

Journal of the Senate

SECOND REGULAR SESSION

TWELFTH DAY—WEDNESDAY, JANUARY 27, 2016

The Senate met pursuant to adjournment.

President Kinder in the Chair.

Reverend Carl Gauck offered the following prayer:

“I will sing of loyalty and of justice; to You O Lord, I will sing.” (Psalm 101:1)

O God, You give value to each of us, not one of Your creation is more or less important in Your sight. Help us look at our law and the justice they seek to provide and look at them as if seen through Your eyes. Grant us, O Lord, the power to treat each with equity and fairness. In Your Holy name, we pray. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journal of the previous day was read and approved.

Senator Kehoe announced photographers from the Missouri net were given permission to take pictures in the Senate Chamber.

The following Senators were present during the day’s proceedings:

Present—Senators

Brown	Chappelle-Nadal	Cunningham	Curls	Dixon	Emery	Hegeman
Holsman	Keaveny	Kehoe	Kraus	Libla	Munzlinger	Nasheed
Onder	Parson	Richard	Riddle	Romine	Sater	Schaaf
Schaefer	Schatz	Schmitt	Schupp	Sifton	Silvey	Wallingford
Walsh	Wasson	Wieland—31				

Absent—Senators—None

Absent with leave—Senator Pearce—1

Vacancies—2

The Lieutenant Governor was present.

RESOLUTIONS

Senator Schmitt offered Senate Resolution No. 1319, regarding Dr. Frank Mistretta, which was adopted.

Senator Schmitt offered Senate Resolution No. 1320, regarding Nancy Reeves, Saint Louis, which was adopted.

Senator Wallingford offered Senate Resolution No. 1321, regarding Paula Myers, which was adopted.

Senator Wallingford offered Senate Resolution No. 1322, regarding the Cape Girardeau Real Estate Associates, LLC, which was adopted.

Senator Emery offered Senate Resolution No. 1323, regarding the Cass County Courthouse tower clock, Harrisonville, which was adopted.

Senator Brown offered Senate Resolution No. 1324, regarding Mike Howard, which was adopted.

MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that Representative McDonald will be replacing Representative Rowland (29) on the escort committee pursuant to **HCR 56**.

REFERRALS

President Pro Tem Richard referred **SCR 58** and **SCR 59** to the Committee on Rules, Joint Rules, Resolutions and Ethics.

SECOND READING OF CONCURRENT RESOLUTIONS

The following Concurrent Resolution was read the 2nd time and referred to the Committee indicated:

HCR 59—Rules, Joint Rules, Resolutions and Ethics.

Senator Kehoe moved that the Senate recess to repair to the House of Representatives to receive the State of the Judiciary Address from the Chief Justice of the Supreme Court, the Honorable Patricia Breckenridge, which motion prevailed.

JOINT SESSION

The Joint Session was called to order by President Kinder.

On roll call the following Senators were present:

Present—Senators

Brown	Chappelle-Nadal	Cunningham	Curls	Dixon	Emery	Hegeman
Holsman	Keaveny	Kehoe	Kraus	Libla	Munzlinger	Nasheed
Onder	Parson	Richard	Riddle	Romine	Sater	Schaaf
Schaefer	Schatz	Schmitt	Schupp	Sifton	Silvey	Wallingford
Walsh	Wasson	Wieland—31				

Absent—Senators—None

Absent with leave—Senator Pearce—1

Vacancies—2

On roll call the following Representatives were present:

Present:

Adams	Alferman	Anders	Anderson	Andrews	Arthur	Austin
Bahr	Barnes	Basye	Beard	Bernskoetter	Berry	Black
Bondon	Brattin	Brown 57	Brown 94	Burlison	Burns	Butler
Carpenter	Chipman	Cierpiot	Colona	Conway 10	Conway 104	Cookson
Corlew	Cornejo	Crawford	Cross	Curtman	Davis	Dogan
Dohrman	Dugger	Dunn	Eggleston	Ellington	Engler	English
Entlicher	Fitzpatrick	Fitzwater 144	Fitzwater 49	Fraker	Frederick	Gannon
Gardner	Gosen	Green	Hansen	Harris	Higdon	Hill
Hinson	Hoskins	Hough	Houghton	Hubbard	Hubrecht	Hummel
Hurst	Johnson	Jones	Justus	Kelley	Kendrick	Kidd
King	Kirkton	Koenig	Kolkmeyer	Korman	Kratky	Lair
Lant	Lauer	Lavender	Lichtenegger	Love	Lynch	Marshall
Mathews	May	McCann Beatty	McCreery	McDaniel	McDonald	McGaugh
McGee	McNeil	Meredith	Messenger	Miller	Mims	Mitten
Montecillo	Moon	Morgan	Morris	Muntzel	Neely	Newman
Nichols	Norr	Otto	Pace	Parkinson	Peters	Pfautsch
Phillips	Pierson	Pietzman	Pike	Plocher	Pogue	Redmon
Rehder	Reiboldt	Remole	Rhoads	Rizzo	Roden	Roeber
Rone	Ross	Rowden	Rowland 155	Runions	Ruth	Shaul
Shumake	Smith	Solon	Sommer	Taylor 139	Vescovo	Walker
Walton Gray	White	Wiemann	Wilson	Wood	Zerr	Mr. Speaker—147

Absent:

Allen	Curtis	Flanigan	Franklin	Haahr	Haefner	Hicks
LaFaver	Leara	McCaherty	Rowland 29	Shull	Spencer	Swan
Taylor 145	Webber—16					

The Joint Committee appointed to wait upon the Chief Justice of the Supreme Court, Patricia Breckenridge, escorted the Chief Justice to the dais where she delivered the State of the Judiciary Address to the Joint Assembly:

**Chief Justice Patricia Breckenridge
State of the Judiciary Address**

Thank you, Lieutenant Governor Kinder, Speaker Richardson, President Pro Tem Richard, members of the General Assembly, the executive branch, and the judiciary. It is a privilege to be with you to examine how we can continue our tradition of collaboration and innovation in improving Missouri’s courts.

I am proud to be a lifelong Missourian. I was born and raised in Nevada, in Vernon County. I am a product of the public schools of this state, but it almost wasn’t so. I began college at the University of Arkansas. During the summer after my freshman year, the young man I was dating convinced me to transfer to the University of Missouri. After I had transferred, he commented that, even if the relationship did not last, at least I would get a better education. I ultimately earned MU degrees in agricultural economics and law. And the young man who convinced me to return to Missouri? His name is Bryan, and we will celebrate our 40th anniversary in May. Bryan, will you please stand?

I am thankful for the values taught to me by my parents – my father, Don Russell, a small-town lawyer with a general practice, and my mother, Barbara Reed, a retired elementary teacher from Springfield. Dad died two years ago, but my mother and my dear aunt, Judy Wood, are here with me today. Thank you, Mom – you are a wonderful mother and role model.

Last week, I began my 35th year as a Missouri judge. I served nine years as a trial judge, 17 on the court of appeals and am in my ninth year

on the Supreme Court. When I was appointed by Governor Bond to be the associate circuit judge of Vernon County, I was 28 years old – only four years out of law school. I should have been intimidated under those circumstances, but I wasn't. Some – many, in fact – might say that I didn't know enough to be afraid. But the truth is, as young and inexperienced as I was, I believed I could be a good judge because I cared about the people of Vernon County who brought their problems to court and about the law.

When I joined the judicial system, I found it was filled with principled people who also cared. I was supported and taught by a host of court clerks, attorneys and judges who helped me by sharing their experiences and knowledge. I learned from everyone – even criminal defendants! Criminal defendants taught me the importance of respect in our court system. I learned when people who appear in court are treated with respect, they, in turn, treat the judge and the court with respect. Experience proved, when defendants understand their rights, the criminal charges against them, and court procedures, they more readily accept even harsh sentences because they believe the process is fair.

Due process and the rule of law make this country unique. Our judicial system is a coequal branch of government where citizens go to peaceably resolve their disputes and to protect their rights. We only have to turn on the television to see the stark contrast with other parts of the world.

Like the legislative and executive branches, courts are accountable to the will of the people – but in a different way. Those branches are designed to be responsive to the current interests and needs of the voters, but courts are held accountable to the will of the people as expressed in the constitution and laws enacted by you and by past members of this body.

Missouri citizens must have faith and trust – that in our courts they will be treated respectfully and fairly and that their cases will be decided impartially according to the law.

Missourians come to court for many reasons – because they have been charged with speeding or armed robbery, their loved one's estate needs to be probated, they can't agree on child support or child custody, or they are business owners trying to get compensated for the products they have sold. To the people involved, their cases are the most important thing in their lives. They remind us that the judicial system's purpose is the fair and impartial resolution of *every* case.

My colleagues – the judges of the Supreme Court and the other judges and commissioners in Missouri's judicial system – work daily to properly administer justice in courtrooms all around the state. Courts clerks, juvenile officers, prosecutors, defense attorneys, and judges all must respect the law and strive to fulfill the courts' purposes and responsibilities. Some dedicated court staff, judges, and attorneys from our state are with us today. Would you please stand to be recognized?

But as we learned, there are courts in our state that were not true to our system of justice. After Michael Brown's death in Ferguson and the resulting Department of Justice report, the municipal divisions in St. Louis County were thrust into the national spotlight. This focused attention on all our municipal divisions.

When constitutional changes restructured the Missouri judicial system in 1979, freestanding municipal courts became divisions of the circuit court, but they were not fully integrated into the state system. Instead, the law left the selection of judges and staff to the municipalities, which may have caused some court personnel to promote the interests of their municipality over the interests of justice.

The constitution places the municipal divisions under the supervision of the circuit courts. Ultimately, the supervision of all courts rests with the Supreme Court. The issues of the St. Louis County municipal divisions have caused the Supreme Court to reexamine the performance of those supervisory roles.

Municipal courts are, in fact, part of our Missouri circuit courts and as the most frequently used division of our courts they may be the only kind of court most Missourians encounter. Last year, more than 1.4 million municipal cases were disposed – twice as many cases as in all other circuit divisions.

The legislature has taken action in response to the problems demonstrated by events in Ferguson, and I know you are considering additional changes to the law during this session.

The Supreme Court recognizes that the vast majority of our municipal divisions function as they should, but we are committed to restoring trust in *all* our municipal divisions, and changes have been made:

- There is improved access to information and a uniform fine schedule that eliminates the exorbitant and unauthorized fines and costs assessed in some cities;
- St. Louis County municipal divisions are required to be open to all the public;
- Thousands of warrants have been recalled and cancelled; and
- The Court amended our rules to require municipal judges to consider an indigent defendant's ability to pay any fine and costs imposed.

Despite progress, more remains to be done. The Supreme Court appointed a municipal work group, which has gathered and studied information to identify the most important findings and recommendations for action. We look forward to its report, which is expected to be filed by March 1.

Our municipal divisions are not the only portions of our judicial system that have received recent attention. The Department of Justice released a report last July about the St. Louis County juvenile division. This report raised concerns, including racial disparity in the disposition of cases;

insufficient legal representation for juvenile offenders; and questions about the design of our juvenile system.

It might surprise you to know that juvenile courts were our first treatment courts. Created by you 50 years ago, our juvenile system is designed *not* to be an adversarial system where the parties compete to be winners, but instead, a system where everyone, including the juvenile officer, has one goal – to preserve and promote each child’s welfare. Because when the child wins, we *all* win.

This non-adversarial system has produced good outcomes for Missouri children. And we know the judges and juvenile staff across the state, including St. Louis County, continue to be dedicated to the care and protection of Missouri’s children.

But *every* system can be improved. So we are giving thoughtful consideration to the DOJ’s criticisms, as well as to appropriate solutions. In fact, the concerns have already led to one change in our juvenile structure. The Supreme Court adopted a rule that separates the responsibility of the judge who supervises juvenile court personnel from the responsibility of adjudicating juvenile cases.

The DOJ reports claimed there is racial disparity in the handling of cases. Let me be clear – we are committed to ensuring every individual in *every* case in our system of justice is treated with respect and *every* case is adjudicated fairly and impartially under the law. Even a perception that justice is contingent on the color of one’s skin or the part of the state one comes from should concern us *all*, no matter who we are or where we live.

In this vein, the Court is committed to identifying and addressing bias. In October, the Supreme Court established a Commission on Racial and Ethnic Fairness to study the judicial system and the legal profession. The commission is made up of more than 50 attorneys, judges and others representing diverse experiences and viewpoints from across the state.

We expect the commission to examine current practices and make recommendations to help assure fairness, impartiality, equal access and full participation for racial and ethnic minorities in the judicial process and in the practice of law. We look forward to seeing the recommendations for improvement.

The Supreme Court also realizes it is critical for those of us who sit in judgment of others to be aware of any bias, implicit or otherwise, that might unknowingly affect our decisions. To that end, judges of Missouri’s court system will receive implicit bias training as part of this year’s judicial education programs.

These are current challenges, but we have a proud history of meeting challenges head-on and finding successful solutions.

Many years ago, another challenge was technology. With your support, we met that challenge and embraced technology as part of how courts must do business in the 21st century. Missouri has become a national leader in automated case management and, by June, every judicial circuit will have electronic filing of case documents.

Our innovative Case.net system allows the public to access information in 19 million court cases, and the public does make use of that access! By the end of last year, Case.net averaged 5 million hits per day.

Currently, public access to the actual documents in case files is available only at computer terminals located in our courthouses. But in this computer age, the public and the media have requested greater access. In response, we are working to strike a balance that economically, technically, and legally makes more case information available to the public.

We already are testing an enhancement to Case.net. This feature – called “Track This Case” – allows parties and the public to be notified electronically of activity in a particular case. The pilot began without fanfare approximately two months ago and, already, Case.net users are tracking 13,000 cases. We will continue to test this program until the end of this year.

Innovations like this are possible because of our best asset – our people. The expansion of technology has changed the responsibilities and skill sets of our employees, and we must have a workforce ready to meet the demands of 21st century Missourians. Without such employees, we cannot take full advantage of all technology has to offer.

Our technological innovations also are invaluable in producing data that we use to serve the citizens of Missouri.

For example, by analyzing data from Missouri and around the country, we have learned that unresolved trauma from abuse and neglect makes a child significantly more likely to commit delinquent acts . . . and that a delinquent child has a considerably higher risk of ending up in prison. The earlier the trauma is identified and treated, the less likely “acting out” progresses to the commission of a crime.

This information has guided efforts to improve the outcomes of children in Missouri. The courts, in collaboration with the Department of Social Services and the Department of Mental Health, have been piloting multiple programs like Fostering Court Improvement, the Juvenile Detention Alternatives Initiative and the Crossover Youth model. These programs improve safety and permanency outcomes for children in foster care, reduce detention of children, and prevent children from crossing over from the child welfare system into the juvenile justice system.

Kids-at-risk is an issue deeply personal to me. When I was on the court of appeals, I volunteered to mentor at Operation Breakthrough, an inner-city day care. Little did I know that volunteering would lead to an 18-year relationship with four sisters. I learned firsthand from “my girls” the impact of having a mother in prison and a dad whose energy was spent just trying to provide. They continue to be a big part of my life: Denise, now a hardworking mother with a full-time job; Danisha, now in college; and Mae, also a college student, who cannot be here today because being introduced during the state of the judiciary apparently does not constitute an excused absence! I am proud to introduce

Denise and Danisha to you today, along with another dedicated mentor, Penni Johnson. I wish Deitra – the fourth sister – were with us, but tragically she’s made some bad choices and is currently incarcerated.

I greatly appreciate the work of legislators who are also passionate about protecting the children of Missouri. Your joint committee on child abuse and neglect, currently led by Representative Bill Lant and Senator Bob Dixon, is a wonderful example of how – when we work together – *we can* make a difference in the lives of Missourians.

Another example of successful collaboration between us is our treatment court model. Missouri is a national leader in treatment courts. As you know, our adult, juvenile and family drug courts change the trajectory of lives from addiction and crime to being productive citizens, while saving money by reducing the prison population. Working together, we expanded the drug court model to DWI courts, mental health courts and veterans courts. If you have not attended a treatment court graduation, I encourage you to do so. But bring your hanky. The life experiences of the graduates are moving.

Let me tell you about Patricia Sams. She is a generational alcoholic from Stone County who assumed the cycle of drinking and incarceration was her destiny. Despite having spent nearly four years incarcerated, she continued to drink and drive and once again found herself in front of a judge charged with DWI – her eighth. But this time it was different This time, Judge Alan Blankenship offered her the opportunity to be one of the first participants in the new Stone County DWI court. She went through rehab, learned how to stop her cycle of addiction, and has not had a drink since April 2010. Patricia became Stone County’s first DWI graduate, and now is part of its treatment court team. Patricia, will you and Judge Blankenship please rise and be recognized for your achievements?

Patricia’s story is just one of many. Missouri has more than 16,000 treatment court graduates and more than 4,000 current participants. But this is not the end of the story. We have more to do. We know treatment courts work, but they aren’t available to everyone who could benefit from them.

I am pleased to announce today that, once again, we are collaborating. Speaker Richardson has asked the Supreme Court to work with him and other members of this chamber to identify best practices and explore expanding the availability of treatment courts. Together, we can change *more* lives in Missouri.

Although there may be challenges in some areas of the court system, we can be proud of the outstanding work that is done in the vast majority of our Missouri courts.

We should be especially proud of the level of cooperation and communication between the legislature and the judiciary. Our work together in the areas of treatment and juvenile courts and technology should be a standard for our interactions every day. Let’s continue to make our Missouri courts *even* better.

Thank you.

On motion of Senator Kehoe, the Joint Session was dissolved and the Senators returned to the Chamber where they were called to order by President Kinder.

Senator Riddle assumed the Chair.

INTRODUCTION OF BILLS

The following Bills were read the 1st time and ordered printed:

SB 984—By Parson.

An Act to repeal section 182.802, RSMo, and to enact in lieu thereof one new section relating to sales tax for public libraries.

SB 985—By Wasson.

An Act to amend chapter 335, RSMo, by adding thereto twelve new sections relating to the nurse licensure compact, with an effective date.

SB 986—By Brown.

An Act to authorize the conveyance of certain state properties.

SB 987—By Schmitt.

An Act to repeal sections 311.176, 311.178, and 311.179, RSMo, and to enact in lieu thereof three new

sections relating to intoxicating liquor.

SB 988—By Kraus.

An Act to amend chapter 190, RSMo, by adding thereto one new section relating to medical helicopters, with an emergency clause.

SB 989—By Onder.

An Act to amend chapter 160, RSMo, by adding thereto sixteen new sections relating to protecting the privacy of student data, with penalty provisions.

SB 990—By Onder.

An Act to repeal section 162.1250, RSMo, and to enact in lieu thereof one new section relating to virtual education.

REPORTS OF STANDING COMMITTEES

Senator Kehoe, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following report:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which was referred **SS** for **SCS** for **SB 572**, begs leave to report that it has examined the same and finds that the bill has been truly perfected and that the printed copies furnished the Senators are correct.

On motion of Senator Kehoe, the Senate recessed until 4:00 p.m.

RECESS

The time of recess having expired, the Senate was called to order by Senator Riddle.

MESSAGES FROM THE HOUSE

The following message was received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 2166**, entitled:

An Act to repeal section 105.470, RSMo, section 105.473 as enacted by senate bill no. 844, ninety-fifth general assembly, second regular session, section 105.473 as enacted by house bill no. 1900, ninety-third general assembly, second regular session, section 105.485 as enacted by senate bill no. 844, ninety-fifth general assembly, second regular session, and section 105.485 as enacted by house bill no. 2058, ninety-fourth general assembly, second regular session, and to enact in lieu thereof three new sections relating solely to lobbyist expenditures.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

SENATE BILLS FOR PERFECTION

Senator Schmitt moved that **SB 765**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for **SB 765**, entitled:

SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 765

An Act to repeal section 575.320 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 575.320 as enacted by senate bill no. 180, eighty-seventh general assembly, first regular session, and to enact in lieu thereof two new sections relating to prohibitions on traffic citation quotas, with an existing penalty provision.

Was taken up.

Senator Schmitt moved that **SCS** for **SB 765** be adopted, which motion prevailed.

On motion of Senator Schmitt, **SCS** for **SB 765** was declared perfected and ordered printed.

RESOLUTIONS

Senator Sater offered Senate Resolution No. 1325, regarding Patricia Sullivan, Stotts City, which was adopted.

Senator Sater offered Senate Resolution No. 1326, regarding Janice Schmidly, Mount Vernon, which was adopted.

Senator Sater offered Senate Resolution No. 1327, regarding Charles Campbell, Hoberg, which was adopted.

INTRODUCTIONS OF GUESTS

On behalf of Senator Wallingford and himself, the President introduced to the Senate, Jan Farrar and her daughter, Rachel, Cape Girardeau.

Senator Munzlinger introduced to the Senate, the Physician of the Day, Dr. Lent Johnson, Hannibal.

Senator Holsman introduced to the Senate, Matt and Jennifer Dameron, Kansas City; John Kopp, Jefferson City; and Tamara Kopp, Columbia.

Senator Nasheed introduced to the Senate, Drew Boursheski, University of Missouri.

Senator Brown introduced to the Senate, Cody Fulkerson, Rolla.

Senator Parson introduced to the Senate, members of the Certified Registered Nurse Anesthetists.

Senator Schupp introduced to the Senate, Emilie Bridges, University of Missouri-Columbia.

On behalf of Senator Dixon and himself, Senator Kehoe introduced to the Senate, Jeff Schrag, Springfield; Bernie Fechtel, Jefferson City.

Senator Onder introduced to the Senate, Madison Rybak, Dardenne Prairie; and Matthew Ponder, University of Missouri-Columbia.

On motion of Senator Kehoe, the Senate adjourned under the rules.

SENATE CALENDAR

THIRTEENTH DAY—THURSDAY, JANUARY 28, 2016

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SB 945-Munzlinger	SB 969-Brown
SB 946-Emery	SB 970-Brown
SB 947-Parson	SB 971-Dixon
SB 948-Parson	SB 972-Silvey
SB 949-Wasson	SB 973-Wasson
SB 950-Wasson	SB 974-Wasson
SB 951-Wasson	SB 975-Wasson
SB 952-Walsh, et al	SB 976-Nasheed
SB 953-Schupp, et al	SB 977-Nasheed
SB 954-Pearce	SB 978-Sater
SB 955-Sifton, et al	SB 979-Hegeman
SB 956-Chappelle-Nadal	SB 980-Keaveny
SB 957-Chappelle-Nadal	SB 981-Keaveny, et al
SB 958-Holsman, et al	SB 982-Wieland
SB 959-Holsman	SB 983-Nasheed
SB 960-Wieland	SB 984-Parson
SB 961-Nasheed, et al	SB 985-Wasson
SB 962-Curls, et al	SB 986-Brown
SB 963-Wallingford	SB 987-Schmitt
SB 964-Wallingford	SB 988-Kraus
SB 965-Schaaf	SB 989-Onder
SB 966-Schaaf	SB 990-Onder
SB 967-Pearce	SJR 36-Parson
SB 968-Brown	SJR 37-Chappelle-Nadal, et al

HOUSE BILLS ON SECOND READING

HJR 53-Dugger
HB 1631-Alferman

HB 2166-Alferman

THIRD READING OF SENATE BILLS

SS for SCS for SB 572-Schmitt

SENATE BILLS FOR PERFECTION

SB 580-Schaaf, with SCS
SB 655-Munzlinger
SB 657-Munzlinger, with SCS
SJR 19-Munzlinger, with SCS

SB 578-Keaveny, with SCS
SB 579-Schaaf, et al
SB 635-Hegeman
SB 677-Sater

INFORMAL CALENDAR

RESOLUTIONS

SR 1316-Kehoe

Reported from Committee

HCS for HCR 58 (Parson)

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