

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILLS NOS. 678 & 742**  
**90TH GENERAL ASSEMBLY**

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Reported from the Committee on Judiciary, February 17, 2000, with recommendation that the Senate Committee Substitute do pass.

3007S.03C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 56.085, 478.437, 479.150, 516.500, 517.011, 550.120, 621.055, 621.155, 621.165, 621.175, 621.185, 621.189 and 621.198, RSMo 1994, and sections 43.503, 67.133, 303.041, 452.556, 455.040, 455.050, 455.205, 478.320, 482.330, 483.500, 487.030, 514.440, 534.070, 537.675 and 610.105, RSMo Supp. 1999, relating to judicial and administrative procedures, and to enact in lieu thereof twenty-nine new sections relating to the same subject.

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

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Section A. Sections 56.085, 478.437, 479.150, 516.500, 517.011, 550.120, 621.055, 621.155, 621.165, 621.175, 621.185, 621.189 and 621.198, RSMo 1994, and sections 43.503, 67.133, 303.041, 452.556, 455.040, 455.050, 455.205, 478.320, 482.330, 483.500, 487.030, 517.011, 514.440, 534.070, 537.675 and 610.105, RSMo Supp. 1999, are repealed and twenty-nine new sections enacted in lieu thereof, to be known as sections 43.503, 56.085, 67.133, 303.041, 452.556, 455.040, 455.050, 455.205, 478.037, 478.320, 478.437, 479.150, 482.330, 483.500, 514.440, 517.011, 534.070, 537.675, 537.678, 537.681, 537.684, 537.687, 537.690, 537.693, 550.120, 610.105, 621.055, 621.189 and 621.198, to read as follows:

43.503. 1. For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each court, the department of corrections, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge, and disposition information to the central repository for filing without undue delay in the form and manner required by sections 43.500 to 43.530.

2. All law enforcement agencies making misdemeanor and felony arrests as determined by section 43.506 shall furnish without undue delay, to the central repository, fingerprints, charges, and descriptions of all persons who are arrested for such offenses on standard fingerprint

forms supplied by the highway patrol. All such agencies shall also notify the central repository of all decisions not to refer such arrests for prosecution. An agency making such arrests may enter into arrangements with other law enforcement agencies for the purpose of furnishing without undue delay such fingerprints, charges, and descriptions to the central repository upon its behalf. In instances where an individual less than seventeen years of age is taken into custody for an offense which would be considered a felony if committed by an adult, the arresting officer shall take one set of fingerprints for the central repository and may take another set for inclusion in a local or regional automated fingerprint identification system. These fingerprints shall be taken on fingerprint cards which are plainly marked "juvenile card" and shall be provided by the central repository. The fingerprint cards shall be so constructed that only the fingerprints, unique identifying number, and the court of jurisdiction are made available to the central or local repository. The remainder of the card which bears the individual's identification and the duplicate unique number shall be provided to the court of jurisdiction. The appropriate portion of the juvenile fingerprint card shall be forwarded to the central repository and the courts without undue delay. The fingerprint information from the card shall be captured and stored in the automated fingerprint identification system operated by the central repository. The juvenile fingerprint card shall be stored in a secure location, separate from all other fingerprint cards. In the event the fingerprints from this card are found to match latent prints searched in the automated fingerprint identification system, the court of jurisdiction shall be so advised.

3. The prosecuting attorney of each county or the circuit attorney of a city not within a county shall notify the central repository on standard forms supplied by the highway patrol of all charges filed, including all those added subsequent to the filing of a criminal court case, and whether charges were not filed in criminal cases for which the central repository has a record of an arrest. All records forwarded to the central repository by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall include the state offense cycle number of the offense, and the originating agency identifier number of the reporting prosecutor, using such numbers as assigned by the highway patrol.

4. The clerk of the courts of each county or city not within a county shall furnish the central repository, on standard forms supplied by the highway patrol, with all final dispositions of criminal cases for which the central repository has a record of an arrest or a record of fingerprints reported pursuant to subsections 6 and 7 of this section. Such information shall include, for each charge:

(1) All judgments of not guilty, acquittals on the ground of mental disease or defect excluding responsibility, judgments or pleas of guilty including the sentence, if any, or probation, if any, pronounced by the court, nolle pros, discharges, releases and dismissals in the trial court;

(2) Court orders filed with the clerk of the courts which reverse a reported conviction or vacate or modify a sentence;

(3) Judgments terminating or revoking a sentence to probation, supervision or conditional release and any resentencing after such revocation; and

(4) The offense cycle number of the offense, and the originating agency identifier number of the reporting court, using such numbers as assigned by the highway patrol.

5. The clerk of the courts of each county or city not within a county shall furnish court judgment and sentence documents and the state offense cycle number of the offense, which result in the commitment or assignment of an offender, to the jurisdiction of the department of corrections or the department of mental health if the person is committed pursuant to chapter 552, RSMo. This information shall be reported to the department of corrections or the department of mental health at the time of commitment or assignment. If the offender was already in the custody of the department of corrections or the department of mental health at the time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the appropriate department by certified mail, return receipt requested, within ten days of such disposition.

6. After the court pronounces sentence, including an order of supervision or an order of probation granted for any offense which is required by statute to be collected, maintained, or disseminated by the central repository, or commits a person to the department of mental health pursuant to chapter 552, RSMo, the [prosecuting attorney or the circuit attorney of a city not within a county shall ask the] court [to] **shall** order a law enforcement agency to fingerprint immediately all persons appearing before the court to be sentenced or committed who have not previously been fingerprinted for the same case. [The court shall order the requested fingerprinting if it determines that any sentenced or committed person has not previously been fingerprinted for the same case.] The law enforcement agency shall submit such fingerprints to the central repository without undue delay.

7. The department of corrections and the department of mental health shall furnish the central repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency, or discharge of an individual who has been sentenced to that department's custody for any offenses which are mandated by law to be collected, maintained or disseminated by the central repository. All records forwarded to the central repository by the department as required by sections 43.500 to 43.530 shall include the offense cycle number of the offense, and the originating agency identifier number of the department using such numbers as assigned by the highway patrol.

56.085. In the course of a criminal investigation, the prosecuting or circuit attorney may request the circuit **or associate circuit** judge to issue a subpoena to any witness who may have information for the purpose of oral examination under oath to require the production of books, papers, records, or other material of any evidentiary nature at the office of the prosecuting or circuit attorney requesting the subpoena.

67.133. 1. A fee of ten dollars shall be assessed in all cases in which the defendant is convicted of [violating] **a nonfelony violation of** any provision of chapters 252, 301, 302, 304, 306, 307 and 390, RSMo, and any infraction otherwise provided by law, twenty-five dollars in all misdemeanor cases otherwise provided by law, and seventy-five dollars in all felony cases, in criminal cases including violations of any county ordinance or any violation of a criminal or traffic law of the state, except that no such fees shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. All fees collected under the provisions of this section shall be collected and disbursed in the manner provided by sections 488.010 to 488.020, RSMo, and payable to the county treasurer who shall deposit those funds in the county treasury.

2. Counties shall be entitled to a judgment in the amount of twenty-five percent of all sums collected on recognizances given to the state in criminal cases, which are or may become forfeited, if not more than five hundred dollars, and fifteen percent of all sums over five hundred dollars, to be paid out of the amount collected.

303.041. 1. If the director determines that as a result of a verification sample or accident report that the owner of a motor vehicle has not maintained financial responsibility, or if the director determines as a result of an order of [court] supervision that the operator of a motor vehicle has not maintained the financial responsibility as required in this chapter, the director shall thirty-three days after mailing notice, suspend the driving privilege of the operator and/or the registration of the vehicle failing to meet such requirement. The notice of suspension shall be mailed to the person at the last known address shown on the department's records. The notice of suspension is deemed received three days after mailing. The notice of suspension shall clearly specify the reason and statutory grounds for the suspension and the effective date of the suspension, the right of the person to request a hearing, the procedure for requesting a hearing, and the date by which that request for a hearing must be made. If the request for a hearing is received by the department prior to the effective date of the suspension, the effective date of the suspension will be stayed until a final order is issued following the hearing.

2. Neither the fact that subsequent to the date of verification or conviction, the owner acquired the required liability insurance policy nor the fact that the owner terminated ownership of the motor vehicle, shall have any bearing upon the director's decision to suspend. Until it is terminated, the suspension shall remain in force after the registration is renewed or a new registration is acquired for the motor vehicle. The suspension also shall apply to any motor vehicle to which the owner transfers the registration. Effective January 1, 2000, the department shall not extend any suspension for failure to pay a delinquent late surrender fee pursuant to this subsection.

452.556. 1. The state courts administrator shall create a handbook or be responsible for the approval of a handbook outlining the following:

- (1) What is included in a parenting plan;
- (2) The benefits of the parties agreeing to a parenting plan which outlines education, custody and cooperation between parents;
- (3) The benefits of alternative dispute resolution;
- (4) The pro se family access motion for enforcement of custody or temporary physical custody;
- (5) The underlying assumptions for supreme court rules relating to child support; and
- (6) A party's duties and responsibilities pursuant to section 452.377, including the possible consequences of not complying with section 452.377. The handbooks shall be distributed to each court and shall be available in an alternative format, including Braille, large print, or electronic or audio format upon request by a person with a disability, as defined by the federal Americans with Disabilities Act.

2. Each court shall mail a copy of the handbook developed pursuant to subsection 1 of this section to each party in a dissolution or legal separation action filed pursuant to section 452.310, or any proceeding in modification thereof, where minor children are involved, **or may provide the petitioner with a copy of the handbook at the time the petition is filed and direct that a copy of the handbook be served along with the petition and summons upon the respondent.**

3. The court shall make the handbook available to interested state agencies and members of the public.

455.040. 1. Not later than fifteen days after the filing of a petition pursuant to sections 455.010 to 455.085 a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, if the petitioner has proved the allegation of abuse or stalking by a preponderance of the evidence, the court shall issue a full order of protection for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. Upon motion by the petitioner, and after a hearing by the court, the full order of protection may be renewed for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the originally issued full order of protection. If for good cause a hearing cannot be held on the motion to renew the full order of protection prior to the expiration date of the originally issued full order of protection, an ex parte order of protection may be issued until a hearing is held on the motion. Upon motion by the petitioner, and after a hearing by the court, the second full order of protection may be renewed for an additional period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. For purposes of this subsection, a finding by the court of a subsequent act of abuse is not required for a renewal order of protection.

2. The court shall cause a copy of the petition and notice of the date set for the hearing on such petition and any ex parte order of protection to be served upon the respondent as provided by law or by any sheriff or police officer at least three days prior to such hearing. Such notice shall be served at the earliest time, and service of such notice shall take priority over service in other actions, except those of a similar emergency nature. The court shall cause a copy of any full order of protection to be served upon or mailed by certified mail to the respondent at the respondent's last known address. Failure to serve or mail a copy of the full order of protection to the respondent shall not affect the validity or enforceability of a full order of protection.

3. A copy of any order of protection granted pursuant to sections 455.010 to 455.085 shall be issued to the petitioner and to the local law enforcement agency in the jurisdiction where the petitioner resides. The clerk shall also issue a copy of any order of protection to the local law enforcement agency responsible for maintaining the Missouri uniform law enforcement system or any other comparable law enforcement system the same day the order is granted. The law enforcement agency responsible for maintaining MULES shall enter information contained in the order for purposes of verification within twenty-four hours from the time the order is granted. A notice of expiration or of termination of any order of protection shall be issued to the local law enforcement agency and to the law enforcement agency responsible for maintaining MULES or any other comparable law enforcement system. The law enforcement agency responsible for maintaining the applicable law enforcement system shall enter such information in the system. **The information contained in an order of protection may be entered in the Missouri uniform law enforcement system or comparable law enforcement system using a direct automated data transfer from the court automated system to the law enforcement system.**

455.050. 1. Any full or ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from abuse or stalking and may include:

(1) Temporarily enjoining the respondent from abusing, threatening to abuse, molesting, stalking or disturbing the peace of the petitioner;

(2) Temporarily enjoining the respondent from entering the premises of the dwelling unit of the petitioner when the dwelling unit is:

(a) Jointly owned, leased or rented or jointly occupied by both parties; or

(b) Owned, leased [or], rented **or occupied** by petitioner individually; or

(c) Jointly owned, leased [or], rented **or occupied** by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief pursuant to this section by reason of the absence of a property interest in the dwelling unit; or

(d) Jointly occupied by the petitioner and a person other than respondent; provided that the respondent has no property interest in the dwelling unit.

2. Mutual orders of protection are prohibited unless both parties have properly filed

written petitions and proper service has been made in accordance with sections 455.010 to 455.085.

3. When the court has, after a hearing for any full order of protection, issued an order of protection, it may, in addition:

(1) Award custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interests of the child require such order be issued;

(2) Establish a visitation schedule that is in the best interests of the child;

(3) Award child support in accordance with supreme court rule 88.01 and chapter 452, RSMo;

(4) Award maintenance to petitioner when petitioner and respondent are lawfully married in accordance with chapter 452, RSMo;

(5) Order respondent to make or to continue to make rent or mortgage payments on a residence occupied by the petitioner if the respondent is found to have a duty to support the petitioner or other dependent household members;

(6) Order the respondent to pay the petitioner's rent at a residence other than the one previously shared by the parties if the respondent is found to have a duty to support the petitioner and the petitioner requests alternative housing;

(7) Order that the petitioner be given temporary possession of specified personal property, such as automobiles, checkbooks, keys, and other personal effects;

(8) Prohibit the respondent from transferring, encumbering, or otherwise disposing of specified property mutually owned or leased by the parties;

(9) Order the respondent to participate in a court-approved counseling program designed to help batterers stop violent behavior or to participate in a substance abuse treatment program;

(10) Order the respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the petitioner by a shelter for victims of domestic violence;

(11) Order the respondent to pay court costs.

4. A verified petition seeking orders for maintenance, support, custody, visitation, payment of rent, payment of monetary compensation, possession of personal property, prohibiting the transfer, encumbrance, or disposal of property, or payment for services of a shelter for victims of domestic violence, shall contain allegations relating to those orders and shall pray for the orders desired.

5. In making an award of custody, the court shall consider all relevant factors including the presumption that the best interests of the child will be served by placing the child in the custody and care of the nonabusive parent, unless there is evidence that both parents have engaged in abusive behavior, in which case the court shall not consider this presumption but may appoint a guardian ad litem or a court-appointed special advocate to represent the children in

accordance with chapter 452, RSMo, and shall consider all other factors in accordance with chapter 452, RSMo.

6. The court shall grant to the noncustodial parent rights to visitation with any minor child born to or adopted by the parties, unless the court finds, after hearing, that visitation would endanger the child's physical health, impair the child's emotional development or would otherwise conflict with the best interests of the child, or that no visitation can be arranged which would sufficiently protect the custodial parent from further abuse. The court may appoint a guardian ad litem or court-appointed special advocate to represent the minor child in accordance with chapter 452, RSMo, whenever the custodial parent alleges that visitation with the noncustodial parent will damage the minor child.

7. The court shall make an order requiring the noncustodial party to pay an amount reasonable and necessary for the support of any child to whom the party owes a duty of support when no prior order of support is outstanding and after all relevant factors have been considered, in accordance with Missouri supreme court rule 88.01 and chapter 452, RSMo.

8. The court may grant a maintenance order to a party for a period of time, not to exceed one hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter 452, RSMo.

455.205. 1. The governing body of any county, or of any city not within a county, by order or ordinance to be effective prior to January 1, [2000] **2001**, may impose a fee upon the issuance of a marriage license and may impose a surcharge upon any civil case filed in the circuit court [under the provisions of section 452.305, RSMo]. The surcharge shall not be charged when [no court costs are otherwise required, and shall not be charged when] costs are waived or are to be paid by the state, county or municipality.

2. The fee imposed upon the issuance of a marriage license shall be five dollars, shall be paid by the person applying for the license, and shall be collected by the recorder of deeds at the time the license is issued. The surcharge imposed upon the filing of a civil action shall be two dollars, shall be paid by the party who filed the petition, and shall be collected and disbursed by the clerk of the court in the manner provided by sections 488.010 to 488.020, RSMo. Such amounts shall be payable to the treasuries of the counties from which such surcharges were paid.

3. At the end of each month, the recorder of deeds shall file a verified report with the county commission of the fees collected pursuant to the provisions of subsection 2 of this section. The report may be consolidated with the monthly report of other fees collected by such officers. Upon the filing of the reports the recorder of deeds shall forthwith pay over to the county treasurer all fees collected pursuant to subsection 2 of this section. The county treasurer shall deposit all such fees upon receipt in a special fund to be expended only to provide financial assistance to shelters for victims of domestic violence as provided in sections 455.200 to 455.230.

**478.037. 1. Except as provided in subsection 2 of this section, a commissioner or**



**deputy commissioner appointed pursuant to sections 66.010, 211.023, 478.265, 478.266, 478.267, 478.268, 479.500 or 487.020, RSMo, shall prepare written findings and recommendations in any case or proceeding assigned to the commissioner or deputy commissioner. Written notice of the findings and recommendations of the commissioner or deputy commissioner, together with a statement that the matter is being transferred to a judge exercising office pursuant to article V of the constitution, shall be given to the parties whose case or proceeding shall be heard by the commissioner or deputy commissioner and, where appropriate, to the juvenile, the juvenile's custodian, and any other person that the court may direct. This notice may be given by regular first class mail or other service as directed by the court. The commissioner or deputy commissioner shall file the written findings and recommendations with the clerk of the court, together with the evidence and exhibits, if any. Any party receiving such notice may file written objections to the findings and recommendations within fifteen days after mailing thereof, and shall serve copies of such objections on all other parties. If no objections are filed, the court may adopt the findings and recommendations. If objections are filed, or if the court proposes action other than the adoption of the report, the court, after a hearing, may adopt the findings and recommendations or may modify or reject the findings and recommendations, in whole or in part, or may receive further evidence, or may return the case or proceeding to the commissioner or deputy commissioner, with instructions.**

**2. A commissioner appointed pursuant to sections 478.003 or 478.466, RSMo, or appointed pursuant to sections 211.023 or 487.020, RSMo, and exercising jurisdiction pursuant to chapters 211 or 455, RSMo, shall prepare written findings and a judgment or order in any case or proceeding assigned to the commissioner. The judgment or order of the commissioner shall take effect as provided within the judgment or order, subject to the right of objection provided in this subsection. Written notice of the findings, and the judgment or order of the commissioner, together with a statement that the matter is being transferred to a judge exercising office pursuant to article V of the constitution, shall be given to the parties whose case or proceeding shall be heard by the commissioner and, where appropriate, to the juvenile, the juvenile's custodian, and any other person that the court may direct. This notice may be given by regular first class mail or other service as directed by the court. The commissioner shall file the written findings and judgment or order with the clerk of the court, together with the evidence and exhibits, if any. Any party receiving such notice may file written objections to the findings and judgment or order within ten days after receipt thereof, and shall serve copies of such objections on all other parties. If no objections are filed, the court may adopt the findings and ratify judgment or order of the commissioner. If objections are filed, or if the court proposes action other than the**

**adoption of the report, the court, after a hearing, may adopt the findings and ratify the judgment or order or may modify or reject the findings and vacate the judgment or order, in whole or in part, or may receive further evidence, or may return the case or proceeding to the commissioner, with instructions.**

**3. The judge shall rule on any objections filed promptly. If the objections are not ruled on within forty-five days after the objections are filed, the objections are deemed overruled for all purposes.**

478.320. 1. In counties having a population of thirty thousand or less, there shall be one associate circuit judge. In counties having a population of more than thirty thousand and less than one hundred thousand, there shall be two associate circuit judges. In counties having a population of one hundred thousand or more, there shall be three associate circuit judges and one additional associate circuit judge for each additional one hundred thousand inhabitants.

2. For purposes of this section, notwithstanding the provisions of section 1.100, RSMo, population of a county shall be determined on the basis of the last previous decennial census of the United States; and, beginning after certification of the year 2000 decennial census, on the basis of annual population estimates prepared by the United States Bureau of the Census, provided that the number of associate circuit judge positions in a county shall be adjusted only after population estimates for three consecutive years indicate population change in the county to a level provided by subsection 1 of this section.

**3. The number of associate circuit judges authorized for the twenty-first judicial circuit shall be reduced by the number of additional circuit judges authorized for the twenty-first judicial circuit, as provided by subsection 2 of section 478.437.**

4. Except in circuits where associate circuit judges are selected under the provisions of sections 25(a) to (g) of article V of the constitution, the election of associate circuit judges shall in all respects be conducted as other elections and the returns made as for other officers.

[4.] 5. In counties not subject to sections 25(a) to (g) of article V of the constitution, associate circuit judges shall be elected by the county at large.

[5.] 6. No associate circuit judge shall practice law, or do a law business, nor shall he accept, during his term of office, any public appointment for which he receives compensation for his services.

[6.] 7. No person shall be elected as an associate circuit judge unless he has resided in the county for which he is to be elected at least one year prior to the date of his election; provided that, a person who is appointed by the governor to fill a vacancy may file for election and be elected notwithstanding the provisions of this subsection.

478.437. 1. **Prior to August 28, 2000**, the circuit court of the county of St. Louis, comprising circuit number twenty-one, shall be composed of nineteen divisions and nineteen judges and each of the judges shall separately try causes, exercise the powers and perform all the

duties imposed upon circuit judges.

**2. On and after August 28, 2000, as the number of associate circuit judges are reduced in the twenty-first judicial circuit pursuant to subsection 3 of section 478.320, five additional circuit divisions and five additional circuit judges are authorized for the twenty-first judicial circuit. The procedure for adding these judges shall be as follows:**

**(1) On and after August 28, 2000, the next five associate circuit judge positions which become vacant shall be considered abolished; and**

**(2) A vacancy in a circuit judge position shall be deemed to exist, and a circuit judge shall be appointed as provided by sections 25(a) to (g) of article V of the constitution.**

**The provisions of this subsection shall apply only to the first five vacancies in associate circuit judge positions in the twenty-first judicial circuit which occur on and after August 28, 2000.**

479.150. 1. In any municipality, whenever a defendant accused of a violation of a municipal ordinance has a right to a trial by jury and demands such trial by jury, except as provided in subsection 2 of this section, the municipal judge shall certify the case for assignment [in the manner provided in subsection 2 of section 517.520, RSMo].

2. Any municipality requiring by ordinance that the municipal judge be a licensed attorney and which has a population in excess of one hundred thousand persons which is located in a county of the first class not having a charter form of government and which does not adjoin another first class county may elect by passage of an appropriate municipal ordinance to hear jury cases before the municipal court; provided, such jury cases are heard in accordance with the following procedures:

(1) Cases shall be heard with a record being made as required in jury cases before the associate circuit court and the trial shall be conducted and the jury selected in accordance with procedures applicable before circuit courts;

(2) In any case tried with a jury in a municipal court under provisions of this subsection, appeals may be had upon the record to the appropriate state appellate court, and the record for appeal in such cases shall be prepared in accordance with the same rules prescribed by the supreme court for trials on the record before associate circuit courts;

(3) The costs of equipment or stenographic services for jury trials a municipality should elect to hold under this section shall be paid by the municipality, except where the supreme court has by rule provided for reimbursement by the defendant for the cost of transcription, and any person who requests a jury trial shall be responsible for all costs incurred in the securing of a jury if such person thereafter waives his right to a jury trial;

(4) The failure to request a jury trial while the case is pending before the municipal court shall be deemed a waiver of the right to a jury trial and after such jury trial there shall be no right

to a trial de novo in circuit court;

(5) If the municipal judge is disqualified, the rules for appointment of another municipal judge of the city to hear such cases shall apply; provided, however, that in the event there is no other municipal judge qualified to hear the case, the case shall be certified for assignment [in the manner provided in subsection 2 of section 517.520, RSMo].

482.330. 1. No claim may be filed or prosecuted in small claims court by a party who:

(1) Is an assignee of the claim; or

(2) Has filed more than eight other claims in the Missouri small claims courts during the current calendar year. If the court finds that a party has filed [one] more [claim] **claims** than [is] **are** permitted by this section, the court [may dismiss the petition with prejudice. If the court finds that a party has filed two more claims than is permitted by this section, the court] shall dismiss [with] **the claim without** prejudice.

2. At the time of filing an action in small claims court, a plaintiff shall sign a statement that he is not the assignee of the claim sued on and that he has not filed more than [ten] **eight** other claims in the Missouri small claims courts during the current calendar year.

3. Nothing in this section shall prohibit the filing or prosecution of a counterclaim growing out of the same transaction or occurrence.

4. No claim may be filed in a small claims court unless:

(1) At least one defendant is a resident of the county in which the court is located or at least one of the plaintiffs is a resident of the county in which the court is located and at least one defendant may be found in said county; or

(2) The facts giving rise to the cause of action took place within the county in which the court is located.

483.500. 1. [Clerks of the supreme court and court of appeals shall severally be allowed and paid by the] **An** appellant or plaintiff in error **shall pay** court costs in an amount determined pursuant to [section 514.015] **sections 488.010 to 488.020**, RSMo; provided, that nothing herein shall be construed to apply to proceedings when costs are waived or are to be paid by the state, county or municipality.

2. [If the judgment of the supreme court or court of appeals is in favor of the appellant or plaintiff in error, the clerks shall assess the fee provided herein in favor of the appellant or plaintiff in error which may be collected in the manner provided by section 514.460, RSMo.

3. Such clerks] **The clerk of the court in which the notice of appeal is initially filed** shall collect **and disburse** court costs [for other services in such amounts as are] determined pursuant to [section 514.015] **this section in the manner provided by sections 488.010 to 488.020, RSMo, and such court costs shall be payable to the director of revenue for deposit to the general revenue fund.**

[487.030. 1. The findings and recommendations of the commissioner shall become

the judgment of the court when adopted and confirmed by an order of a circuit or an associate circuit judge. Notice of the findings and recommendations of the commissioner, together with a statement relative to the right to file a motion for rehearing, shall be given to the parties whose case has been heard by the commissioner, and to any other person that the court may direct. This notice may be given at the hearing, or by mail or other service directed by the court.

2. The parties to a cause of action heard by a commissioner are entitled to file with the court a motion for a hearing by a judge of the family court either within fifteen days after receiving notice of the findings of the commissioner at the hearing, or within fifteen days after the mailing, or within fifteen days after other service directed by the court. In cases in which the family court has jurisdiction pursuant to subdivision (1) of subsection 1 of section 211.031, RSMo, the juvenile officer, in addition to the parties listed above, is also entitled to file with the court a motion for a hearing by a judge of the family court within fifteen days after receiving notice of the findings of the commissioner. The judge shall promptly rule on such motion and, in his discretion, may either sustain or deny the motion, and if the motion is sustained, the judge shall set a date for a hearing. If the motion for rehearing is not ruled on within forty-five days after the motion is filed, it is denied for all purposes. In computing the forty-five days, no day shall be counted during which the court lacks power to act because of an order of a superior court.]

514.440. The judges of the circuit court, en banc, in any circuit in this state, by rule of court adopted prior to January 1, 1997, may require any party filing a civil case in the circuit court, at the time of filing the suit, to deposit with the clerk of the court a surcharge in the amount of [not to exceed] fifteen dollars in addition to all other deposits required by law or court rule. Sections 514.440 to 514.460 shall not apply to proceedings when costs are waived or are to be paid by the county or state or any city.

[516.500. No action alleging a procedural defect in the enactment of a bill into law shall be commenced, had or maintained by any party later than the adjournment of the next full regular legislative session following the effective date of the bill as law, unless it can be shown that there was no party aggrieved who could have raised the claim within that time. In the latter circumstance, the complaining party must establish that he or she was the first person aggrieved or in the class of first persons aggrieved, and that the claim was raised not later than the adjournment of the next full regular legislative session following any person being aggrieved. In no event shall an action alleging a procedural defect in the enactment of a bill into law be allowed later than five years after the bill or the pertinent section of the bill which is challenged becomes effective.]

517.011. 1. The provisions of this chapter shall apply to the practice and procedure in civil cases originally filed before associate circuit judges in hearing and determining the following cases

or classes of cases:

(1) Except as otherwise provided by law, all civil actions and proceedings for the recovery of money, whether such action be founded upon contract or tort, or upon a bond or undertaking given in pursuance of law in any civil action or proceeding, or for a penalty or forfeiture given by any statute of this state, when the sum demanded, exclusive of interest and costs, does not exceed **[twenty-five] fifty** thousand dollars;

(2) All actions against any railroad company in this state, to recover damages for killing or injuring horses, mules, cattle or other animals within their respective counties, without regard to the value of such animals, or the amount claimed for killing or injuring the same;

(3) All cases arising under chapter 213, 272, 302, 303, 388, 429, 430, 444, 482, 521, 533, 534, 535, or 577, RSMo;

(4) In counties of less than seventy thousand inhabitants, when a circuit judge is absent from the county, cases that a circuit judge can hear in chambers except where otherwise provided by law.

2. The provisions of this chapter shall not apply to the practice and procedure before associate circuit judges in hearing and determining cases, except as provided in subsection 1 of this section.

534.070. 1. When complaint to the circuit court of the proper county shall be made in writing, signed by the party aggrieved, his agent or attorney, and sworn to, specifying the lands, tenements or other possessions so forcibly entered and detained, or unlawfully detained, and by whom and when done, it shall be the duty of the **[judge hearing such case] clerk of the court** to issue **[his] a** summons **[under his hand,]** directed to the sheriff or proper officer of the county, commanding him to summon the person against whom the complaint shall have been made to appear, at a day in such summons to be specified.

2. A court date shall be assigned at the time the summons is issued. The court date shall be for a day certain which is not more than twenty-one business days from the date the summons is issued unless, at the time the case is filed, the plaintiff or plaintiff's attorney consents in writing to a later date.

537.675. 1. There is created the "Tort Victims' Compensation Fund". Unexpended moneys in the fund shall not lapse at the end of the biennium as provided in section 33.080, RSMo.

2. **[Fifty percent of any final judgment awarding punitive damages after the deduction of attorneys' fees and expenses shall be deemed rendered in favor of the state of Missouri. The circuit clerks shall notify the attorney general of any final judgment awarding punitive damages rendered in their circuits. With respect to such fifty percent, the attorney general shall collect upon such judgment, and may execute or make settlements with respect thereto as he deems appropriate for deposit into the fund.] The attorney general shall be notified by the plaintiff or plaintiffs of any case in which punitive damages are sought, except for actions**

brought for improper health care pursuant to chapter 538, RSMo. The state of Missouri shall have a lien to the extent of fifty percent of punitive damages awarded by final judgment in any such case, which shall attach when the final judgment is rendered and all appeals become final. In each case, the attorney general shall serve a lien notice by certified mail or registered mail upon the party or parties against whom the state has a claim. On a petition filed by the state, the court, on written notice to all interested parties, shall adjudicate the rights of the parties and enforce the charge. The lien shall not be satisfied out of any recovery until the attorney's claim for fees and expenses is paid. Cases resolved by arbitration, mediation or compromise settlement prior to final judgment are exempt from the provisions of this subsection. Nothing in this chapter shall hinder or in any way affect the right or ability of the parties to any claim or lawsuit to compromise or settle such claim or litigation on any terms and at any time the parties desire.

3. The state of Missouri shall have no interest in or right to intervene at any stage of any judicial proceeding [under] **pursuant to** this section.

4. [No disbursement shall be made from the tort victims' compensation fund until procedures for disbursement are established by further action of the general assembly.] **There is hereby established in the state treasury the "Legal Services for Low-Income People Fund", which shall consist of twenty-five percent of all payments received by the tort victims' compensation fund regardless of source or designation. Moneys, funds or payments paid to the credit of the legal services for low-income people fund shall, at least as often as annually, upon appropriation, be distributed by the state treasurer to the legal services organizations in Missouri which are recipients of federal Legal Services Corporation funding and shall be used for no other purpose than as authorized pursuant to sections 537.675 to 537.693. The funds so distributed shall be used by legal services organizations in Missouri to provide legal services to its low-income population, in the manner approved by the board of directors of each legal services organization. Funds shall be allocated in their distribution by the state treasurer according to the most recent official census data from the Bureau of Census, United States Department of Commerce for people in poverty residing in Missouri. Notwithstanding the provisions of section 33.080, RSMo, any balance remaining in the legal services fund for low-income people at the end of an appropriation period shall not be transferred to general revenue, but shall remain in the fund and be distributed in accordance with the provisions of this section.**

**537.678. 1. Seventy-five percent of all payments received by the tort victims' compensation fund regardless of source or designation shall, upon appropriation, be credited to the division of workers' compensation to assist uncompensated tort victims and shall be used for no other purpose. Notwithstanding the provisions of section**

**33.080, RSMo, any balance remaining in the budget of the division of workers' compensation for compensation of uncompensated tort victims shall not be transferred to general revenue but shall remain in the fund.**

**2. The division of workers' compensation shall, pursuant to the provisions of sections 537.678 to 537.693, have jurisdiction to determine and award compensation to or on behalf of uncompensated tort victims. An "uncompensated tort victim" is a prevailing plaintiff in a personal injury or wrongful death case that has received a final monetary judgment against a tortfeasor, but is unable to collect or enforce the judgment. A corporation is ineligible to be an uncompensated tort victim. The requirement for a final judgment may be waived based on a showing of good cause, including but not limited to the tortfeasor's bankruptcy or inability to identify the tortfeasor. The division is not required to provide compensation, nor is it required to award the full amount claimed. The division shall base its award of compensation upon independent verification obtained during its investigation. In no case shall the amount paid to the individual exceed the lesser of either the award granted by the court or jury, or the amount remaining in the tort victims' compensation fund, provided, however, that no award shall exceed three hundred thousand dollars.**

**3. Claims shall be made by filing an application for compensation with the division of workers' compensation, and the signature of the claimant shall be notarized. The division shall furnish an application form which shall include:**

- (1) The name and address of the uncompensated victim;**
- (2) If the claimant is not the uncompensated victim, the name and address of the claimant and relationship to the victim, the name and address of any dependents of the victim, and the extent to which each is so dependent;**
- (3) The date and nature of the tort on which the application for compensation is based;**
- (4) The date and court in which a judgment was rendered against the tortfeasor, including the judgment amount specifying medical costs, if available;**
- (5) The nature and extent of the qualifying injuries sustained by the victim, the names and addresses of those giving medical and hospital treatment to the victim and whether death resulted;**
- (6) The loss to the claimant or a dependent resulting from the injury or death;**
- (7) The amount of benefits, payments or awards, if any, payable from any source that the claimant or dependent has received or for which the claimant or dependent is eligible as a result of the injury or death;**
- (8) Releases by the uncompensated victim authorizing any reports, documents and other information relating to the matters specified pursuant to this section to be transferred to the division; and**



**(9) Any other information as the division determines is necessary.**

**4. In addition to the application, the division may require that the claimant submit materials substantiating the facts stated in the application.**

**5. If the division finds that an application does not contain the required information or that the facts stated therein have not been substantiated, it shall notify the claimant in writing of the specific additional items or information or materials required and that the claimant has thirty days from the date of mailing in which to furnish those items to the division. Unless a claimant requests and is granted an extension of time by the division, the division may reject the claim of the claimant for failure to file the additional information or materials within the specified time.**

**6. The claimant may file an amended application or additional substantiating materials to correct inadvertent errors or omissions at any time before the division has completed its consideration of the original application.**

**7. Any state or local agency, including a prosecuting attorney or law enforcement agency, shall make available without cost to the fund, all reports, files and other appropriate information that the division requests in order to make a determination that a claimant is eligible for an award pursuant to sections 537.675 to 537.693.**

**537.681. 1. The following persons shall be eligible for compensation pursuant to sections 537.675 to 537.693:**

**(1) An uncompensated tort victim as defined in section 537.678;**  
**(2) In the case of the death of the uncompensated victim as a direct result of the tort:**

**(a) The class of persons identified in subsection 1 of section 537.080;**  
**(b) Any member of the family who legally assumes the obligation, or who incurred medical or burial expenses as a direct result of the tort at issue.**

**2. An uncompensated tort victim that is found personally liable on a cross-complaint of tort, or found to have been contributorily or comparatively negligent, shall only be eligible to receive compensation to the extent of the amount awarded by the judge or jury. No uncompensated victim or dependent shall be denied compensation solely because he is a relative of the tortfeasor or was living with the tortfeasor as a family or household member at the time of the injury or death. The division, however, may award compensation to a victim or dependent who is a relative, family or household member of the tortfeasor, if the division can reasonably determine the tortfeasor will receive no substantial economic benefit or unjust enrichment from the compensation.**

**3. No compensation of any kind may be made to an uncompensated victim or intervenor injured while confined in any federal, state, county, or municipal jail, prison**

or other correctional facility, including house arrest.

4. No compensation of any kind may be made to an uncompensated victim who has been finally adjudicated and found guilty, in a criminal prosecution pursuant to the laws of this state, of two felonies within the past ten years, of which one or both involve illegal drugs or violence. The division may waive this restriction if it determines that the interest of justice would be served otherwise.

5. In the case of an uncompensated victim who is not otherwise ineligible pursuant to subsection 4 of this section, who is incarcerated as a result of a conviction of a crime not related to the incident upon which the claim is based at the time of application, or at any time following the filing of the application:

(1) The division shall suspend all proceedings and payments until such time as the uncompensated victim is released from incarceration;

(2) The division shall notify the applicant at the time the proceedings are suspended of the right to reactivate the claim within six months of release from incarceration. The notice shall be deemed sufficient if mailed to the applicant at the applicant's last known address;

(3) The uncompensated victim may file an application to request that the case be reactivated not later than six months after the date the claimant is released from incarceration. Failure to file such request within the six-month period shall serve as a bar to any recovery.

6. Uncompensated victims of torts who are not residents of the state of Missouri may be compensated only when the cause of action accrued in Missouri or when federal funds are available for that purpose.

7. A Missouri resident who suffers personal physical injury or, in the case of death, the person or persons entitled to bring an action for wrongful death pursuant to section 537.080, may make application for compensation in Missouri if:

(1) The uncompensated victim would be otherwise eligible for compensation pursuant to sections 537.678 to 537.693 if the tort had occurred in the state of Missouri; and

(2) The place that the tort occurred is a state possession or territory of the United States, or location outside of the United States that is covered and defined in 18 U.S.C. section 2331, that has a tort victims' compensation program for which the uncompensated victim is ineligible, but which would provide at least the same compensation that the victim would have received if he or she had been injured in Missouri.

537.684. 1. A claim for compensation may be filed by a person eligible for compensation or, if the person is an incapacitated or disabled person, or a minor, by the person's spouse, parent, conservator or guardian.

**2. A claim shall be filed not later than two years after the occurrence of the final award judgment upon which it is based. If there is no judgment, claims must be filed within time limits prescribed pursuant to section 516.120, RSMo, except for cases resulting in death, in which case claims must be filed within time limits prescribed pursuant to section 537.100.**

**3. Each claim shall be filed in person or by mail. The division of workers' compensation shall investigate such claim prior to the opening of formal proceedings. The director of the division of workers compensation shall assign an administrative law judge, associate administrative law judge or legal advisor within the division of workers' compensation to hear any claim for compensation filed. The claimant shall be notified of the date and time of any hearing on the claim. In determining the amount of compensation for which a claimant is eligible, the division shall consider the facts stated on the application filed pursuant to section 537.678, and:**

**(1) Obtain a copy of the final award judgment, if any, from the appropriate court;**

**(2) Determine the amount of the loss to the claimant, or the victims's survivors or dependents, but any determination shall not be above that of the final award judgment awarded by the court or jury in the underlying action;**

**(3) Determine the degree or extent to which the victim's acts or conduct provoked, incited or contributed to the injuries or death of the victim.**

**4. The claimant may present evidence and testimony on his or her own behalf or may retain counsel.**

**5. Prior to any hearing, the person filing a claim shall submit reports, if available, from all hospitals, physicians or surgeons who treated or examined the victim for the injury for which compensation is sought. If, in the opinion of the division of workers' compensation, a report after an examination of the injured victim or a report on the cause of death of the victim would be of material aid, the division of workers' compensation may appoint a duly qualified, impartial physician to make an examination and report. A finding of the judge or jury in the underlying case shall be considered as evidence.**

**6. Each and every payment shall be exempt from attachment, garnishment or any other remedy available to creditors for the collection of a debt.**

**7. Payments of compensation shall not be made directly to any person legally incompetent to receive them but shall be made to the parent, guardian or conservator for the benefit of such minor, disabled or incapacitated person.**

**8. In the event that there are insufficient funds in the budget of the division of workers' compensation for payment of claims of uncompensated tort victims to pay all claims in full, claims shall be paid on a pro rata basis. If there are no funds available,**

then no claim shall be paid until funds have accumulated in the tort victims' compensation fund and have been appropriated to the division for payment to uncompensated tort victims. When sufficient funds become available for payment of claims of uncompensated tort victims, awards that have not been paid shall be paid in chronological order with the oldest paid first. Any award pursuant to this subsection that cannot be paid due to a lack of funds appropriated for payment of claims of uncompensated tort victims shall not constitute a claim against the state.

**537.687. 1.** Upon request by the division for verification of injuries of victims, medical providers shall submit the information requested by the division within twenty working days of the request at no cost to the fund.

**2.** For purposes of this section, "medical providers" means physicians, dentists, clinical psychologists, optometrists, podiatrists, registered nurses, physicians' assistants, chiropractors, physical therapists, hospitals, ambulatory surgical centers and nursing homes.

**3.** Failure to submit the information as required by this section shall be an infraction.

**537.690. 1.** Any of the parties to a decision of the division of workers' compensation on a claim heard under the provisions of sections 537.675 to 537.693 may, within thirty days following the date of notification or mailing of such decision, file a petition with the labor and industrial relations commission to have the decision reviewed by the commission. The commission may allow or deny a petition for review. If a petition is allowed, the commission may affirm, reverse or set aside the decision of the division of workers' compensation on the basis of the evidence previously submitted in such case or may take additional evidence or may remand the matter to the division of workers' compensation with directions. The commission shall promptly notify the parties of its decision and the reasons therefore.

**2.** Any petition for review filed pursuant to subsection 1 of this section shall be deemed to be filed as of the date endorsed by the United States Postal Service on the envelope or container in which such petition is received.

**3.** Any party who is aggrieved by a final decision of the labor and industrial relations commission pursuant to the provisions of subsections 1 and 2 of this section may seek judicial review thereof, as provided in sections 536.100 to 536.140, RSMo. In such proceedings the attorney general, on behalf of the tort victims' compensation fund, shall defend the decision of the labor and industrial relations commission. The commission shall not be a party in such actions.

**537.693. 1.** Acceptance of any compensation pursuant to sections 537.675 to 537.693 shall subrogate this state, to the extent of such compensation paid, to any right or right of action accruing to the claimant or to the victim to recover payments with

respect to which the compensation has been paid and to enforce the underlying judgment against the tortfeasor. The attorney general may enforce the subrogation, and he or she shall bring suit to recover from any person to whom compensation is paid, to the extent of the compensation actually paid pursuant to section 537.675 to 537.693, any amount received by the claimant from the tortfeasor or from the tortfeasor's agent exceeding the loss compensated by the state.

2. The division shall have a lien on any compensation received by the claimant from the tortfeasor or the tortfeasor's agent, in addition to compensation received pursuant to the provisions of sections 537.675 to 537.693, for injuries or death resulting from the incident upon which the claim is based. The claimant shall retain, as trustee for the division, so much of the recovered funds as necessary to reimburse the Missouri tort victims' compensation fund to the extent that compensation was awarded to the claimant from that fund.

3. If a claimant initiates any legal proceeding to recover restitution or damages or enforce the underlying judgment related to the tort upon which the claim is based, or if the claimant enters into negotiations to receive any proceeds in settlement or a claim for restitution or damages related to the tort, the claimant shall give the division written notice within fifteen days of the filing of the action or entering into negotiations. The division may intervene in the proceeding of a complainant to recover any compensation awarded to the claimant. If a claimant fails to give such written notice to the division within the stated time period or prior to any attempt by claimant to reach a negotiated settlement of claims for recovery of damages related to the tort upon which the claim is based, the division's right of subrogation to receive or recover funds from claimant, to the extent that compensation was awarded by the division, shall not be reduced in any amount or percentage by the costs incurred by claimant attributable to such legal proceedings or settlement, including, but not limited to, attorney's fees, investigative cost or court costs.

4. Whenever the division shall deem it necessary to protect, maintain or enforce the division's right to subrogation or to exercise any of its powers to carry out any of its duties or responsibilities, the attorney general may initiate legal proceedings or intervene in legal proceedings as the division's legal representative.

5. The division may adopt rules necessary to implement the provisions of sections 537.675 to 537.693.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 537.675 to 537.693 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant

**to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.**

550.120. 1. In any criminal [cause] **or civil case** in which a change of venue is taken from one county to any other county, [for any of the causes mentioned in existing laws,] and whenever a prisoner shall, for any cause, be confined in the jail of one county, such costs shall be paid by the county in which the **case**, indictment or information was originally instituted **to the county in which the case is actually tried or where the prisoner is confined**. In all cases where fines are imposed upon conviction under such indictments or prosecutions, or penalties or forfeitures of penal bonds in criminal cases, are collected, by civil action or otherwise, payable to the county, such fines, penalties and forfeitures shall be paid into the treasury of the county where such indictment or information was originally found or such prosecution originally instituted, for the benefit of the public school fund of the county.

2. The term "costs" as used in this section means:

(1) All items, services and other matters defined as costs under any other provisions of law relating to criminal **or civil** procedures;

(2) All moneys expended as salaries of persons directly related to the care of **criminal** defendants, security of the court, security of the jury and the room and board thereof, transportation of the jury, security and room and board of witnesses, and the processing of the cause, **paid or** payable out of the county treasury to which venue has been changed;

(3) All expenses of whatever nature incurred by a county as the result of jury selection [under] **and service pursuant to** the provisions of [section 545.485] **chapter 494**, RSMo;

(4) Any other expense directly related to the trial and prosecution of such criminal charge found necessary by the trial judge hearing the case.

610.105. If the person arrested is charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty or imposition of sentence is suspended in the court in which the action is prosecuted, official records pertaining to the case shall thereafter be closed records when such case is finally terminated [except that the disposition portion of the record may be accessed and] except as provided in section 610.120 **and except that the court's judgment or order or the final action taken by the prosecutor in such matters may be accessed**. If the accused is found not guilty due to mental disease or defect pursuant to section 552.030, RSMo, official records pertaining to the case shall thereafter be closed records upon such findings, except that the disposition may be accessed only by law enforcement agencies, child-care agencies, facilities as defined in section 198.006, RSMo, and in-home services provider agencies as defined in section 660.250, RSMo, in the manner established by section 610.120.

621.055. 1. Any person authorized [under] **pursuant to** section 208.153, RSMo, to provide services for which benefit payments are authorized [under] **pursuant to** section 208.152, RSMo,

may seek review by the administrative hearing commission of any of the actions of the department of social services specified in subsection 2, 3, or 4 of section 208.156, RSMo. The review may be instituted by the filing of a petition with the administrative hearing commission. The procedures applicable to the processing of such review shall be those established by chapter 536, RSMo. The administrative hearing commission shall maintain a transcript of all testimony and proceedings in any review governed by this section, and copies thereof shall be made available to any interested person upon the payment of a fee which shall not exceed the reasonable cost of preparation and supply. Decisions of the administrative hearing commission under this section shall be binding subject to appeal by either party. If the provider of services prevails in any dispute **[under] pursuant to** this section, interest shall be allowed at the rate of eight percent per annum upon any amount found to have been wrongfully denied or withheld. In any proceeding before the administrative hearing commission **[under] pursuant to** this section the burden of proof shall be on the provider of services seeking review.

2. As compensation for the additional duties imposed upon the administrative hearing commission **[under] pursuant to** the provisions of this section and section 208.156, RSMo, each commissioner shall annually receive the sum of five thousand dollars plus any salary adjustment provided pursuant to section 105.005, RSMo. Such additional compensation shall be paid in the same manner and at the same time as other compensation for the commissioners.

**3. Any decision of the department of social services that is subject to appeal to the administrative hearing commission pursuant to subsection 1 of this section shall contain a notice of the right to appeal in substantially the following language:**  
**If you were adversely affected by this decision, you may appeal this decision to the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days from the date of mailing or delivery of this decision, whichever is earlier; except that claims of less than five hundred dollars may be accumulated until they total that sum and at which time you have ninety days to file the petition. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission.**

[621.155. The administrative hearing commission shall conduct hearings, make findings of fact and conclusions of law, and issue decisions in those cases involving complaints filed pursuant to the provisions of section 536.050, RSMo.]

[621.165. Upon receipt of a written complaint filed pursuant to section 536.050, RSMo, the administrative hearing commission shall as soon as practicable thereafter give notice of such complaint and the date upon which the hearing will be held by delivery of a copy, or by certified mail, of such complaint and notice both to the office of the agency

whose authority is challenged and to the complainant.]

[621.175. Hearings in cases filed pursuant to section 536.050, RSMo, shall not be deemed to be contested cases and the procedures established by chapter 536, RSMo, or any other procedural requirements applicable to contested cases shall not apply to such hearings unless required by the provisions of the law relating to the administrative hearing commission, other independent statute or by constitutional provision. Unless the administrative hearing commission rules that special circumstances so require, and sets forth in writing such special circumstances and the reasons why they so require, evidentiary submissions shall be limited to written exhibits, physical evidence, testimony of persons present at the hearing, and affidavits. Cross-examination of persons testifying may be permitted, but shall be limited to situations where there are genuinely disputed questions of material facts. The administrative hearing commission shall maintain a transcript of all testimony and proceedings in hearings, and copies thereof shall be made available to any interested person upon the payment of a fee which shall in no case exceed the reasonable cost of preparation and supply. Rules of discovery shall not apply to hearings held under this section, but the administrative hearing commission, at the request of a party, or on its own motion, may issue subpoenas duces tecum, but not subpoenas ad testificandum, subject to and consistent with the procedures set forth in section 536.077, RSMo. In cases heard under this section the administrative hearing commission may take judicial notice of judicially cognizable facts as well as generally recognized technical or internal administrative facts of which the administrative hearing commission has specialized knowledge. Parties shall be notified either before the hearing, or during the hearing, or by reference in preliminary reports, or otherwise, of the material so to be noticed and shall be afforded an opportunity to contest or to object to the noticing of such material.]

[621.185. Decisions after hearings in cases filed pursuant to 536.050, RSMo, shall be in writing and shall include or be accompanied by findings of fact and conclusions of law together with a statement of findings upon which the administrative hearing commission bases its decision. The administrative hearing commission shall as soon as practicable upon its decision either deliver or send by certified mail both notice of its decision as well as a copy of the full decision itself to each party to the proceeding or to his attorney of record.]

621.189. Final decisions of the administrative hearing commission in cases arising [under the provisions of sections 621.155 and 536.050, RSMo, and under] **pursuant to** the provisions of section 621.050 shall be subject to review pursuant to a petition for review to be filed in the court of appeals in the district in which the hearing, or any part thereof, is held or, where constitutionally required or ordered by transfer, to the supreme court, and by delivery of copies



of the petition to each party of record, within thirty days after the mailing or delivery of the final decision and notice thereof in such a case. Review under this section shall be exclusive, and decisions of the administrative hearing commission reviewable under this section shall not be reviewable in any other proceeding, and no other official or court shall have power to review any such decision by an action in the nature of mandamus or otherwise except pursuant to the provisions of this section. The party seeking review shall be responsible for the filing of the transcript and record of all proceedings before the administrative hearing commission in the case with the appropriate court of appeals.

621.198. The administrative hearing commission shall publish and file with the secretary of state independent sets of rules of procedure for the conduct of proceedings before it. One set of rules shall apply exclusively to proceedings in licensing cases **[under] pursuant to** section 621.045. Another set of rules shall apply **[exclusively to challenges to agency authority brought under section 621.155. A third set of rules shall apply]** to sales and use and income tax disputes **[under] pursuant to** section 621.050. Rules of procedure adopted **[under] pursuant to** the authority of this section shall be designed to simplify the maintenance of actions and to enable review to be sought, where appropriate, without the need to be represented by independent counsel. **The administrative hearing commission may by rule set a reasonable filing fee for cases pursuant to section 407.1031, RSMo, and section 621.053. Such fee shall be not substantially greater than the administrative hearing commission's costs in administering cases pursuant to section 407.1031, RSMo, and section 621.053. [Each set of rules shall be promulgated under the procedures set forth in sections 536.020 to 536.035, RSMo] Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.**

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