

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 267
91ST GENERAL ASSEMBLY

Reported from the Committee on Judiciary, April 26, 2001, with recommendation that the House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 267 Do Pass.

TED WEDEL, Chief Clerk

0981L.06C

AN ACT

To repeal sections 43.503, 56.085, 67.133, 194.115, 196.790, 210.140, 303.025, 426.220, 426.230, 429.360, 452.556, 453.005, 453.073, 455.040, 476.010, 479.150, 482.330, 483.500, 488.426, 488.429, 488.445, 488.447, 488.607, 488.5332, 488.5336, 490.130, 491.300, 512.180, 534.070, 534.350, 534.360, 534.380, 535.030, 535.110, 541.020, 542.261, 542.276, 565.030, 575.200, 610.105, 632.480, 632.483, 632.492 and 632.495, RSMo 2000, section 303.041 as enacted by senate substitute for house substitute for house committee substitute for house bill no. 1797, ninetieth general assembly, second regular session and section 303.041 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19, ninetieth general assembly, first regular session, relating to court procedures, and to enact in lieu thereof fifty-six new sections relating to the same subject, with penalty provisions and an effective date for certain sections.

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

Section A. Sections 43.503, 56.085, 67.133, 194.115, 196.790, 210.140, 303.025, 426.220, 426.230, 429.360, 452.556, 453.005, 453.073, 455.040, 476.010, 479.150, 482.330, 483.500, 488.426, 488.429, 488.445, 488.447, 488.607, 488.5332, 488.5336, 490.130, 491.300, 512.180, 534.070, 534.350, 534.360, 534.380, 535.030, 535.110, 541.020, 542.261, 542.276, 565.030, 575.200, 610.105, 632.480, 632.483, 632.492 and 632.495, RSMo 2000, section 303.041 as enacted by senate substitute for house substitute for house committee substitute for house bill no. 1797, ninetieth general assembly, second regular session and section 303.041 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19, ninetieth general assembly, first regular session, are repealed and fifty-six new sections enacted in lieu thereof, to be known as sections 43.503, 56.085, 67.133, 194.115, 196.790, 210.140, 303.025, 303.041, 426.220, 426.230, 429.360, 452.556, 453.005, 453.073, 455.040, 476.010, 476.365, 476.777, 479.150, 482.330, 483.500, 488.426, 488.429, 488.445, 488.447, 488.607, 488.5332,

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

488.5336, 490.130, 491.300, 494.455, 512.180, 534.070, 534.350, 534.360, 534.380, 535.030, 535.110, 537.530, 541.020, 542.261, 542.276, 547.035, 565.030, 575.200, 578.600, 578.605, 578.610, 610.105, 632.480, 632.483, 632.492, 632.495, 1, 2 and 3, 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.

194.115. 1. Except when **ordered or** directed by a public officer, **court of record** or agency authorized by law to order an autopsy or postmortem examination, it is unlawful for any licensed physician and surgeon to perform an autopsy or postmortem examination upon the remains of any person without the consent of one of the following:

- (1) The deceased, if in writing, and duly signed and acknowledged prior to his death; or
- (2) A person designated by the deceased in a durable power of attorney that expressly refers to the giving of consent to an autopsy or postmortem examination; or
- (3) The surviving spouse; or
- (4) If the surviving spouse through injury, illness or mental capacity is incapable of giving his or her consent, or if the surviving spouse is unknown, or his or her address unknown or beyond the boundaries of the United States, or if he or she has been separated and living apart from the deceased, or if there is no surviving spouse, then any surviving child, parent, brother or sister, in the order named; or
- (5) If no surviving child, parent, brother or sister can be contacted by telephone or telegraph, then any other relative, by blood or marriage; or
- (6) If there are no relatives who assume the right to control the disposition of the remains, then any person, friend or friends who assume such responsibility.

2. If the surviving spouse, child, parent, brother or sister hereinabove mentioned is under the age of twenty-one years, but over the age of sixteen years, such minor shall be deemed of age for the purpose of granting the consent hereinabove required.

3. Any licensed physician and surgeon performing an autopsy or postmortem examination with the consent of any of the persons enumerated in subsection 1 of this section shall use his judgment as to the scope and extent to be performed, and shall be in no way liable for such action.

4. It is unlawful for any licensed physician, unless specifically authorized by law, to hold a postmortem examination on any unclaimed dead without the consent required by section 194.170.

5. Any person not a licensed physician performing an autopsy or any licensed physician performing an autopsy without the authorization herein required shall upon conviction be adjudged guilty of a misdemeanor, and subject to the penalty provided for in section 194.180.

6. If an autopsy is performed on a deceased patient and an autopsy report is prepared, such report shall be made available upon request to the personal representative or administrator of the estate of the deceased, the surviving spouse, any surviving child, parent, brother or sister of the deceased.

196.790. Every person, firm or corporation who shall violate any of the provisions of sections 196.755 to 196.765, 196.780 and 196.785, shall forfeit and pay to the state of Missouri, for the use of the school fund for every such violation, the sum of fifty dollars and costs of suit, to be recovered by civil action in the name of the state of Missouri on the relation of any person having knowledge of the facts before an associate circuit judge, or circuit judge assigned to hear the cause[, of] in the city or county

where such violation occurs, subject to the right of [an application for trial de novo or] appeal[, as the case may be,] as in other civil cases; and it is further enacted that every person, firm or corporation who shall violate the provisions of sections 196.750 to 196.810, in addition to the civil liability to the state of Missouri [herein] provided, shall be deemed guilty of a misdemeanor, and shall for the first offense be punished by a fine of not less than fifty dollars nor more than one hundred dollars or by imprisonment not exceeding thirty days, and for each subsequent offense, by a fine of not less than two hundred and fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment, in the discretion of the court.

210.140. Any legally recognized privileged communication, except that between attorney and client **or involving communications made to a minister or clergyperson**, shall not apply to situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as required or permitted by sections 210.110 to 210.165, to cooperate with the division in any of its activities pursuant to sections 210.110 to 210.165, or to give or accept evidence in any judicial proceeding relating to child abuse or neglect.

303.025. 1. No owner of a motor vehicle registered in this state, or required to be registered in this state, shall operate, register or maintain registration of a motor vehicle, or permit another person to operate such vehicle, unless the owner maintains the financial responsibility which conforms to the requirements of the laws of this state. Furthermore, no person shall operate a motor vehicle owned by another with the knowledge that the owner has not maintained financial responsibility unless such person has financial responsibility which covers the person's operation of the other's vehicle; however, no owner shall be in violation of this subsection if he or she fails to maintain financial responsibility on a motor vehicle which is inoperable or being stored and not in operation. The director may prescribe rules and regulations for the implementation of this section.

2. A motor vehicle owner shall maintain the owner's financial responsibility in a manner provided for in section 303.160, or with a motor vehicle liability policy which conforms to the requirements of the laws of this state.

3. Any person who violates this section is guilty of a class C misdemeanor. However, no person shall be found guilty of violating this section if the operator demonstrates to the court that he or she met the financial responsibility requirements of this section at the time the peace officer, commercial vehicle enforcement officer or commercial vehicle inspector wrote the citation. In addition to any other authorized punishment, the court shall notify the director of revenue of any person convicted pursuant to this section and shall do one of the following:

(1) Enter an order suspending the driving privilege as of the date of the court order. If the court orders the suspension of the driving privilege, the court shall require the defendant to surrender to it any driver's license then held by such person. The length of the suspension shall be as prescribed in subsection 2 of section 303.042. The court shall forward to the director of revenue the order of suspension of driving privilege and any license surrendered within ten days;

(2) Forward the record of the conviction for an assessment of four points; or

(3) In lieu of an assessment of points, render an order of supervision as provided in section 302.303, RSMo. An order of supervision shall not be used in lieu of points more than one time in any thirty-six-month period. Every court having jurisdiction pursuant to the provisions of this section shall forward a record of conviction [or the order of supervision to the department of revenue within ten days] **to the Missouri state highway patrol, or at the written direction of the Missouri state highway**

patrol, to the department of revenue, in a manner approved by the director of the department of public safety. The director shall establish procedures for the record keeping and administration of this section.

4. Nothing in sections 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330 and 303.370 shall be construed as prohibiting the department of insurance from approving or authorizing those exclusions and limitations which are contained in automobile liability insurance policies and the uninsured motorist provisions of automobile liability insurance policies.

5. If a court enters an order of suspension, the offender may appeal such order directly pursuant to chapter 512, RSMo, and the provisions of section 302.311, RSMo, shall not apply.

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 owner or 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.

[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.

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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.]

426.220. All appeals allowed by virtue of section 426.210 shall be taken and made by the appellant, or someone for him, making and filing an affidavit that the appeal is not taken for vexation or delay, but because affiant believes that appellant is prejudiced by the decision appealed from, and by giving bond to the state of Missouri in such sum as the assignee may require, and with such sureties as he may approve, conditioned that appellant will prosecute his appeal with due diligence, and pay all cost thereon awarded against appellant. If judgment for costs be rendered against appellant, it shall be against him and his sureties on the bond. [In all other respects appeals shall be taken, certified and proceeded with in the same manner as applications for a trial de novo from judgments of associate circuit judges.]

426.230. Upon such appeal being allowed and certified, as in section 426.220 is required, the court shall become possessed of the case, and shall proceed to hear and determine the same, in the same manner as if such case was pending before a circuit judge [on an application for trial de novo from the judgment of an associate circuit judge]; and appeals may be taken from the judgment of the court, in the same manner as appeals are now allowed by law from judgments of circuit judges in this state.

429.360. The process, practice and procedure[, including applications for trial de novo,] in suits to enforce mechanics' liens which are heard by an associate circuit judge without special assignment shall be as nearly as practicable the same as provided in other civil suits heard by associate circuit judges. When a case is specially assigned to an associate circuit judge to hear upon a record, the process, practice and procedure, including appeals, shall be the same as if the case was being heard by a circuit judge.

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.

453.005. 1. The provisions of sections 453.005 to 453.400 shall be construed so as to promote the best interests and welfare of the child in recognition of the entitlement of the child to a permanent and

stable home.

2. The division of family services and all persons involved in the adoptive placement of children as provided in subdivisions (1), (2) and (4) of section 453.014, shall provide for the diligent recruitment of potential adoptive homes that reflect the ethnic and racial diversity of children in the state for whom adoptive homes are needed.

3. [In the selection of an adoptive home, consideration shall be given to both a child's cultural, racial and ethnic background and the capacity of the adoptive parents to meet the needs of a child of a specific background, as one of a number of factors used in determining whether a placement is in the child's best interests. This factor must, however, be applied on an individualized basis, not by general rules.

4.] Placement of a child in an adoptive home may not be delayed or denied on the basis of race, color or national origin.

453.073. 1. The division of family services is authorized to grant a subsidy to a child in one of the forms of allotment defined in section 453.065. Determination of the amount of monetary need is to be made by the division at the time of placement, if practicable, and in reference to the needs of the child, including consideration of the physical and mental condition, **and** age [and racial and ethnic background] of the child in each case; provided, however, that the subsidy amount shall not exceed the expenses of foster care and medical care for foster children paid under the homeless, dependent and neglected foster care program.

2. The subsidy shall be paid for children who have been in the care and custody of the division of family services under the homeless, dependent and neglected foster care program. In the case of a child who has been in the care and custody of a private child-caring or child-placing agency or in the care and custody of the division of youth services or the department of mental health, a subsidy shall be available from the division of family services subsidy program in the same manner and under the same circumstances and conditions as provided for a child who has been in the care and custody of the division of family services.

3. Within thirty days after the authorization for the grant of a subsidy by the division of family services, a written agreement shall be entered into by the division and the parents. The agreement shall set forth the following terms and conditions:

- (1) The type of allotment;
- (2) The amount of assistance payments;
- (3) The services to be provided;
- (4) The time period for which the subsidy is granted, if that period is reasonably ascertainable;
- (5) The obligation of the parents to inform the division when they are no longer providing support to the child or when events affect the subsidy eligibility of the child;
- (6) The eligibility of the child for Medicaid.

[4. In the case that the subsidized family moves from the state of Missouri, the granted subsidy shall remain in force as stipulated in the allotment agreement, as long as the adopting family follows the established requirements and, provided further, that a subsidized family which has moved its residence from the state of Missouri shall, as a condition for the continuance of the granted subsidy, submit to the division of family services by the thirtieth day of June of each year, on a form to be provided by such division, a statement of the amounts paid for expenses for the care and maintenance of the adopted child in the preceding year. If the subsidized family fails to submit such form by the thirtieth day of June of any year, payments under the provisions of sections 453.065 to 453.074 to a family which has moved its residence

from the state of Missouri shall cease.]

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.**

476.010. The supreme court of the state of Missouri, the court of appeals, [the circuit divisions of the circuit courts,] and any [other] division of the circuit courts keeping a record of the proceedings before the court, shall be courts of record, and shall keep just and faithful records of their proceedings. Notwithstanding the foregoing, municipal divisions of the circuit courts shall not be considered courts of record, regardless of whether or not a verbatim record of proceedings before the court is kept.

476.365. 1. No judge of any court in this state shall appoint an official court reporter who

is not a court reporter certified by the board of certified court reporter examiners, as provided in Supreme Court Rule 14. In the absence of an official court reporter due to illness, physical incapacity, death, dismissal or resignation, a judge may appoint a temporary court reporter, but such temporary court reporter shall not serve more than six months without obtaining a certificate pursuant to the provisions of Supreme Court Rule 14.

2. No testimony taken in this state by deposition shall be given in any court in this state, and no record on appeal from an administrative agency of this state shall include testimony taken in this state by deposition, unless the deposition is prepared and certified by a certified court reporter, except as provided in Supreme Court Rule 57.03(c).

3. Deposition testimony taken outside the state shall be deemed to be in conformity with this section if the testimony was prepared and certified by a court reporter authorized to prepare and certify deposition testimony in the jurisdiction in which the testimony was taken.

4. This section shall not apply to depositions taken in this state in connection with cases not pending in a Missouri state court or administrative agency at the time the deposition was taken.

476.777. 1. There is hereby established in the state treasury a special fund, to be known as the "Missouri CASA Fund". The state treasurer shall credit to and deposit in the Missouri CASA fund all moneys which may be appropriated to it by the general assembly and also any gifts, contributions, grants, bequests or other aid received from federal, private or other sources. The general assembly may appropriate moneys into the fund to support the court-appointed special advocate (CASA) program throughout the state.

2. The state treasurer shall invest moneys in the Missouri CASA fund in the same manner as surplus state funds are invested pursuant to section 30.260, RSMo. All earnings resulting from the investment of moneys in the fund shall be credited to the Missouri CASA fund.

3. The state courts administrator shall administer and disburse moneys in the Missouri CASA fund based on the following requirements:

(1) The office of state courts administrator shall set aside funding for new start-up CASA programs throughout the state;

(2) Every recognized CASA program shall receive a base rate allocation, with availability of additional funding based on the number of children with abuse or neglect cases under the jurisdiction of the court; and

(3) All CASA programs being considered for funding shall be recognized by and affiliated with the state and national CASA associations.

4. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Missouri CASA fund shall not revert to the credit of the general revenue fund at the end of the biennium.

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.**

488.426. 1. 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 488.426 to 488.432 shall not apply to proceedings when costs are waived or are to be paid by the county or state or any city.

2. **The surcharge in effect on August 28, 2001, shall remain in effect until changed by the circuit court. The circuit court in any circuit, except the circuit court in Jackson County or St. Louis County, may change the fee to any amount not to exceed fifteen dollars. The circuit court in Jackson County or St. Louis County may change the fee to any amount not to exceed twenty dollars. A change in the fee shall become effective and remain in effect until further changed beginning on January first if the office of state courts administrator is notified of the proposed change not later than the preceding September first.**

3. **Sections 488.426 to 488.432 shall not apply to proceeding when costs are waived or are paid by the county or state or any city.**

488.429. 1. Moneys collected pursuant to section 488.426 shall be payable to the circuit judge or judges of the circuit court of the county from which such surcharges were collected, or to such person as is designated by local circuit court rule as treasurer of said fund, and said fund shall be applied and expended under the direction and order of the circuit judge or judges of the circuit court of any such county for the maintenance and upkeep of the law library maintained by the bar association in any such county, or such other law library in any such county as may be designated by the circuit judge or judges of the circuit court of any such county **and for the acquisition of necessary equipment and maintenance of court facilities approved by order of the circuit judge or judges of the circuit court**; provided, that the judge or judges of the circuit of any such county, and the officers of all courts of record of any such county, shall be entitled at all reasonable times to use the library to the support of which said funds are applied.

2. **In any county of the first classification without a charter form of government and with a population of at least two hundred thousand, such fund may also be applied and expended for that county's or circuit's family services and justice fund.**

488.445. 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, 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. The surcharge 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. 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, RSMo.

488.447. 1. The circuit and associate circuit judges of the circuit court in any city not within a county shall require any party filing a civil case in the circuit court, at the time of filing suit, to deposit with the circuit clerk a surcharge in the amount of [thirty-five] **forty-five** dollars, in addition to all other court costs now or hereafter required by law or court rule, and no summons shall be issued until such surcharge has been paid. This section shall not apply to proceedings when costs are waived or paid by the state, county or municipality.

2. Such funds shall be payable to the treasury of any city not within a county to be credited to a courthouse restoration fund, which shall bear interest, to be used by any city not within a county only for the restoration, maintenance and upkeep of the courthouses; provided, that the courthouse restoration fund may be pledged to directly or indirectly secure bonds to fund such costs. All funds collected pursuant to this section before August 28, 1995, shall be credited to the courthouse restoration fund provided for in this section, to be used pursuant to the provisions of this section.

3. This section shall expire on August 28, 2033.

488.607. In addition to all other court costs for county or municipal ordinance violations, any county or any city having a shelter for victims of domestic violence established pursuant to sections 455.200 to 455.230, RSMo, or any municipality within a county which has such shelter, or any county or municipality whose residents are victims of domestic violence and are admitted to such shelters may, by order or ordinance [to be effective prior to January 1, 2000,] provide for an additional surcharge in the amount of two dollars per case for each criminal case [including] **and each** county or municipal ordinance violation case filed before a municipal division judge or associate circuit judge. No surcharge shall be collected in any proceeding when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. Such surcharges collected by municipal clerks in municipalities electing or required to have violations of municipal ordinances tried before a municipal judge pursuant to section 479.020, RSMo, or to employ judicial personnel pursuant to section 479.060, RSMo, shall be disbursed to the city at least monthly, and such surcharges collected by circuit court clerks shall be collected and disbursed as provided by sections 488.010 to 488.020. Such fees shall be payable to the city or county wherein such fees originated. The county or city shall use such moneys only for the purpose of providing operating expenses for shelters for battered persons as defined in sections 455.200 to 455.230, RSMo.

488.5332. In all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of this state, including an infraction, there shall be assessed as costs a surcharge in the amount of [fifty cents] **one dollar**. No such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. Such surcharge shall be collected and

disbursed by the clerk of the court as provided by sections 488.010 to 488.020. Moneys collected from this surcharge shall be payable to the independent living center fund created in section 178.653, RSMo.

488.5336. 1. A surcharge of two dollars may be assessed as costs in each criminal case involving violations of any county ordinance or a violation of any criminal or traffic laws of the state, including infractions, or violations of municipal ordinances, provided that no such fee shall be collected in any proceeding in any court when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. For violations of the general criminal laws of the state or county ordinances, no such surcharge shall be collected unless it is authorized by the county government where the violation occurred. For violations of municipal ordinances, no such surcharge shall be collected unless it is authorized by the municipal government where the violation occurred. [Any such surcharge shall be authorized by the county or municipality and written notice given to the supreme court of such authorization prior to December first of the year preceding the state fiscal year during which such surcharge is to be collected and disbursed in the manner provided by sections 488.010 to 488.020.] If imposed by a municipality, such surcharges shall be collected by the clerk of the municipal court responsible for collecting court costs and fines and shall be transmitted monthly to the treasurer of the municipality where the violation occurred in cases of violations of municipal ordinances. If imposed by a county, such surcharges shall be collected and disbursed as provided in sections 488.010 to 488.020. Such surcharges shall be payable to the treasurer of the county where the violation occurred in the case of violations of the general criminal laws of the state or county ordinances. An additional surcharge in the amount of one dollar shall be assessed as provided in this section, and shall be collected and disbursed as provided in sections 488.010 to 488.020 and payable to the state treasury to the credit of the peace officer standards and training commission fund created in section 590.178, RSMo. Such surcharges shall be in addition to the court costs and fees and limits on such court costs and fees established by section 66.110, RSMo, and section 479.260, RSMo.

2. Each county and municipality shall use all funds received under this section only to pay for the training required as provided in sections 590.100 to 590.180, RSMo, or for the training of county coroners and their deputies. No county or municipality shall retain more than one thousand five hundred dollars of such funds for each certified law enforcement officer, candidate for certification employed by that agency or a coroner and the coroner's deputies. Any excess funds shall be transmitted quarterly to the general revenue fund of the county or municipality treasury which assessed the costs.

490.130. The records of judicial proceedings of any court of the United States, or of any state, attested by the clerk thereof, with the seal of the court annexed, if there be a seal, and certified by the judge, chief justice or presiding associate circuit judge of the court to be attested in due form, shall have such faith and credit given to them in this state as they would have at the place whence the said records come. Copies from the record of proceedings of any court of this state, attested by the clerk thereof, with the seal of the court annexed, if there be a seal, or if there be no seal, with the private seal of the clerk, shall be received as evidence of the acts or proceedings of such court in any court of this state. Records of proceedings of any court of this state contained within any statewide court automated record-keeping system established by the supreme court shall be received as evidence of the acts or proceedings in any court of this state **without further certification of the clerk, provided that the location from which such records are obtained is disclosed to the opposing party.**

491.300. 1. Interpreters and translators in civil and criminal cases shall be allowed a reasonable fee approved by the court.

2. Such fee shall be payable by the state in criminal cases from funds appropriated to the office of the state courts administrator **if the person requiring an interpreter or translator during the court proceeding is a party to or witness in the proceeding.**

494.455. 1. **Each county or city not within a county may elect to compensate its jurors pursuant to subsection 2 of this section except as otherwise provided in subsection 3 of this section.**

2. Each grand and petit juror shall receive six dollars per day, for every day he or she may actually serve as such, and seven cents for every mile he **or she** may necessarily travel going from his or her place of residence to the courthouse and returning, to be paid from funds of the county or a city not within a county.

[2. Provided that a county or a city not within a county authorizes daily compensation payable from county or city funds for jurors who serve in that county pursuant to subsection 3 of this section in the amount of at least six dollars per day in addition to the amount required by subsection 1 of this section, a person shall receive an additional six dollars per day to be reimbursed by the state of Missouri so that the total compensation payable shall be at least eighteen dollars, plus mileage as indicated in subsection 1 of this section, for each day that the person actually serves as a petit juror in a particular case; or for each day that a person actually serves as a grand juror during a term of a grand jury. The state shall reimburse the county for six dollars of the additional juror compensation provided by this subsection.

3.] The governing body of each county or a city not within a county may authorize additional daily compensation and mileage allowance for jurors, which additional compensation shall be paid from the funds of the county or a city not within a county. The governing body of each county or a city not within a county may authorize additional daily compensation and mileage allowance for jurors attending a coroner's inquest. Jurors may receive the additional compensation and mileage allowance authorized by this subsection only if the governing body of the county or the city not within a county authorizes the additional compensation. The provisions of this subsection authorizing additional compensation shall terminate upon the issuance of a mandate by the Missouri supreme court which results in the state of Missouri being obligated or required to pay any such additional compensation even if such additional compensation is formally approved or authorized by the governing body of a county or a city not within a county. **Provided that a county or a city not within a county authorizes daily compensation payable from county or city funds for jurors who serve in that county pursuant to this subsection in the amount of at least six dollars per day in addition to the amount required by this subsection, a person shall receive an additional six dollars per day to be reimbursed by the state of Missouri so that the total compensation payable shall be at least eighteen dollars, plus mileage for each day that the person actually serves as a petit juror in a particular case; or for each day that a person actually serves as a grand juror during a term of a grand jury. The state shall reimburse the county for six dollars of the additional juror compensation provided by this subsection.**

3. In any county of the first classification without a charter form of government and with a population of at least two hundred thousand inhabitants, no grand or petit juror shall receive compensation for the first two days of service, but shall receive fifty dollars per day for the third day and each subsequent day he or she may actually serve as such, and seven cents for every mile he or she may necessarily travel going from his or her place of residence to the courthouse and returning, to be paid from funds of the county.

4. When each panel of jurors summoned and attending court has completed its service, the board

of jury commissioners shall cause to be submitted to the governing body of the county or a city not within a county a statement of fees earned by each juror. Within thirty days of the submission of the statement of fees, the governing body shall cause payment to be made to those jurors summoned the fees earned during their service as jurors.

512.180. 1. Any person aggrieved by a judgment in a civil case tried without a jury before an associate circuit judge, other than an associate circuit judge sitting in the probate division or who has been assigned to hear the case on the record under procedures applicable before circuit judges, shall have the right of a trial de novo in all cases where the petition **is not filed pursuant to chapter 517, RSMo, and** claims damages not to exceed five thousand dollars.

2. In all other contested civil cases tried with or without a jury before an associate circuit judge or on assignment under such procedures applicable before circuit judges or in any misdemeanor case or county ordinance violation case a record shall be kept, and any person aggrieved by a judgment rendered in any such case may have an appeal upon that record to the appropriate appellate court. At the discretion of the judge, but in compliance with the rules of the supreme court, the record may be a stenographic record or one made by the utilization of electronic, magnetic, or mechanical sound or video recording devices.

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.

534.350. The judge rendering judgment in any such cause may issue execution at any time after judgment, but such execution shall not be levied until after the expiration of the time allowed for the filing of [an application for trial de novo or the taking of] an appeal, except as [in the next succeeding section is] provided.

534.360. If it shall appear to the officer having charge of the execution that the defendant therein is about to remove, conceal or dispose of his property, so as to hinder or delay the levy, the rents and profits, damages and costs may be levied before the expiration of the time allowed for the filing of [an application for a trial de novo or taking] an appeal.

534.380. [Applications for trials de novo and] Appeals shall be allowed and conducted in the manner provided in chapter 512, RSMo. Application for [a trial de novo or] appeal shall not stay execution for restitution of the premises unless the defendant gives bond within the time for appeal. The bond shall be for the amount of the judgment and with the condition to stay waste and to pay all subsequently accruing rent, if any, into court within ten days after it becomes due, pending determination of the [trial de novo or] appeal, subject to the judge's discretion. However, in any case in which the defendant receives a reduction in rent due to a local, state or federal subsidy program, the amount of the bond shall be reduced by the amount of said subsidy. Execution other than for restitution shall be stayed if the defendant files a bond in the proper amount at such time as otherwise provided by law.

535.030. 1. Such summons shall be served as in other civil cases at least four days before the

court date in the summons. The summons shall include a court date which shall not be more than twenty-one business days from the date the summons is issued unless at the time of filing the affidavit the plaintiff or plaintiff's attorney consents in writing to a later date.

2. In addition to attempted personal service, the plaintiff may request, and thereupon the [judge, before whom the proceeding is commenced,] **clerk of the court** shall make an order directing that the officer, or other person empowered to execute the summons, shall also serve the same by securely affixing a copy of such summons and the complaint in a conspicuous place on the dwelling of the premises in question at least ten days before the court date in such summons, and by also mailing a copy of the summons and complaint to the defendant at the defendant's last known address by ordinary mail and by certified mail, return receipt requested, deliver to addressee only, at least ten days before the court date. If the officer, or other person empowered to execute the summons, shall return that the defendant is not found, or that the defendant has absconded or vacated his usual place of abode in this state, and if proof be made by affidavit of the posting and of the mailing of a copy of the summons and complaint, the judge shall at the request of the plaintiff proceed to hear the case as if there had been personal service, and judgment shall be rendered and proceedings had as in other cases, except that no money judgment shall be granted the plaintiff where the defendant is in default and service is by the posting and mailing procedure set forth in this section.

3. If the plaintiff does not request service of the original summons by posting and mailing as provided in subsection 2 of this section, and if the officer, or other person empowered to execute the summons, makes return that the defendant is not found, or that the defendant has absconded or vacated the defendant's usual place of abode in this state, the plaintiff may request the issuance of an alias summons and service of the same by posting and mailing in the time and manner provided in subsection 2 of this section. In addition, the plaintiff or an agent of the plaintiff who is at least eighteen years of age may serve the summons by posting and mailing a copy of the summons in the time and manner provided in subsection 2 of this section. Upon proof by affidavit of the posting and of the mailing of a copy of the summons or alias summons and the complaint, the judge shall proceed to hear the case as if there had been personal service, and judgment shall be rendered and proceedings had as in other cases, except that no money judgment shall be granted the plaintiff where the defendant is in default and service is by the posting and mailing procedure provided in subsection 2 of this section.

4. On the date judgment is rendered as provided in this section where the defendant is in default, the **clerk of the** court shall mail to the defendant at the defendant's last known address by certified mail, with a request for return receipt and with directions to deliver to the addressee only, a notice informing the defendant of the judgment and the date it was entered, and stating that the defendant has ten days from the date of the judgment to file a motion to set aside the judgment [or to file an application for a trial de novo in the circuit court, as the case may be], and that unless the judgment is set aside [or an application for a trial de novo is filed within ten days], the judgment will become final and the defendant will be subject to eviction from the premises without further notice.

535.110. [Applications for trials de novo and] Appeals shall be allowed and conducted in the manner provided in chapter 512, RSMo; but no [application for a trial de novo or] appeal shall stay execution unless the defendant [give] **gives** bond, with security sufficient to secure the payment of all damages, costs and rent then due, and with condition to stay waste and to pay all subsequently accruing rent, if any, into court within ten days after it becomes due, pending determination of the [trial de novo or] appeal.

537.530. In any proceeding before a court in this state it shall be recognized that it is the public policy of this state to permit the solicitation, sale, issuance or delivery of liability insurance policies providing coverage indemnifying individuals or business entities for punitive damages imposed against such insured as a result of acts or omissions of such insured's employees, agents or servants, or any other person or entity for whose acts such insured shall be vicariously liable, in the absence of the actual prior knowledge of or actual participation in such acts or omissions by such insured. Such coverage shall be expressly stated in the insuring language of the policy, and if not expressly stated, the policy shall not be construed to provide coverage for punitive damages. Evidence of liability insurance coverage for punitive damages shall be admissible in any proceeding conducted pursuant to section 510.263, RSMo.

541.020. Except as otherwise provided by law, the circuit courts shall have exclusive original jurisdiction in all cases of felony, misdemeanor and infractions. [Except as otherwise provided by law, circuit judges may hear and determine originally all cases of felony, misdemeanor and infractions and may hear and determine upon a trial de novo cases of misdemeanor and infractions.]

542.261. As used in sections 542.261 to 542.296 and section 542.301, the term "peace officer" means a police officer, member of the highway patrol to the extent otherwise permitted by law to conduct searches, sheriff or deputy sheriff, **and the term "technological crime" shall be defined as it is in section 578.600, RSMo.**

542.276. 1. Any peace officer or prosecuting attorney may make application under section 542.271 for the issuance of a search warrant. **In any investigation of a technological crime, the attorney general may also make application under section 542.271 for the issuance of a search warrant.**

2. The application shall:

- (1) Be in writing;
- (2) State the time and date of the making of the application;
- (3) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
- (4) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he is to search;
- (5) State facts sufficient to show probable cause for the issuance of a search warrant;
- (6) Be verified by the oath or affirmation of the applicant;
- (7) Be filed in the proper court;
- (8) Be signed by the prosecuting attorney of the county where the search is to take place, or [his] **by the prosecuting attorney's designated assistant, or, in the case of an application to search for and seize evidence related to a technological crime, be signed by the attorney general or the attorney general's designated assistant, or the prosecuting attorney or the prosecuting attorney's designated assistant.**

3. The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a search warrant and in filling out any deficiencies in the description of the person, place, or thing to be searched or of the property, article, material, substance, or person to be seized. Oral testimony shall not be considered.

4. The judge shall hold a nonadversary hearing to determine whether sufficient facts have been stated to justify the issuance of a search warrant. If it appears from the application and any supporting

affidavit that there is probable cause to believe that property, article, material, substance, or person subject to seizure is on the person or at the place or in the thing described, a search warrant shall immediately be issued. The warrant shall be issued in the form of an original and two copies.

5. The application and any supporting affidavit and a copy of the warrant shall be retained in the records of the court from which the warrant was issued.

6. The search warrant shall:

- (1) Be in writing and in the name of the state of Missouri;
- (2) Be directed to any peace officer in the state;
- (3) State the time and date the warrant is issued;
- (4) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
- (5) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he is to search;
- (6) Command that the described person, place, or thing be searched and that any of the described property, article, material, substance, or person found thereon or therein be seized or photographed or copied and be returned, or the photograph or copy be brought, within ten days after filing of the application, to the judge who issued the warrant, to be dealt with according to law;
- (7) Be signed by the judge, with his title of office indicated.

7. A search warrant issued under this section may be executed only by a peace officer. The warrant shall be executed by conducting the search and seizure commanded.

8. A search warrant shall be executed as soon as practicable and shall expire if it is not executed and the return made within ten days after the date of the making of the application.

9. After execution of the search warrant, the warrant with a return thereon, signed by the officer making the search, shall be delivered to the judge who issued the warrant. The return shall show the date and manner of execution, what was seized, and the name of the possessor and of the owner, when he is not the same person, if known. The return shall be accompanied by a copy of the itemized receipt required by subsection [6] 5 of section 542.291. The judge or clerk shall, upon request, deliver a copy of such receipt to the person from whose possession the property was taken and to the applicant for the warrant.

10. A search warrant shall be deemed invalid:

- (1) If it was not issued by a judge; or
- (2) If it was issued without a written application having been filed and verified; or
- (3) If it was issued without probable cause; or
- (4) If it was not issued in the proper county; or
- (5) If it does not describe the person, place, or thing to be searched or the property, article, material, substance, or person to be seized with sufficient certainty; or
- (6) If it is not signed by the judge who issued it; or
- (7) If it was not executed within the time prescribed by subsection 8 of this section.

547.035. 1. A person in the custody of the department of corrections claiming that forensic DNA testing will demonstrate the person's innocence of the crime for which the person is in custody may file a post-conviction motion in the sentencing court seeking such testing. The procedure to be followed for such motions is governed by the rules of civil procedure insofar as applicable.

2. The motion must allege facts under oath demonstrating that:

- (1) There is evidence upon which DNA testing can be conducted; and
 - (2) The evidence was secured in relation to the crime; and
 - (3) The evidence was not previously tested by the movant because:
 - (a) The technology for the testing was not reasonably available to the movant at the time of the trial;
 - (b) Neither the movant nor his or her trial counsel was aware of the existence of the evidence at the time of trial; or
 - (c) The evidence was otherwise unavailable to both the movant and movant's trial counsel at the time of trial; and
 - (4) Identity was an issue in the trial; and
 - (5) A reasonable probability exists that the movant would not have been convicted if exculpatory results had been obtained through the requested DNA testing.
3. Movant shall file the motion and two copies thereof with the clerk of the sentencing court. The clerk shall file the motion in the original criminal case and shall immediately deliver a copy of the motion to the prosecutor.
4. The court shall issue to the prosecutor an order to show cause why the motion should not be granted unless:
- (1) It appears from the motion that the movant is not entitled to relief; or
 - (2) The court finds that the files and records of the case conclusively show that the movant is not entitled to relief.
5. Upon the issuance of the order to show cause, the clerk shall notify the court reporter to prepare and file the transcript of the trial or the movant's guilty plea and sentencing hearing if the transcript has not been prepared or filed.
6. If the court finds that the motion and the files and records of the case conclusively show that the movant is not entitled to relief, a hearing shall not be held. If a hearing is ordered, counsel shall be appointed to represent the movant if the movant is indigent. The hearing shall be on the record. Movant need not be present at the hearing. The court may order that testimony of the movant shall be received by deposition. The movant shall have the burden of proving the allegations of the motion by a preponderance of the evidence.
7. The court shall order appropriate testing if the court finds:
- (1) A reasonable probability exists that the movant would not have been convicted if exculpatory results had been obtained through the requested DNA testing; and
 - (2) That movant is entitled to relief.

Such testing shall be conducted by a facility mutually agreed upon by the movant and by the state and approved by the court. If the parties are unable to agree, the court shall designate the testing facility. The court shall impose reasonable conditions on the testing to protect the state's interests in the integrity of the evidence and the testing process.

8. The court shall issue findings of fact and conclusions of law whether or not a hearing is held.

565.030. 1. Where murder in the first degree is charged but not submitted or where the state waives the death penalty, the submission to the trier and all subsequent proceedings in the case shall proceed as in all other criminal cases with a single stage trial in which guilt and punishment are submitted

together.

2. Where murder in the first degree is submitted to the trier without a waiver of the death penalty, the trial shall proceed in two stages before the same trier. At the first stage the trier shall decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of punishment shall not be submitted to the trier at the first stage. If an offense is charged other than murder in the first degree in a count together with a count of murder in the first degree, the trial judge shall assess punishment on any such offense according to law, after the defendant is found guilty of such offense and after he finds the defendant to be a prior offender pursuant to chapter 558, RSMo.

3. If murder in the first degree is submitted and the death penalty was not waived but the trier finds the defendant guilty of a lesser homicide, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared. No further evidence shall be received. If the trier is a jury it shall be instructed on the law. The attorneys may then argue as in other criminal cases the issue of punishment, after which the trier shall assess and declare the punishment as in all other criminal cases.

4. If the trier at the first stage of a trial where the death penalty was not waived finds the defendant guilty of murder in the first degree, a second stage of the trial shall proceed at which the only issue shall be the punishment to be assessed and declared. Evidence in aggravation and mitigation of punishment, including but not limited to evidence supporting any of the aggravating or mitigating circumstances listed in subsection 2 or 3 of section 565.032, may be presented subject to the rules of evidence at criminal trials. Such evidence may include, within the discretion of the court, evidence concerning the murder victim and the impact of the crime upon the family of the victim and others. Rebuttal and surrebuttal evidence may be presented. The state shall be the first to proceed. If the trier is a jury it shall be instructed on the law. The attorneys may then argue the issue of punishment to the jury, and the state shall have the right to open and close the argument. The trier shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor:

(1) **If the trier finds by a preponderance of the evidence that the defendant is mentally retarded; or**

(2) If the trier does not find beyond a reasonable doubt at least one of the statutory aggravating circumstances set out in subsection 2 of section 565.032; or

[(2) If the trier does not find that the evidence in aggravation of punishment, including but not limited to evidence supporting the statutory aggravating circumstances listed in subsection 2 of section 565.032, warrants imposing the death sentence; or]

(3) If the trier concludes that there is evidence in mitigation of punishment, including but not limited to evidence supporting the statutory mitigating circumstances listed in subsection 3 of section 565.032, which is sufficient to outweigh the evidence in aggravation of punishment found by the trier; or

(4) If the trier decides under all of the circumstances not to assess and declare the punishment at death. If the trier is a jury it shall be so instructed.

If the trier assesses and declares the punishment at death it shall, in its findings or verdict, set out in writing the aggravating circumstance or circumstances listed in subsection 2 of section 565.032 which it found beyond a reasonable doubt. If the trier is a jury it shall be instructed before the case is submitted that if it is unable to decide or agree upon the punishment the court shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the governor or death. The court shall follow the same procedure as set out in this section whenever it is required to determine punishment for murder in the first degree.

5. Upon written agreement of the parties and with leave of the court, the issue of the defendant's mental retardation may be taken up by the court and decided prior to trial without prejudicing the defendant's right to have the issue submitted to the trier of fact as provided in subsection 4 of this section.

6. As used in this section, the terms "mental retardation" or "mentally retarded" refer to a condition involving substantial limitations in general functioning characterized by significantly subaverage intellectual functioning with continual extensive related deficits and limitations in two or more adaptive behaviors such as communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work, which conditions are manifested and documented before eighteen years of age.

7. The provisions of this section shall only govern offenses committed on or after August 28, 2001.

575.200. 1. A person commits the crime of escape from custody or attempted escape from custody if, while being held in custody after arrest for any crime **or for a violation of any condition of probation**, he escapes or attempts to escape from custody.

2. Escape or attempted escape from custody is a class A misdemeanor unless:

(1) It is effected or attempted by means of a deadly weapon or dangerous instrument or by holding any person as hostage, in which case escape or attempted escape from custody is a class A felony;

(2) The person escaping or attempting to escape is under arrest for a felony, in which case escape from custody is a class D felony.

578.600. As used in sections 578.600 to 578.610, "technological crime" means any crime that involves, or the commission of which has been furthered by, any component, device, equipment, system or network that, alone or in conjunction with any other component, device, equipment, system or network, is designed or has the capability to:

(a) Be programmed; or

(b) Generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound in a technological format, including, without limitation, a format that involves analog, digital, electronic, electromagnetic, or magnetic or optical technology.

578.605. 1. The attorney general shall have the authority to conduct investigations of technological crimes. The attorney general may use all such powers provided by law in order to conduct such investigations.

2. Upon completing an investigation of a technological crime where the peace officer, prosecuting attorney or attorney general does not have concurrent original jurisdiction to commence a criminal action to prosecute the offense, the attorney general shall provide the information obtained during the investigation to the appropriate prosecuting attorney.

3. Within thirty days after the prosecuting attorney's receipt of information pursuant to subsection 2 of this section, the prosecuting attorney shall notify the attorney general whether or not the prosecuting attorney intends to commence a prosecution.

578.610. In the course of a criminal investigation of a technological crime, the attorney general may request the circuit judge of any county in which the suspected offense could be prosecuted to issue a subpoena to any witness who may have information for the purpose of oral examination under oath and to require the production of books, papers, records or other material

of any evidentiary nature at such time and place as is required under the subpoena.

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.

632.480. As used in sections 632.480 to 632.513, the following terms mean:

(1) "Agency with jurisdiction", the department of corrections or the department of mental health;

(2) "Mental abnormality", a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to commit sexually violent offenses in a degree constituting such person a menace to the health and safety of others;

(3) "Predatory", acts directed towards [strangers or individuals with whom relationships have been established or promoted] **individuals, including family members**, for the primary purpose of victimization;

(4) "Sexually violent offense", the felonies of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes, or child molestation in the first or second degree, sexual abuse, sexual assault, deviate sexual assault, or the act of abuse of a child as defined in subdivision (1) of subsection 1 of section 568.060, RSMo, which involves sexual contact, and as defined in subdivision (2) of subsection 1 of section 568.060, RSMo;

(5) "Sexually violent predator", any person who suffers from a mental abnormality which makes the person more likely than not to engage in predatory acts of sexual violence if not confined in a secure facility and who:

(a) Has pled guilty or been found guilty, or been found not guilty by reason of mental disease or defect pursuant to section 552.030, RSMo, of a sexually violent offense; or

(b) Has been committed as a criminal sexual psychopath pursuant to section 632.475 and statutes in effect before August 13, 1980.

632.483. 1. When it appears that a person may meet the criteria of a sexually violent predator, the agency with jurisdiction shall give written notice of such to the attorney general and the multidisciplinary team established in subsection 4 of this section. Written notice shall be given:

(1) Within [one] **three** hundred [eighty] **sixty** days prior to the anticipated release from a correctional center of the department of corrections of a person who has been convicted of a sexually violent offense, except that in the case of persons who are returned to prison for no more than one hundred eighty days as a result of revocation of postrelease supervision, written notice shall be given as soon as practicable following the person's readmission to prison;

(2) At any time prior to the release of a person who has been found not guilty by reason of mental disease or defect of a sexually violent offense; or

(3) At any time prior to the release of a person who was committed as a criminal sexual

psychopath pursuant to section 632.475 and statutes in effect before August 13, 1980.

2. The agency with jurisdiction shall inform the attorney general and the multidisciplinary team established in subsection 4 of this section of the following:

- (1) The person's name, identifying factors, anticipated future residence and offense history; and
- (2) Documentation of institutional adjustment and any treatment received or refused, including the Missouri sexual offender program.

3. The agency with jurisdiction, its employees, officials, members of the multidisciplinary team established in subsection 4 of this section, members of the prosecutor's review committee appointed as provided in subsection 5 of this section and individuals contracting or appointed to perform services hereunder shall be immune from liability for any conduct performed in good faith and without gross negligence pursuant to the provisions of sections 632.480 to 632.513.

4. The director of the department of mental health and the director of the department of corrections shall establish a multidisciplinary team consisting of no more than seven members, at least one from the department of corrections and the department of health, and which may include individuals from other state agencies to review available records of each person referred to such team pursuant to subsection 1 of this section. The team, within thirty days of receiving notice, shall assess whether or not the person meets the definition of a sexually violent predator. The team shall notify the attorney general of its assessment.

5. [Effective January 1, 2000,] The prosecutors coordinators training council established pursuant to section 56.760, RSMo, shall appoint a five-member prosecutor's review committee composed of a cross section of county prosecutors from urban and rural counties. No more than three shall be from urban counties, and one member shall be the prosecuting attorney of the county in which the person was convicted or committed pursuant to chapter 552, RSMo. The committee shall review the records of each person referred to the attorney general pursuant to subsection 1 of this section. The prosecutor's review committee shall make a determination of whether or not the person meets the definition of a sexually violent predator. The determination of the prosecutors' review committee or any member pursuant to this section or section 632.484 shall not be admissible evidence in any proceeding to prove whether or not the person is a sexually violent predator. The assessment of the multidisciplinary team shall be made available to the attorney general and the prosecutor's review committee.

632.492. Within sixty days after the completion of any examination held pursuant to section 632.489, the court shall conduct a trial to determine whether the person is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced. At all stages of the proceedings pursuant to sections 632.480 to 632.513, any person subject to sections 632.480 to 632.513 shall be entitled to the assistance of counsel, and if the person is indigent, the court shall appoint counsel to assist such person. The person, the attorney general, or the judge shall have the right to demand that the trial be before a jury. **If the trial is held before a jury, the judge shall instruct the jury that if it finds that the person is a sexually violent predator, the person shall be committed to the custody of the director of the department of mental health for control, care and treatment.** If no demand for a jury is made, the trial shall be before the court. **The court shall conduct all trials pursuant to this section in open court, except as otherwise provided for by the child victim witness protection law pursuant to sections 491.675 to 491.705, RSMo.**

632.495. The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If such determination that the person is a sexually violent predator is made by

a jury, such determination shall be by unanimous verdict of such jury. [Such] **Any determination as to whether a person is a sexually violent predator** may be appealed. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the director of the department of mental health for control, care and treatment until such time as the person's mental abnormality has so changed that the person is safe to be at large. Such control, care and treatment shall be provided by the department of mental health. At all times, persons committed for control, care and treatment by the department of mental health pursuant to sections 632.480 to 632.513 shall be kept in a secure facility designated by the director of the department of mental health and such persons shall be segregated at all times from any other patient under the supervision of the director of the department of mental health. The department of mental health shall not place or house an offender determined to be a sexually violent predator, pursuant to sections 632.480 to 632.513, with other mental health patients who have not been determined to be sexually violent predators. The department of mental health is authorized to enter into an interagency agreement with the department of corrections for the confinement of such persons. Such persons who are in the confinement of the department of corrections pursuant to an interagency agreement shall be housed and managed separately from offenders in the custody of the department of corrections, and except for occasional instances of supervised incidental contact, shall be segregated from such offenders. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct the person's release. Upon a mistrial, the court shall direct that the person be held at an appropriate secure facility, including, but not limited to, a county jail, until another trial is conducted. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility to house the person. Any subsequent trial following a mistrial shall be held within ninety days of the previous trial, unless such subsequent trial is continued as provided in section 632.492.

Section 1. Any evidence leading to a conviction of a felony described in subsection 1 of section 650.055 which has been or can be tested for DNA shall be preserved by the Missouri state highway patrol.

Section 2. The provisions of sections 196.790, 426.220, 426.230, 429.360, 534.350, 534.360, 534.380, 535.030 and 535.110, RSMo, shall be applicable to cases filed on and subsequent to January 1, 2002. Any case filed on or prior to December 31, 2001, shall be governed by the practice and procedure relative to trials de novo in effect on December 31, 2001.

Section 3. 1. Whenever a municipality has annexed territory within the boundaries of a water district and cannot reach an agreement with the water district for water service to the annexed territory, a petition may be filed by the district or the municipality in the circuit court originally incorporating the district, requesting that three commissioners determine the amount of compensation, if any, to be awarded to the water district. Such petition shall include the name of one commissioner appointed by the applying party. The second party shall appoint one commissioner within thirty days of the service of the petition upon the second party. If the second party fails to appoint a commissioner within such time period, the court shall appoint a commissioner on the behalf of the second party. Such two named commissioners may agree to appoint a third disinterested commissioner within thirty days after the appointment of the second commissioner. In any case in which such two commissioners cannot agree on or fail to make the appointment of the third disinterested commissioner within thirty days after the appointment of the second commissioner, the court shall appoint the third disinterested commissioner.

2. Upon filing of such application and the appointment of three such commissioners, the court shall set a time for a hearing and shall order a public notice including the nature of the application, the annexed area affected, and the time and place of such hearing, to be published for three weeks consecutively in a newspaper published in the county in which the application is pending, the last publication to be not more than seven days before the date set for the first hearing.

3. The commissioners shall determine the amount of compensation, if any, to be paid to the district as a result of the municipality providing water service in the annexed territory. In making their award, the commissioners shall consider information presented to them at a hearing including, but not limited to:

- (1) The estimated future loss of revenue and costs for the water district related to the annexed territory;**
- (2) The amount of indebtedness of the water district within the annexed territory; and**
- (3) Any contractual obligations of the water district within the annexed territory.**

The commissioner's award shall also include a recommendation for the apportionment of court costs, including reasonable compensation for the commissioners, between the municipality and the water district.

4. The commissioners shall submit their award and recommendation to the court within ten days of the hearing. Upon receipt of the award and recommendation and confirmation of payment of the award to the district, the court shall enter an order detaching the territory described in the petition from the remainder of the district and stating the boundary lines of the district after such detachment. The court shall also make any changes in subdistrict boundary lines it deems necessary to meet the requirements of sections 247.110 to 247.227, RSMo 2000. Any subdistrict lines shall not become effective until the next annual regular election. The court shall also review the recommended apportionment of court costs and the reasonable compensation for the commissioners and affirm or modify such recommendations.

5. At such time that the court's order and judgment becomes final, the clerk of the circuit court shall file certified copies of such order and judgment with the secretary of state and with the recorder of deeds and the county clerk of the county or counties in which the district is located.

Section B. The repeal and reenactment of sections 196.790, 426.220, 426.230, 429.360, 534.350, 534.360, 534.380, 535.030 and 535.110 of section A of this act, shall become effective January 1, 2002.