

FIRST REGULAR SESSION

SENATE BILL NO. 452

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS SCHMITT, SCHAEFER AND NASHEED.

Read 1st time February 17, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2199S.01I

AN ACT

To repeal section 476.385, section 544.665 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 544.665 as enacted by house bill no. 62, ninety-fifth general assembly, first regular session, RSMo, and to enact in lieu thereof two new sections relating to the offense of failure to appear, with existing penalty provisions.

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

Section A. Section 476.385, section 544.665 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 544.665 as enacted by house bill no. 62, ninety-fifth general assembly, first regular session, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 476.385 and 544.665, to read as follows:

476.385. 1. The judges of the supreme court may appoint a committee consisting of at least seven associate circuit judges, who shall meet en banc and establish and maintain a schedule of fines to be paid for violations of sections 210.104, 577.070, and 577.073, and chapters 252, 301, 302, 304, 306, 307 and 390, with such fines increasing in proportion to the severity of the violation. The associate circuit judges of each county may meet en banc and adopt the schedule of fines and participation in the centralized bureau pursuant to this section. Notice of such adoption and participation shall be given in the manner provided by supreme court rule. Upon order of the supreme court, the associate circuit judges of each county may meet en banc and establish and maintain a schedule of fines to be paid for violations of municipal ordinances for cities, towns and villages electing to have violations of its municipal ordinances heard by associate circuit judges, pursuant to section 479.040; and for traffic court

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 divisions established pursuant to section 479.500. The schedule of fines adopted
15 for violations of municipal ordinances may be modified from time to time as the
16 associate circuit judges of each county en banc deem advisable. No fine
17 established pursuant to this subsection may exceed the maximum amount
18 specified by statute or ordinance for such violation.

19 2. In no event shall any schedule of fines adopted pursuant to this section
20 include offenses involving the following:

21 (1) Any violation resulting in personal injury or property damage to
22 another person;

23 (2) Operating a motor vehicle while intoxicated or under the influence of
24 intoxicants or drugs;

25 (3) Operating a vehicle with a counterfeited, altered, suspended or
26 revoked license;

27 (4) Fleeing or attempting to elude an officer.

28 3. There shall be a centralized bureau to be established by supreme court
29 rule in order to accept pleas of not guilty or guilty and payments of fines and
30 court costs for violations of the laws and ordinances described in subsection 1 of
31 this section, made pursuant to a schedule of fines established pursuant to this
32 section. The centralized bureau shall collect, with any plea of guilty and payment
33 of a fine, all court costs which would have been collected by the court of the
34 jurisdiction from which the violation originated.

35 4. If a person elects not to contest the alleged violation, the person shall
36 send payment in the amount of the fine and any court costs established for the
37 violation to the centralized bureau. Such payment shall be payable to the central
38 violations bureau, shall be made by mail or in any other manner established by
39 the centralized bureau, and shall constitute a plea of guilty, waiver of trial and
40 a conviction for purposes of section 302.302, and for purposes of imposing any
41 collateral consequence of a criminal conviction provided by law. By paying the
42 fine and costs, the person also consents to attendance either online or in person
43 at any driver-improvement program or motorcycle-rider training course ordered
44 by the court and consents to verification of such attendance as directed by the
45 bureau. Notwithstanding any provision of law to the contrary, the prosecutor
46 shall not be required to sign any information, ticket or indictment if disposition
47 is made pursuant to this subsection. In the event that any payment is made
48 pursuant to this section by credit card or similar method, the centralized bureau
49 may charge an additional fee in order to reflect any transaction cost, surcharge

50 or fee imposed on the recipient of the credit card payment by the credit card
51 company.

52 5. If a person elects to plead not guilty, such person shall send the plea
53 of not guilty to the centralized bureau. The bureau shall send such plea and
54 request for trial to the prosecutor having original jurisdiction over the
55 offense. Any trial shall be conducted at the location designated by the court. The
56 clerk of the court in which the case is to be heard shall notify in writing such
57 person of the date certain for the disposition of such charges. The prosecutor
58 shall not be required to sign any information, ticket or indictment until the
59 commencement of any proceeding by the prosecutor with respect to the notice of
60 violation.

61 6. In courts adopting a schedule of fines pursuant to this section, any
62 person receiving a notice of violation pursuant to this section shall also receive
63 written notification of the following:

64 (1) The fine and court costs established pursuant to this section for the
65 violation or information regarding how the person may obtain the amount of the
66 fine and court costs for the violation;

67 (2) That the person must respond to the notice of violation by paying the
68 prescribed fine and court costs, or pleading not guilty and appearing at trial, and
69 that other legal penalties prescribed by law may attach for failure to appear and
70 dispose of the violation. The supreme court may modify the suggested forms for
71 uniform complaint and summons for use in courts adopting the procedures
72 provided by this section, in order to accommodate such required written
73 notifications.

74 7. Any moneys received in payment of fines and court costs pursuant to
75 this section shall not be considered to be state funds, but shall be held in trust
76 by the centralized bureau for benefit of those persons or entities entitled to
77 receive such funds pursuant to this subsection. All amounts paid to the
78 centralized bureau shall be maintained by the centralized bureau, invested in the
79 manner required of the state treasurer for state funds by sections 30.240, 30.250,
80 30.260 and 30.270, and disbursed as provided by the constitution and laws of this
81 state. Any interest earned on such fund shall be payable to the director of the
82 department of revenue for deposit into a revolving fund to be established
83 pursuant to this subsection. The state treasurer shall be the custodian of the
84 revolving fund, and shall make disbursements, as allowed by lawful
85 appropriations, only to the judicial branch of state government for goods and

86 services related to the administration of the judicial system.

87 8. Any person who receives a notice of violation subject to this section who
88 fails to dispose of such violation as provided by this section **[shall] may** be guilty
89 of failure to appear **as** provided by section 544.665; and may be subject to
90 suspension of driving privileges in the manner provided by section 302.341. The
91 centralized bureau shall notify the appropriate prosecutor of any person who fails
92 to either pay the prescribed fine and court costs, or plead not guilty and request
93 a trial within the time allotted by this section, for purposes of application of
94 section 544.665. The centralized bureau shall also notify the department of
95 revenue of any failure to appear subject to section 302.341, and the department
96 shall thereupon suspend the license of the driver in the manner provided by
97 section 302.341, as if notified by the court.

98 9. In addition to the remedies provided by subsection 8 of this section, the
99 centralized bureau and the courts may use the remedies provided by sections
100 488.010 to 488.020 for the collection of court costs payable to courts, in order to
101 collect fines and court costs for violations subject to this section.

544.665. 1. In addition to the forfeiture of any security which was given
2 or pledged for a person's release, any person who, having been released upon a
3 recognizance or bond pursuant to any other provisions of law while pending
4 preliminary hearing, trial, sentencing, appeal, probation or parole revocation, or
5 any other stage of a criminal matter against him or her, knowingly fails to appear
6 before any court or judicial officer as required shall be guilty of the **[crime]**
7 **offense** of failure to appear.

8 2. Failure to appear is:

9 (1) A class E felony if the criminal matter for which the person was
10 released included a felony;

11 (2) A class A misdemeanor if the criminal matter for which the person was
12 released includes a misdemeanor or misdemeanors but no felony or felonies;

13 (3) An infraction if the criminal matter for which the person was released
14 includes only an infraction or infractions;

15 (4) An infraction if the criminal matter for which the person was released
16 includes only the violation of a municipal ordinance, provided that the sentence
17 imposed shall not exceed the maximum fine which could be imposed for the
18 municipal ordinance for which the accused was arrested.

19 3. Nothing in sections 544.040 to 544.665 shall prevent the exercise by
20 any court of its power to punish for contempt.

21 **4. Notwithstanding subsection 1 of this section to the contrary,**
22 **no person shall be found guilty of the offense of failure to appear if**
23 **such person fails to appear before a court or judicial officer as required**
24 **in a criminal matter that solely involves one or more:**

25 **(1) Moving violations;**

26 **(2) Violations of municipal or county traffic ordinances; or**

27 **(3) Violations of the state vehicle laws;**

28 **when such violations are punishable as infractions, in that there is no**
29 **term of imprisonment authorized upon conviction of the violation.**

 544.665. 1. In addition to the forfeiture of any security which was given
2 or pledged for a person's release, any person who, having been released upon a
3 recognizance or bond pursuant to any other provisions of law while pending
4 preliminary hearing, trial, sentencing, appeal, probation or parole revocation, or
5 any other stage of a criminal matter against him or her, knowingly fails to appear
6 before any court or judicial officer as required shall be guilty of the [crime]
7 **offense** of failure to appear.

8 2. Failure to appear is:

9 (1) A class D felony if the criminal matter for which the person was
10 released included a felony;

11 (2) A class A misdemeanor if the criminal matter for which the person was
12 released includes a misdemeanor or misdemeanors but no felony or felonies;

13 (3) An infraction if the criminal matter for which the person was released
14 includes only an infraction or infractions;

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