

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 799
98TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 30, 2015, with recommendation that the Senate Committee Substitute do pass.

ADRIANE D. CROUSE, Secretary.

0183S.02C

AN ACT

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

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

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A. Sections 67.320, 476.083, 478.170, 478.191, 478.430, 478.433, 2 478.463, 478.740, 488.2206, and 600.042, RSMo, are repealed and fourteen new 3 sections enacted in lieu thereof, to be known as sections 67.320, 476.083, 478.011, 4 478.170, 478.188, 478.191, 478.330, 478.463, 478.740,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

67.320. 1. Any county with a charter form of government and with more 2 than two hundred thousand but fewer than three hundred fifty thousand 3 inhabitants, **any county of the first classification with more than 4 eighty-three thousand but fewer than ninety-two thousand inhabitants 5 and with a home rule city with more than seventy-six thousand but 6 fewer than ninety-one thousand inhabitants as the county seat**, or any 7 county of the first classification with more than one hundred one thousand but 8 fewer than one hundred fifteen thousand inhabitants may prosecute and punish 9 violations of its county orders in the circuit court of such counties in the manner 10 and to the extent herein provided or in a county municipal court if creation of a 11 county municipal court is approved by order of the county commission. The 12 county may adopt orders with penal provisions consistent with state law, but only 13 in the areas of traffic violations, solid waste management, county building codes, 14 on-site sewer treatment, zoning orders, and animal control. Any county 15 municipal court established pursuant to the provisions of this section shall have 16 jurisdiction over violations of that county's orders and the ordinances of

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

17 municipalities with which the county has a contract to prosecute and punish
18 violations of municipal ordinances of the municipality.

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

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

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

31 5. In any county of the first classification with more than one hundred one
32 thousand but fewer than one hundred fifteen thousand inhabitants, the first
33 judges shall be appointed by the county commission for a term of four years, and
34 thereafter the judges shall be elected for a term of four years. The number of
35 judges appointed, and qualifications for their appointment, shall be established
36 by order of the commission.

476.083. 1. In addition to any appointments made pursuant to section
2 485.010, the presiding judge of each circuit containing one or more facilities
3 operated by the department of corrections with an average total inmate
4 population in all such facilities in the circuit over the previous two years of more
5 than two thousand five hundred inmates **or containing, as of January 1,**
6 **2015, a diagnostic and reception center operated by the department of**
7 **corrections and a mental health facility operated by the department of**
8 **mental health which houses persons found not guilty of a crime by**
9 **reason of mental disease or defect pursuant to chapter 552 and**
10 **provides sex offender rehabilitation and treatment services (SORTS)**
11 may appoint a circuit court marshal to aid the presiding judge in the
12 administration of the judicial business of the circuit by overseeing the physical
13 security of the courthouse, serving court-generated papers and orders, and
14 assisting the judges of the circuit as the presiding judge determines
15 appropriate. Such circuit court marshal appointed pursuant to the provisions of
16 this section shall serve at the pleasure of the presiding judge. The circuit court

17 marshal authorized by this section is in addition to staff support from the circuit
18 clerks, deputy circuit clerks, division clerks, municipal clerks, and any other staff
19 personnel which may otherwise be provided by law.

20 2. The salary of a circuit court marshal shall be established by the
21 presiding judge of the circuit within funds made available for that purpose, but
22 such salary shall not exceed ninety percent of the salary of the highest paid
23 sheriff serving a county wholly or partially within that circuit. Personnel
24 authorized by this section shall be paid from state funds or federal grant moneys
25 which are available for that purpose and not from county funds.

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

- 32 (1) Serve process;
- 33 (2) Wear a concealable firearm; and
- 34 (3) Make an arrest based upon local court rules and state law, and as
35 directed by the presiding judge of the circuit.

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

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

3 **2. Beginning January 1, 2017, circuit number thirty-eight shall**
4 **consist of the county of Christian.**

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

478.191. The repeal of sections 478.075, 478.077, 478.080, 478.085,
2 478.087, 478.090, 478.093, 478.095, 478.097, 478.100, 478.103, 478.105, 478.107,
3 478.110, 478.113, 478.115, 478.117, 478.120, 478.123, 478.125, 478.127, 478.130,
4 478.133, 478.135, 478.137, 478.140, 478.143, 478.145, 478.147, 478.150, 478.153,
5 478.155, 478.157, 478.160, 478.163, 478.165, 478.167, 478.170, 478.173, 478.175,
6 478.177, 478.180, 478.183, 478.185, 478.186, **478.188**, and the repeal and
7 reenactment of section 487.010 shall become effective December 31, 2020.

478.330. 1. When an annual judicial performance report
2 **submitted pursuant to section 477.405 indicates for three consecutive**

3 **calendar years the need for four or more full-time judicial positions in**
4 **any judicial circuit having a population of one hundred thousand or**
5 **more, there shall be one additional circuit judge position authorized in**
6 **such circuit, subject to appropriations made for that purpose.**

7 **2. Except in circuits where circuit judges are selected under the**
8 **provisions of article V of sections 25(a) to 25(g) of the Missouri**
9 **Constitution, the election of circuit judges authorized by this section**
10 **shall be conducted in accordance with chapter 115.**

478.463. There shall be nineteen circuit judges in the sixteenth judicial
2 circuit consisting of the county of Jackson. These judges shall sit in nineteen
3 divisions. Divisions one, three, four, six, seven, eight, nine, ten, eleven, [twelve,]
4 thirteen, fourteen, fifteen and eighteen shall sit at the city of Kansas City and
5 divisions two, five, **twelve**, sixteen and seventeen shall sit at the city of
6 Independence. Division nineteen shall sit at both the city of Kansas City and the
7 city of Independence. Notwithstanding the foregoing provisions, the judge of the
8 probate division shall sit at both the city of Kansas City and the city of
9 Independence.

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

3 **2. The circuit judge in division two shall be elected in 2016, and such**
4 **judicial position shall not be considered vacant or filled until January 1,**
5 **2017. The judge in division one shall be elected in 2018.] **The circuit judge of****
6 **judicial circuit number forty-six shall be elected in 2016 for a two-year**
7 **term and thereafter in 2018 for a full six-year term.**

479.155. 1. **By September 1, 2015, the presiding judge of the**
2 **circuit court in which the municipal division is located shall report to**
3 **the clerk of the supreme court the name and address of the municipal**
4 **division and any other information regarding the municipal division**
5 **requested by the clerk of the supreme court on a standardized form**
6 **developed by the clerk of the supreme court.**

7 **2. If a municipality elects to abolish or establish a municipal**
8 **division, the presiding judge of the circuit court in which the municipal**
9 **division is located shall notify the clerk of the supreme court, and the**
10 **presiding judge of any new municipal division shall complete the**
11 **report required under subsection 1 of this section within ninety days**
12 **of the establishment of the division.**

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

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

20 2. Each county or municipality shall use all funds received pursuant to
21 this section only to pay for the costs associated with the land assemblage and
22 purchase, **planning** construction, maintenance, and operation of any county or
23 municipal judicial facility including, but not limited to, **architectural,**
24 **engineering, and other plans and studies,** debt service, utilities,
25 maintenance, and building security. The county or municipality shall maintain
26 records identifying such [operating] costs, and any moneys not needed for the
27 [operating] costs of the county or municipal judicial facility shall be transmitted
28 quarterly to the general revenue fund of the county or municipality respectively.

29 **3. No moneys from a justice center fund shall be used to pay for**
30 **the land assemblage and purchase, planning, construction,**
31 **maintenance, and operation of any municipal judicial facility located**
32 **at the established seat of justice for the county, unless a feasibility**
33 **study has been conducted and submitted to the governing bodies of the**

34 county and the municipality. The feasibility study shall:

35 (1) Examine the costs related to operating the existing circuit
36 and municipal judicial facilities, including court functions, security,
37 and accessibility;

38 (2) Provide estimated costs for the construction of a new
39 municipal judicial facility;

40 (3) Provide estimated costs for the renovation or expansion of
41 the existing circuit judicial facility;

42 (4) Provide estimated costs for the co-location of circuit and
43 municipal court operations in a shared judicial facility;

44 (5) Assess whether existing facilities have the capability to
45 accommodate a shared judicial facility;

46 (6) Compare the potential costs of separate, individual facilities
47 with the potential costs of a single, shared judicial facility; and

48 (7) Evaluate the relative potential of each configuration to
49 provide safe, secure, and efficient court facilities and produce
50 efficiencies and cost savings for all county and city taxpayers.

51 4. The provisions of the section shall expire on August 28, 2025.

488.2244. 1. There is hereby created in the state treasury the
2 "Jasper County Judicial Fund", which shall consist of moneys collected
3 under subsection 2 of this section. The state treasurer shall be
4 custodian of the fund. In accordance with sections 30.170 and 30.180,
5 the state treasurer may approve disbursements. The fund shall be a
6 dedicated fund and, upon appropriation, moneys in the fund shall be
7 used solely as described under subsection 4 of this section. The state
8 treasurer shall invest moneys in the fund in the same manner as other
9 funds are invested. Any interest and moneys earned on such
10 investments shall be credited to the fund.

11 2. In addition to any other court costs prescribed by law, court
12 proceedings in the twenty-ninth judicial circuit shall have additional
13 court costs assessed in the following manner, except that no such
14 additional costs shall be collected for any violation of a traffic law or
15 in any proceeding when the proceeding or defendant has been
16 dismissed by the court or when costs are to be paid by the state,
17 county, or municipality:

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

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

22 **(3) All felony criminal cases filed shall be assessed a surcharge**
23 **of fifty dollars.**

24 **3. The judge may waive the assessment of the surcharge in those**
25 **cases where the defendant is found by the judge to be indigent and**
26 **unable to pay the costs.**

27 **4. Any county of the first classification with more than one**
28 **hundred fifteen thousand but fewer than one hundred fifty thousand**
29 **inhabitants shall use moneys in the Jasper County judicial fund to pay**
30 **for the costs associated with the purchase, lease, and operation of a**
31 **county juvenile center and the county judicial facility including, but**
32 **not limited to, utilities, maintenance, and building security. The county**
33 **shall maintain records identifying such operating costs, and any**
34 **moneys not needed for the operation and maintenance of a county**
35 **juvenile center or county judicial facility shall revert to the credit of**
36 **the general revenue fund.**

37 **5. The provisions of this section shall expire on August 28, 2025.**

488.2257. 1. In addition to all other court costs prescribed by
2 law, a surcharge of up to ten dollars shall be assessed as costs in each
3 court proceeding filed in any court in the state located in any county
4 of the third classification without a township form of government and
5 with more than thirty-seven thousand but fewer than forty-one
6 thousand inhabitants and with a city of the third classification with
7 more than eleven thousand five hundred but fewer than thirteen
8 thousand inhabitants as the county seat in all civil and criminal cases
9 including violations of any county or municipal ordinance or
10 infractions, except that no such surcharge shall be collected for any
11 violation of a traffic law or ordinance or in any proceeding when the
12 proceeding or defendant has been dismissed by the court or when costs
13 are to be paid by the state, county, or municipality. For violations of
14 the criminal laws of the state or county ordinances, including
15 infractions, no such surcharge shall be collected unless it is authorized
16 by order, ordinance, or resolution by the county government where the
17 violation occurred. For violations of municipal ordinances, no such
18 surcharge shall be collected unless it is authorized by order, ordinance,
19 or resolution by the municipal government where the violation

20 occurred. Such surcharges shall be collected and disbursed by the
21 clerk of each respective court responsible for collecting court costs in
22 the manner provided by sections 488.010 to 488.020, and shall be
23 payable to the treasurer of the political subdivision authorizing such
24 surcharge.

25 **2. Each county or municipality shall use all funds received**
26 **pursuant to this section only to pay for the costs associated with the**
27 **land assemblage and purchase, planning, and construction of a new**
28 **facility, maintenance, and operation of any county or municipal judicial**
29 **facility or justice center including, but not limited to, architectural,**
30 **engineering, and other plans and studies, utilities, maintenance, and**
31 **building security of any judicial facility. The county or municipality**
32 **shall establish and maintain a separate account known as the "justice**
33 **center fund" limited to the uses authorized by this section. The county**
34 **or municipality shall maintain records identifying all surcharges and**
35 **expenditures made from the justice center fund.**

36 **3. The provisions of this section shall expire on August 28, 2025.**

600.042. 1. The director shall:

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

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

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

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

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

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

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

33 (8) With approval of the commission, promulgate necessary rules,
34 regulations and instructions consistent with this chapter defining the
35 organization of the state public defender system and the responsibilities of
36 division directors, district defenders, deputy district defenders, assistant public
37 defenders and other personnel;

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

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

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

49 (12) Prepare a plan to establish district offices, the boundaries of which
50 shall coincide with existing judicial circuits. Any district office may contain more
51 than one judicial circuit within its boundaries, but in no event shall any district
52 office boundary include any geographic region of a judicial circuit without
53 including the entire judicial circuit. The director shall submit the plan to the
54 chair of the house judiciary committee and the chair of the senate judiciary
55 committee, with fiscal estimates, by December 31, 2014. The plan shall be

56 implemented by December 31, [2018] **2021**.

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

60 3. The director and defenders shall, within guidelines as established by
61 the commission and as set forth in subsection 4 of this section, accept requests
62 for legal services from eligible persons entitled to counsel under this chapter or
63 otherwise so entitled under the constitution or laws of the United States or of the
64 state of Missouri and provide such persons with legal services when, in the
65 discretion of the director or the defenders, such provision of legal services is
66 appropriate.

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

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

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

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

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

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

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

90 5. The director may:

91 (1) Delegate the legal representation of [any] **an eligible** person to any

92 member of the state bar of Missouri;

93 (2) Designate persons as representatives of the director for the purpose
94 of making indigency determinations and assigning counsel.

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

[478.433. The janitor-messenger appointed under section
2 478.430 shall receive and be paid, after proper appointment and
3 certification by said court, or the presiding judge thereof, an
4 annual salary of not less than two thousand two hundred
5 dollars. Said salary shall be payable at the end of each and every
6 month, in equal monthly installments, by the treasurer of the city
7 of St. Louis out of any moneys appropriated therefor by the
8 municipal assembly upon warrants drawn and countersigned by the
9 proper officers of said city, pursuant to the charter thereof. It shall
10 be the duty of the municipal assembly of said city to appropriate
11 the money necessary for the payment of such salaries; provided
12 further, that the court may, when sitting in general session,
13 recommend to the St. Louis board of estimate and apportionment
14 an increase in salary of janitor-messengers not exceeding two
15 hundred dollars per annum, subject to the approval of said board. If
16 said board of estimate and apportionment concur in such salary
17 increase, the municipal assembly shall appropriate additional
18 moneys for such salaries.]

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