 12. The provisions of this section shall apply irrespective  
23 of whether the defendant is a for-profit or a not-for-profit  
24 entity.

25 13. In any civil action, if all parties agree in writing to  
26 a change of venue, the court shall transfer venue to the county  
27 within the state unanimously chosen by the parties. If any  
28 parties are added to the cause of action after the date of said

1 transfer who do not consent to said transfer then the cause of  
2 action shall be transferred to such county in which venue is  
3 appropriate under this section, based upon the amended pleadings.

4 14. A plaintiff is considered first injured where the  
5 trauma or exposure occurred rather than where symptoms are first  
6 manifested.

7 15. If the county where the plaintiff's claim is filed is  
8 not a proper venue, that plaintiff shall be transferred to a  
9 county where proper venue can be established. If no such county  
10 exists in the state of Missouri, the claim shall be dismissed  
11 without prejudice.

12 16. Denial of a motion to transfer venue pursuant to  
13 sections 507.040, 507.050, or 508.010, if denied in error,  
14 requires reversal, and no finding of prejudice under Missouri  
15 supreme court rule 84.13(b) is required for reversal.

16 17. For the purposes of this section, a domestic insurance  
17 company shall be deemed to reside in, and be a resident of, the  
18 county where its registered office is maintained. A foreign  
19 insurance company shall be deemed to reside in, and be a resident  
20 of, the county where its registered office is maintained. If a  
21 foreign insurance company does not maintain a registered office  
22 in any county in Missouri, the foreign insurance company shall be  
23 deemed to reside in, and be a resident of, Cole County.

24 600.042. 1. The director shall:

25 (1) Direct and supervise the work of the deputy directors  
26 and other state public defender office personnel appointed  
27 pursuant to this chapter; and he or she and the deputy director  
28 or directors may participate in the trial and appeal of criminal

1 actions at the request of the defender;

2 (2) Submit to the commission, between August fifteenth and  
3 September fifteenth of each year, a report which shall include  
4 all pertinent data on the operation of the state public defender  
5 system, the costs, projected needs, and recommendations for  
6 statutory changes. Prior to October fifteenth of each year, the  
7 commission shall submit such report along with such  
8 recommendations, comments, conclusions, or other pertinent  
9 information it chooses to make to the chief justice, the  
10 governor, and the general assembly. Such reports shall be a  
11 public record, shall be maintained in the office of the state  
12 public defender, and shall be otherwise distributed as the  
13 commission shall direct;

14 (3) With the approval of the commission, establish such  
15 divisions, facilities and offices and select such professional,  
16 technical and other personnel, including investigators, as he  
17 deems reasonably necessary for the efficient operation and  
18 discharge of the duties of the state public defender system under  
19 this chapter;

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

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

28 (6) Keep and maintain proper financial records with respect

1 to the provision of all public defender services for use in the  
2 calculating of direct and indirect costs of any or all aspects of  
3 the operation of the state public defender system;

4 (7) Supervise the training of all public defenders and  
5 other personnel and establish such training courses as shall be  
6 appropriate;

7 (8) With approval of the commission, promulgate necessary  
8 rules, regulations and instructions consistent with this chapter  
9 defining the organization of the state public defender system and  
10 the responsibilities of division directors, district defenders,  
11 deputy district defenders, assistant public defenders and other  
12 personnel;

13 (9) With the approval of the commission, apply for and  
14 accept on behalf of the public defender system any funds which  
15 may be offered or which may become available from government  
16 grants, private gifts, donations or bequests or from any other  
17 source. Such moneys shall be deposited in the state general  
18 revenue fund;

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

23 (11) With the approval and on behalf of the commission,  
24 contract with private attorneys for the collection and  
25 enforcement of liens and other judgments owed to the state for  
26 services rendered by the state public defender system[;];

27 (12) Prepare a plan to establish district offices, the  
28 boundaries of which shall coincide with existing judicial

1 circuits. Any district office may contain more than one judicial  
2 circuit within its boundaries, but in no event shall any district  
3 office boundary include any geographic region of a judicial  
4 circuit without including the entire judicial circuit. The  
5 director shall submit the plan to the chair of the house  
6 judiciary committee and the chair of the senate judiciary  
7 committee, with fiscal estimates, by December 31, 2014. The plan  
8 shall be implemented by December 31, 2021].

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

12 3. The director and defenders shall, within guidelines as  
13 established by the commission and as set forth in subsection 4 of  
14 this section, accept requests for legal services from eligible  
15 persons entitled to counsel under this chapter or otherwise so  
16 entitled under the constitution or laws of the United States or  
17 of the state of Missouri and provide such persons with legal  
18 services when, in the discretion of the director or the  
19 defenders, such provision of legal services is appropriate.

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

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

24 (2) Who is detained or charged with a misdemeanor which  
25 will probably result in confinement in the county jail upon  
26 conviction, including appeals from a conviction in such a case,  
27 unless the prosecuting or circuit attorney has waived a jail  
28 sentence;

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

5 (4) Who has been taken into custody pursuant to section  
6 632.489, including appeals from a determination that the person  
7 is a sexually violent predator and petitions for release,  
8 notwithstanding any provisions of law to the contrary;

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

11 (6) Who is charged in a case in which he or she faces a  
12 loss or deprivation of liberty, and in which the federal or the  
13 state constitution or any law of this state requires the  
14 appointment of counsel; however, the director and the defenders  
15 shall not be required to provide legal services to persons  
16 charged with violations of county or municipal ordinances, or  
17 misdemeanor offenses except as provided in this section.

18 5. The director may:

19 (1) Delegate the legal representation of an eligible person  
20 to any member of the state bar of Missouri;

21 (2) Designate persons as representatives of the director  
22 for the purpose of making indigency determinations and assigning  
23 counsel.

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29 Sandy Crawford

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Jeff Knight