

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 735

98TH GENERAL ASSEMBLY

2016

4367S.03T

AN ACT

To repeal sections 477.650, 600.042, 600.090, and 600.101, RSMo, and section 476.055 as enacted by house bill no. 1245 merged with house bill no. 1371, ninety-seventh general assembly, second regular session, and to enact in lieu thereof five new sections relating to judicial proceedings, with penalty provisions.

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

Section A. Sections 477.650, 600.042, 600.090, and 600.101, RSMo, and
2 section 476.055 as enacted by house bill no. 1245 merged with house bill no. 1371,
3 ninety-seventh general assembly, second regular session, are repealed and five
4 new sections enacted in lieu thereof, to be known as sections 476.055, 477.650,
5 600.042, 600.090, and 600.101, to read as follows:

476.055. 1. There is hereby established in the state treasury the
2 "Statewide Court Automation Fund". All moneys collected pursuant to section
3 488.027, as well as gifts, contributions, devises, bequests, and grants received
4 relating to automation of judicial record keeping, and moneys received by the
5 judicial system for the dissemination of information and sales of publications
6 developed relating to automation of judicial record keeping, shall be credited to
7 the fund. Moneys credited to this fund may only be used for the purposes set
8 forth in this section and as appropriated by the general assembly. Any
9 unexpended balance remaining in the statewide court automation fund at the end
10 of each biennium shall not be subject to the provisions of section 33.080 requiring
11 the transfer of such unexpended balance to general revenue; except that, any
12 unexpended balance remaining in the fund on September 1, [2018] **2023**, shall

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

13 be transferred to general revenue.

14 2. The statewide court automation fund shall be administered by a court
15 automation committee consisting of the following: the chief justice of the supreme
16 court, a judge from the court of appeals, four circuit judges, four associate circuit
17 judges, four employees of the circuit court, the commissioner of administration,
18 two members of the house of representatives appointed by the speaker of the
19 house, two members of the senate appointed by the president pro tem of the
20 senate, **the executive director of the Missouri office of prosecution**
21 **services, the director of the state public defender system**, and two
22 members of the Missouri Bar. The judge members and employee members shall
23 be appointed by the chief justice. The commissioner of administration shall serve
24 ex officio. The members of the Missouri Bar shall be appointed by the board of
25 governors of the Missouri Bar. Any member of the committee may designate
26 another person to serve on the committee in place of the committee member.

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

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

40 5. The court automation committee shall not require any circuit court to
41 change any operating system in such court, unless the committee provides all
42 necessary personnel, funds and equipment necessary to effectuate the required
43 changes. No judicial circuit or county may be reimbursed for any costs incurred
44 pursuant to this subsection unless such judicial circuit or county has the approval
45 of the court automation committee prior to incurring the specific cost.

46 6. Any court automation system, including any pilot project, shall be
47 implemented, operated and maintained in accordance with strict standards for
48 the security and privacy of confidential judicial records. Any person who
49 knowingly releases information from a confidential judicial record is guilty of a

50 class B misdemeanor. Any person who, knowing that a judicial record is
51 confidential, uses information from such confidential record for financial gain is
52 guilty of a class E felony.

53 7. On the first day of February, May, August and November of each year,
54 the court automation committee shall file a report on the progress of the
55 statewide automation system with:

- 56 (1) The chair of the house budget committee;
- 57 (2) The chair of the senate appropriations committee;
- 58 (3) The chair of the house judiciary committee; and
- 59 (4) The chair of the senate judiciary committee.

60 8. Section 488.027 shall expire on September 1, [2018] **2023**. The court
61 automation committee established pursuant to this section may continue to
62 function until completion of its duties prescribed by this section, but shall
63 complete its duties prior to September 1, [2020] **2025**.

64 9. This section shall expire on September 1, [2020] **2025**.

477.650. 1. There is hereby created in the state treasury the "Basic Civil
2 Legal Services Fund", to be administered by, or under the direction of, the
3 Missouri supreme court. All moneys collected under section 488.031 shall be
4 credited to the fund. In addition to the court filing surcharges, funds from other
5 public or private sources also may be deposited into the fund and all earnings of
6 the fund shall be credited to the fund. The purpose of this section is to increase
7 the funding available for basic civil legal services to eligible low-income persons
8 as such persons are defined by the Federal Legal Services Corporation's Income
9 Eligibility Guidelines.

10 2. Funds in the basic civil legal services fund shall be allocated annually
11 and expended to provide legal representation to eligible low-income persons in the
12 state in civil matters. Moneys, funds, or payments paid to the credit of the basic
13 civil legal services fund shall, at least as often as annually, be distributed to the
14 legal services organizations in this state which qualify for Federal Legal Services
15 Corporation funding. The funds so distributed shall be used by legal services
16 organizations in this state solely to provide legal services to eligible low-income
17 persons as such persons are defined by the Federal Legal Services Corporation's
18 Income Eligibility Guidelines. Fund money shall be subject to all restrictions
19 imposed on such legal services organizations by law. Funds shall be allocated to
20 the programs according to the funding formula employed by the Federal Legal
21 Services Corporation for the distribution of funds to this state. Notwithstanding
22 the provisions of section 33.080, any balance remaining in the basic civil legal

23 services fund at the end of any year shall not be transferred to the state's general
24 revenue fund. Moneys in the basic civil legal services fund shall not be used to
25 pay any portion of a refund mandated by Article X, Section 15 of the Missouri
26 Constitution. State legal services programs shall represent individuals to secure
27 lawful state benefits, but shall not sue the state, its agencies, or its officials, with
28 any state funds.

29 3. Contracts for services with state legal services programs shall provide
30 eligible low-income Missouri citizens with equal access to the civil justice system,
31 with a high priority on families and children, domestic violence, the elderly, and
32 qualification for benefits under the Social Security Act. State legal services
33 programs shall abide by all restrictions, requirements, and regulations of the
34 Legal Services Corporation regarding their cases.

35 4. The Missouri supreme court, or a person or organization designated by
36 the court, is the administrator and shall administer the fund in such manner as
37 determined by the Missouri supreme court, including in accordance with any
38 rules and policies adopted by the Missouri supreme court for such
39 purpose. Moneys from the fund shall be used to pay for the collection of the fee
40 and the implementation and administration of the fund.

41 5. Each recipient of funds from the basic civil legal services fund shall
42 maintain appropriate records accounting for the receipt and expenditure of all
43 funds distributed and received pursuant to this section. These records must be
44 maintained for a period of five years from the close of the fiscal year in which
45 such funds are distributed or received or until audited, whichever is sooner. All
46 funds distributed or received pursuant to this section are subject to audit by the
47 Missouri supreme court or the state auditor.

48 6. The Missouri supreme court, or a person or organization designated by
49 the court, shall, by January thirty-first of each year, report to the general
50 assembly on the moneys collected and disbursed pursuant to this section and
51 section 488.031 by judicial circuit.

52 7. The provisions of this section shall expire on December 31, [2018] **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.

600.090. 1. (1) If a person is determined to be eligible for the services
2 provided by the state public defender system and if, at the time such
3 determination is made, he is able to provide a limited cash contribution toward
4 the cost of his representation without imposing a substantial hardship upon
5 himself or his dependents, such contribution shall be required as a condition of
6 his representation by the state public defender system.

7 (2) If at any time, either during or after the disposition of his case, such
8 defendant becomes financially able to meet all or some part of the cost of services
9 rendered to him, he shall be required to reimburse the commission in such
10 amounts as he can reasonably pay, either by a single payment or by installments
11 of reasonable amounts, in accordance with a schedule of charges for public
12 defender services prepared by the commission.

13 (3) No difficulty or failure in the making of such payment shall reduce or
14 in any way affect the rendering of public defender services to such persons.

15 2. (1) The reasonable value of the services rendered to a defendant
16 pursuant to sections 600.011 to 600.048 and 600.086 to 600.096 may in all cases
17 be a lien on any and all property to which the defendant shall have or acquire an
18 interest. The public defender shall effectuate such lien whenever the reasonable
19 value of the services rendered to a defendant appears to exceed one hundred fifty
20 dollars and may effectuate such lien where the reasonable value of those services
21 appears to be less than one hundred fifty dollars.

22 (2) To effectuate such a lien, the public defender shall, prior to the final
23 disposition of the case or within ten days thereafter, file a notice of lien setting
24 forth the services rendered to the defendant and a claim for the reasonable value

25 of such services with the clerk of the circuit court. The defendant shall be
26 personally served with a copy of such notice of lien. The court shall rule on
27 whether all or any part of the claim shall be allowed. The portion of the claim
28 approved by the court as the value of defender services which has been provided
29 to the defendant shall be a judgment at law. The public defender shall not be
30 required to pay filing or recording fees for or relating to such claim.

31 (3) Such judgment shall be enforceable in the name of the state on behalf
32 of the commission by the prosecuting attorney of the circuit in which the
33 judgment was entered.

34 (4) The prosecuting attorney may compromise and make settlement of, or,
35 with the concurrence of the director, forego any claims for services performed for
36 any person pursuant to this chapter whenever the financial circumstances of such
37 person are such that the best interests of the state will be served by such action.

38 3. The commission may contract with private attorneys for the collection
39 and enforcement of liens and other judgments owed to the state for services
40 rendered by the state public defender system.

41 4. The lien created by this section shall be from the time filed in the court
42 by the defender a charge or claim against any assets of the defendant; provided
43 further that the same shall be served upon the person in possession of the assets
44 or shall be recorded in the office of the recorder of deeds in the county in which
45 the person resides or in which the assets are located.

46 5. Funds collected pursuant to this section and section 600.093 shall be
47 credited to the "Legal Defense and Defender Fund" which is hereby created. The
48 moneys credited to the legal defense and defender fund shall be used for the
49 purpose of training public defenders, assistant public defenders, deputy public
50 defenders and other personnel pursuant to subdivision (7) of subsection 1 of
51 section 600.042, and may be used to pay for expert witness fees, the costs of
52 depositions, travel expenses incurred by witnesses in case preparation and trial,
53 expenses incurred for changes of venue and for other lawful expenses as
54 authorized by the public defender commission.

55 6. The state treasurer shall be the custodian of the legal defense and
56 defender fund, moneys in the legal defense and defender fund shall be deposited
57 the same as are other state funds, and any interest accruing to the legal defense
58 and defender fund shall be added to the legal defense and defender fund. The
59 legal defense and defender fund shall be subject to audit, the same as other state
60 funds and accounts, and shall be protected by the general bond given by the state
61 treasurer.

62 7. Upon the request of the director of the office of state public defender,
63 the commissioner of administration shall approve disbursements from the legal
64 defense and defender fund. The legal defense and defender fund shall be funded
65 annually by appropriation, but any unexpended **remaining** balance in the fund
66 at the end of the appropriation period [not in excess of one hundred and fifty
67 thousand dollars] shall be exempt from the provisions of section 33.080,
68 specifically as they relate to the transfer of fund balances to the general revenue,
69 and shall be the amount of the fund at the beginning of the appropriation period
70 next immediately following.

 600.101. Any dispute between any county or city not within a county and
2 the state public defender regarding office space and utility service provided or to
3 be provided pursuant to section 600.040 may be submitted to the judicial finance
4 commission established pursuant to section 477.600. [The commission on judicial
5 resources established pursuant to section 476.415 shall study and report its
6 recommendations regarding provision of and payment for office space for the state
7 public defender to the chairs of the judiciary committees of the senate and house
8 of representatives, the chair of the senate appropriations committee and budget
9 committee of the house of representatives.]

Bill
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