FIRST REGULAR SESSION

SENATE BILL NO. 1

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHNEIDER.

Pre-filed December 1, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0534S.01I

AN ACT

To repeal sections 43.503, 56.085, 67.133, 104.312, 196.790, 211.185, 302.535, 351.025, 354.065, 426.220, 426.230, 429.360, 452.556, 455.040, 455.205, 479.150, 479.500, 482.305, 482.330, 483.310, 483.500, 487.030, 512.180, 512.190, 512.200, 512.210, 512.250, 512.270, 512.280, 512.290, 512.300, 512.310, 512.320, 514.440, 516.500, 517.011, 534.070, 534.350, 534.360, 534.380, 535.030, 535.110, 537.045, 537.675, 541.020, 550.120, 610.105, 621.055, 621.155, 621.165, 621.175, 621.185, 621.189, 621.198 and 650.055, RSMo 2000, and section 303.041 as enacted in house bill no. 1797 by the ninetieth general assembly, second regular session and as enacted in senate bill no. 19 by the ninetieth general assembly, first regular session, relating to judicial and administrative procedures, and to enact in lieu thereof fifty 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, 104.312, 196.790, 211.185, 302.535, 303.041, 351.025, 354.065, 426.220, 426.230, 429.360, 452.556, 455.040, 455.205, 479.150, 479.500, 482.305, 482.330, 483.310, 483.500, 487.030, 512.180, 512.190, 512.200, 512.210, 512.250, 512.270, 512.280, 512.290, 512.300, 512.310, 512.320, 514.440, 516.500, 517.011, 534.070, 534.350, 534.360, 534.380, 535.030, 535.110, 537.045, 537.675, 541.020, 550.120, 610.105, 621.055, 621.155, 621.165, 621.175, 621.185, 621.189, 621.198 and 650.055, RSMo 2000, and section 303.041 as enacted in house bill no. 1797 by the ninetieth general assembly, second regular session and as enacted in senate bill no. 19 by the ninetieth general assembly, first regular session, are repealed and fifty new sections enacted in lieu thereof, to be known as sections 43.503, 56.085,

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

67.133, 104.312, 196.790, 211.185, 302.535, 303.041, 351.025, 354.065, 426.220, 426.230, 429.360, 452.556, 455.040, 455.205, 478.036, 479.150, 479.500, 482.305, 482.330, 483.310, 483.500, 512.180, 514.440, 517.011, 534.070, 534.350, 534.360, 534.380, 535.030, 535.110, 537.045, 537.675, 537.678, 537.681, 537.684, 537.687, 537.690, 537.693, 541.020, 550.120, 610.105, 621.055, 621.189, 621.198, 650.055, 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.

104.312. 1. The provisions of subsection 2 of section 104.250, subsection 2 of section 104.540, subsection 2 of section 287.820, RSMo, and section 476.688, RSMo, to the contrary notwithstanding, any pension, annuity, benefit, right, or retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or chapter 476, RSMo, is marital property and after August 28, 1994, a court of competent jurisdiction may divide the pension, annuity, benefits, rights, and retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or chapter 476, RSMo, between the parties to any action for dissolution of marriage. A division of benefits order issued pursuant to this section:

(1) Shall not require the applicable retirement system to provide any form or type of annuity not selected by the member and not normally made available by that system;

(2) Shall not require the applicable retirement system to commence payments until the

member submits a valid application for an annuity and the annuity becomes payable in accordance with the application;

(3) Shall identify the monthly amount to be paid to the alternate payee, which shall not exceed fifty percent of the amount of the member's annuity accrued during the time while the member and alternate payee were married and based on the member's vested annuity on the date of the dissolution of marriage **or such other date as may be agreed to by the parties and approved by the court**, and the amount shall be adjusted proportionately if the member's annuity is reduced due to early retirement;

(4) Shall not require the payment of an annuity amount to the member and alternate payee which in total exceeds the amount which the member would have received without regard to the order;

(5) Shall provide that any benefit formula increases, additional years of service, increased average compensation or other type of increases accrued after the date of the dissolution of marriage shall accrue solely to the benefit of the member, except that annual benefit increases shall be applied to the amount received by both the member and the alternate payee;

(6) Shall terminate upon the death of either the member or the alternate payee, whichever occurs first;

(7) Shall not create an interest which is assignable or subject to any legal process;

(8) Shall include the name, address and Social Security number of both the member and the alternate payee, and the identity of the retirement system to which it applies;

(9) Shall be consistent with any other division of benefits orders which are applicable to the same member.

2. A system established by this chapter shall provide the court having jurisdiction of a dissolution of marriage proceeding or the parties to the proceeding with information necessary to issue a division of benefits order concerning a member of the system, upon written request from the court or the parties which cites this section and identifies the case number and parties.

3. A system established by this chapter shall have the discretionary authority to reject a division of benefits order for the following reasons:

(1) The order does not clearly state the rights of the member and the alternate payee;

(2) The order is inconsistent with any law governing the retirement system.

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 **in this section**, 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.

211.185. 1. In addition to the court's authority to issue an order for the child to make restitution or reparation for the damage or loss caused by his offense as provided in section 211.181, the court may enter a judgment of restitution against both the parent and the child pursuant to the provisions of this section if the court finds that the parent has failed to exercise reasonable parental discipline or authority to prevent the damage or loss and the child has:

(1) Stolen, damaged, destroyed, converted, unlawfully obtained, or substantially decreased the value of the property of another; or

(2) Inflicted personal injury on another, requiring the injured person to incur medical, dental, hospital, funeral, or burial expenses.

2. The court may order both the parent and the child to make restitution to:

(1) The victim;

(2) Any governmental entity; or

(3) A third-party payor, including an insurer, that has made payment to the victim to compensate the victim for a property loss or a pecuniary loss under subdivisions (1) and (2) of subsection 1 of this section.

3. Restitution payments to the victim have priority over restitution payments to a third-party payor. If the victim has been compensated for the victim's loss by a third-party payor, the court may order restitution payments to the third-party payor in the amount that the third-party payor compensated the victim.

4. Payment of restitution to a victim under this section has priority over payment of restitution to any governmental entity.

5. Considering the age and circumstances of a child, the court may order the child to make restitution to the wronged person personally.

6. A restitution hearing to determine the liability of the parent and the child shall be held not later than thirty days after the disposition hearing and may be extended by the court for good cause. In the restitution hearing, a written statement or bill for medical, dental, hospital, funeral, or burial expenses shall be prima facie evidence that the amount indicated on the written statement or bill represents a fair and reasonable charge for the services or materials provided. The burden of proving that the amount indicated on the written statement or bill is not fair and reasonable shall be on the person challenging the fairness and reasonableness of the amount.

7. A judgment of restitution against a parent may not be entered unless the parent has been afforded a reasonable opportunity to be heard and to present appropriate evidence in his behalf. The parent shall be advised of his right to obtain counsel for representation at the hearing. A hearing under this section may be held as part of an adjudicatory or disposition hearing for the child.

8. The judgment may be enforced in the same manner as enforcing monetary judgments.

9. A judgment of restitution ordered pursuant to this section against a child and his parents shall not be a bar to a proceeding against the child and his parents pursuant to section 537.045, RSMo, or section 8.150, RSMo, for the balance of the damages not paid pursuant to this section. In no event, however, may the total restitution paid by the child and his parents pursuant to this section, section 8.150, RSMo, and section 537.045, RSMo, exceed **[**four**]** **twenty** thousand dollars.

10. The child may be ordered to work in a court-approved community service work site at a rate of compensation not to exceed minimum wage. The number of hours worked shall be reported to the juvenile officer and the compensation earned for these hours shall be used for the sole purpose of satisfying the judgment entered against the child in accordance with this section. Upon application by the juvenile officer made with the juvenile court's written approval, the clerk of the court of the circuit where the fund is deposited and where a judgment has been entered in accordance with this section shall pay the compensation earned by the child to the person in whose favor the judgment has been entered.

11. Notwithstanding any other provision of this section to the contrary, a judgment of restitution ordered pursuant to this section against a child may be executed upon after the child attains the age of eighteen years.

302.535. 1. Any person aggrieved by a decision of the department may file a petition for trial de novo by the circuit court. The burden of proof shall be on the state to adduce the evidence. Such trial shall be conducted pursuant to the Missouri rules of civil procedure and not as an appeal of an administrative decision pursuant to chapter 536, RSMo. The petition shall be filed in the circuit court of the county where the arrest occurred. The case shall be decided by the judge sitting without a jury. The presiding judge of the circuit court may assign a **[**traffic judge, pursuant to section 479.500, RSMo 1994, a**]** circuit judge or an associate circuit judge to hear such petition.

2. The filing of a petition for trial de novo shall not result in a stay of the suspension or revocation order. But upon the filing of such petition, a restricted driving privilege for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or formal program of secondary, postsecondary or higher education shall be issued by the department if the person's driving record shows no prior alcohol related enforcement contact during the immediately preceding five years. Such limited driving privilege shall terminate on the date of the disposition of the petition for trial de novo.

3. In addition to the limited driving privilege as permitted in subsection 2 of this section, the department may upon the filing of a petition for trial de novo issue a restricted driving privilege for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or formal program of secondary, postsecondary or higher education. In determining whether to issue such a restrictive driving privilege, the department shall consider the number and the seriousness of prior convictions and the entire driving record of the driver.

4. Such time of restricted driving privilege pending disposition of trial de novo shall be counted toward any time of restricted driving privilege imposed pursuant to section 302.525. Nothing in this subsection shall be construed to prevent a person from maintaining his restricted driving privilege for an additional sixty days in order to meet the conditions imposed by section 302.540 for reinstating a person's driver's license.

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.

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.**]**

351.025. 1. Any existing corporation heretofore organized for profit under any special law of this state may accept the provisions of this chapter and be entitled to all of the rights, privileges and benefits provided by this chapter, as well as accepting the obligations and duties imposed by this chapter, by filing with the secretary of state a certificate of acceptance of this chapter, signed by its president and secretary, duly authorized by its board of directors, and approved by the affirmative vote of a majority of its outstanding shares.

2. Any health services corporation organized as a not-for-profit corporation pursuant to chapter 354, RSMo, that has complied with the provisions of section 354.065, RSMo, may accept the provisions of this chapter and be entitled to all of the rights, privileges and benefits provided by this chapter, as well as accepting the obligations and duties imposed by this chapter, by filing with the secretary of state a certificate of acceptance of this chapter, signed by its president and secretary, duly authorized by its board of directors, and approved by the affirmative vote of a majority of its outstanding shares, if any.

3. The provisions of subsection 2 of this section shall expire and have no force and effect on and after August 31, **[**2001**] 2002**.

354.065. 1. A corporation may amend its articles of incorporation from time to time in the manner provided in chapter 355, RSMo, and shall file a duly certified copy of its certificate of amendment with the director of insurance within twenty days after the issuance of the certificate of amendment by the secretary of state. Upon the issuance of the certificate of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be

deemed to be amended accordingly.

2. A health services corporation organized as a not-for-profit corporation pursuant to this chapter may amend its articles in the manner provided in chapter 355, RSMo, to change its status to that of a for-profit business corporation and accept the provisions of chapter 351, RSMo, by:

(1) Adopting a resolution amending its articles of incorporation or articles of agreement so as:

(a) To eliminate any purpose, power or other provision thereof not authorized to be set forth in the articles of incorporation of corporations organized pursuant to chapter 351, RSMo;

(b) To set forth any provision authorized pursuant to chapter 351, RSMo, to be inserted in the articles of incorporation of corporations organized pursuant to chapter 351, RSMo, which the corporation chooses to insert therein and the material and information required to be set forth pursuant to chapter 351, RSMo, in the original articles of incorporation of corporations organized pursuant to chapter 351, RSMo;

(2) Adopting a resolution accepting all of the provisions of chapter 351, RSMo, and providing that such corporation shall for all purposes be thenceforth deemed to be a corporation organized pursuant to chapter 351, RSMo;

(3) By filing with the secretary of state a certificate of acceptance of chapter 351, RSMo;

(4) By complying with the provisions of sections 355.616 and 355.621, RSMo, to the extent those sections would apply if such health services corporation were merging with a domestic business corporation with the proposed amended articles of incorporation serving as the proposed plan of merger.

3. The provisions of subsection 2 of this section shall expire and have no force and effect on and after August 31, **[**2001**]** **2002**.

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.

455.040. 1. Not later than fifteen days after the filing of a petition pursuant to sections 455.010 to 455.085 a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, if the petitioner has proved the allegation of abuse or stalking by a preponderance of the evidence, the court shall issue a full order of protection for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. Upon motion by the petitioner, and after a hearing by the court, the full order of protection may be renewed for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred

eighty days and not more than one year from the expiration date of the originally issued full order of protection. If for good cause a hearing cannot be held on the motion to renew the full order of protection prior to the expiration date of the originally issued full order of protection, an ex parte order of protection may be issued until a hearing is held on the motion. Upon motion by the petitioner, and after a hearing by the court, the second full order of protection may be renewed for an additional period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. For purposes of this subsection, a finding by the court of a subsequent act of abuse is not required for a renewal order of protection.

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

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

455.205. 1. The governing body of any county, or of any city not within a county, by order or ordinance to be effective prior to January 1, **[**2000**]** **2002**, may impose a fee upon the issuance of a marriage license and may impose a surcharge upon any civil case filed in the circuit court **[**under the provisions of section 452.305, RSMo**]**. The surcharge shall not be charged when **[**no court costs are otherwise required, and shall not be charged when**]** costs are waived or are to be

paid by the state, county or municipality.

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

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

478.036. 1. A commissioner or deputy commissioner appointed pursuant to sections 66.010, 211.023, 478.003, 478.265, 478.266, 478.267, 478.268, 478.466, 479.500 or 487.020, RSMo, shall prepare written findings and recommendations in any case or proceeding assigned to the commissioner or deputy commissioner. The commissioner or deputy commissioner shall file the written findings and recommendations with a judge exercising authority pursuant to article V of the constitution, together with the papers related to the case. The court may adopt the findings and recommendations of the commissioner, and shall provide written notice of the judgement of the court, by regular first class mail or such other service as directed by the court, to the parties whose case or proceeding was heard by the commissioner and, where appropriate, to the juvenile, the juvenile's custodian, and any other person that the court may direct. Any party receiving such notice may file written objections to the findings and recommendations within fifteen days after mailing thereof, and shall serve copies of such objections on all other parties. If objections are filed, or if the court proposes action other than the adoption of the report, the court, after a hearing on the objections, unless such hearing is waived by the parties, may sustain the findings and recommendations or may modify or reject the findings and recommendations, in whole or in part, or may receive further evidence, or may return the case or proceeding to the commissioner or deputy commissioner, with instructions.

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

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**]**.

479.500. 1. In the twenty-first judicial circuit, a majority of the circuit judges, en banc, may establish a traffic court, which shall be a division of the circuit court, and may authorize the appointment of not more than three municipal judges who shall be known as traffic judges. The traffic judges shall be appointed by a traffic court judicial commission consisting of the presiding judge of the circuit, who shall be the chair, one circuit judge elected by the circuit judges, one associate circuit judge elected by the associate circuit judges of the circuit, and two members appointed by the county executive of St. Louis County, each of whom shall represent one of the two political parties casting the highest number of votes at the next preceding gubernatorial election. The procedures and operations of the traffic court judicial commission shall be established

by circuit court rule.

2. Traffic judges may be authorized to act as commissioners to hear in the first instance nonfelony violations of state law involving motor vehicles, and such other offenses as may be provided by circuit court rule. Traffic judges may also be authorized to hear in the first instance violations of county and municipal ordinances involving motor vehicles, and other county ordinance violations, as provided by circuit court rule.

3. In the event that a county municipal court is established pursuant to section 66.010, RSMo, which takes jurisdiction of county ordinance violations the circuit court may then authorize the appointment of no more than two traffic judges authorized to hear municipal ordinance violations other than county ordinance violations, and to act as commissioner to hear in the first instance nonfelony violations of state law involving motor vehicles, and such other offenses as may be provided by rule. **[**These traffic court judges also may be authorized to act as commissioners to hear in the first instance petitions to review decisions of the department of revenue or the director of revenue filed pursuant to sections 302.309, 302.311, 302.535 and 302.750, RSMo.**]**

4. In establishing a traffic court, the circuit may be divided into such sectors as may be established by a majority of the circuit and associate circuit judges, en banc. The traffic court in each sector shall hear those cases arising within the territorial limits of the sector unless a case arising within another sector is transferred as provided by operating procedures.

5. Traffic judges shall be licensed to practice law in this state and shall serve at the pleasure of a majority of the circuit and associate circuit judges, en banc, and shall be residents of St. Louis County, and shall receive from the state as annual compensation an amount equal to one-third of the annual compensation of an associate circuit judge. Each judge shall devote approximately one-third of his working time to the performance of his duties as a traffic judge. Traffic judges shall not accept or handle cases in their practice of law which are inconsistent with their duties as a traffic judge and shall not be a judge or prosecutor for any other court. Traffic judges shall not be considered state employees and shall not be members of the state employees' or judicial retirement system or be eligible to receive any other employment benefit accorded state employees or judges.

6. A majority of the judges, en banc, shall establish operating procedures for the traffic court which shall provide for regular sessions in the evenings after 6:00 p.m. and for Saturday or other sessions as efficient operation and convenience to the public may require. Proceedings in the traffic court, except when a judge is acting as a commissioner pursuant to this section, shall be conducted as provided in supreme court rule 37. The hearing shall be before a traffic judge without jury, and the judge shall assume an affirmative duty to determine the merits of the evidence presented and the defenses of the defendant and may question parties and witnesses. No term of imprisonment or confinement may be assessed by a traffic judge. In the event a jury trial is requested, the cause shall be certified to the circuit court for trial by jury as otherwise provided by law. Clerks and computer personnel shall be assigned as needed for the efficient operation of the

court.

7. In establishing operating procedure, provisions shall be made for appropriate circumstances whereby defendants may enter not guilty pleas and obtain trial dates by telephone or written communication without personal appearance, or to plead guilty and deliver by mail or electronic transfer or other approved method the specified amount of the fine and costs as otherwise provided by law, within a specified period of time.

8. Operating procedures shall be provided for electronic recording of proceedings, except that if adequate recording equipment is not provided at county expense, then, in that event, a person aggrieved by a judgment of a traffic judge or commissioner shall have the right of a trial de novo. The procedures for perfecting the right of a trial de novo shall be the same as that provided under sections 512.180 to 512.320, RSMo, except that the provisions of subsection 2 of section 512.180, RSMo, shall not apply to such cases.

9. The circuit court shall only have the authority to appoint two commissioners with the jurisdiction provided in subsection 3 of this section.

10. All costs to establish and operate a county municipal court under section 66.010, RSMo, and this section shall be borne by such county.

482.305. When sitting as a small claims court, the judge shall have original jurisdiction of all civil cases, whether tort or contract, where the amount in controversy does not exceed **[**three**]** **five** thousand dollars, exclusive of interest or costs, or as provided in this chapter.

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.

483.310. 1. Whenever any funds other than court costs collected and disbursed pursuant to subsection 2 of section 488.012, RSMo, are paid into the registry of any circuit court **[**and the court determines, upon its own finding or after application by one of the parties, that such funds can be reasonably expected to remain on deposit for a period sufficient to provide income through investment, the court may make an order directing**]** the clerk **[**to**]** **shall** deposit such funds **[**as are described in the order**]** in savings deposits in banks, savings and loan associations, credit unions, or in United States treasury bills and invest funds only in investments permitted by the state treasurer in article IV, section 15 of the Missouri Constitution. Deposits of such funds in any bank or savings and loan association shall not exceed the limits of the federal deposit insurance on accounts in such institution. Additional deposits in excess of FDIC, FSLIC and NCUSIF shall be secured by government securities or in accordance with the state treasurer's investment requirements in article IV, section 15 of the Missouri Constitution. All such accounts shall be in the name of the "Clerk of the ..... Court as Trustee in ..... (Style and Cause Number)", the exact name to be prescribed in the court's order. The court may prescribe a bond or other guarantee for the security of the fund. Necessary costs, including reasonable costs for administering the investment, may be paid from the income received from the investment of the trust fund. The net income so derived shall be added to and become a part of the principal.

[2. In the absence of such an application by one of the parties within sixty days from the payment of such funds into the registry of the court, the clerk of the court may invest funds placed in the registry of the court in savings deposits in banks, credit unions or savings and loan associations carrying federal deposit insurance to the extent of the insurance or in United States treasury bills and invest funds only in investments permitted the state treasurer in article IV, section 15 of the Missouri Constitution and the income derived therefrom may be used by the clerk for paying the premiums on bonds of employees of the clerk, rent on safety deposit boxes, subscriptions on publications available pursuant to section 477.235, RSMo, books and publications of the Missouri Bar and books and other publications and materials published by the state of Missouri, printing of pamphlets or booklets of the rules adopted by the court or clerk and forms used in the court which comply with the statutes of the state of Missouri and the rules of the supreme court, copies of which shall be distributed to litigants and members of the bar practicing in the court, and other expenditures of the circuit clerk's office, and the balance, if any, shall be paid into the general revenue fund of the county, except that when provision is made in a county charter for the appointment of a court administrator to perform the duties of a circuit clerk or for the appointment of a circuit clerk by the court, such income may also be used for any expenditures of the court other than expenditures for travel or entertainment. If any application for the investment of such funds is filed by one of the parties after sixty days, an order may be entered providing for investment of funds as provided in subsection 1 of this section, and the clerk shall

thereupon reinvest such funds within a reasonable time thereafter in accordance with the order.

3.**]** **2.** As used in this section and section 483.312, the term "clerk" shall mean the circuit clerk with respect to funds in those cases for which the circuit clerk is responsible for collecting court costs as provided in section 483.550 and shall also mean those clerks who are designated by or pursuant to section 483.550 to collect court costs with respect to funds in those cases for which they are so made responsible for collecting court costs.

[4.**]** **3.** If a clerk is charged by a court with collecting any moneys which are not court costs as defined by sections 488.010 to 488.020, RSMo, the clerk may use any of the procedures provided by sections 488.010 to 488.020, RSMo, to collect such funds, if not paid as ordered by the court.

[5.**]** **4.** The clerk may deposit funds in depository institutions and invest funds only in investments permitted by the state treasurer in article IV, section 15 of the Missouri Constitution.

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

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

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

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

2. The parties to a cause of action heard by a commissioner are entitled to file with the court a motion for a hearing by a judge of the family court either within fifteen days after receiving notice of the findings of the commissioner at the hearing, or within fifteen days after the mailing, or within fifteen days after other service directed by the court. In cases in which the family court has jurisdiction pursuant to subdivision (1) of subsection 1 of section 211.031, RSMo, the juvenile officer, in addition to the parties listed above, is also

entitled to file with the court a motion for a hearing by a judge of the family court within fifteen days after receiving notice of the findings of the commissioner. The judge shall promptly rule on such motion and, in his discretion, may either sustain or deny the motion, and if the motion is sustained, the judge shall set a date for a hearing. If the motion for rehearing is not ruled on within forty-five days after the motion is filed, it is denied for all purposes. In computing the forty-five days, no day shall be counted during which the court lacks power to act because of an order of a superior court.**]**

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 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**] district of the** court **of appeals**. 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.

2. Appeals to the court of appeals or to the supreme court of decisions rendered in civil cases tried before associate circuit judges shall be governed by the same rules applicable to appeals from judgments rendered by circuit judges.

[512.190. 1. The right of trial de novo provided in subsection 1 of section 512.180 shall be perfected by filing an application for trial de novo with the clerk serving the associate circuit judge within ten days after the judgment is rendered. A copy of the application shall be mailed by the clerk to the opposing party or his attorney of record or served upon him as provided by law for the service of notices within fifteen days after the judgment was rendered. No application for a trial de novo shall stay execution unless and until the applicant, or some person for him, together with one or more solvent sureties to be approved by the associate circuit judge, within the time prescribed in the first sentence of this section, enter into a recognizance before the associate circuit judge to the adverse party, in a sum sufficient to secure the payment of such judgment and costs, conditioned that the applicant will prosecute his application for trial de novo with due diligence to a decision, and that if on such trial de novo judgment be given against him, he will pay such judgment, and that, if his application for trial de novo be dismissed, he will pay the judgment rendered by the associate circuit judge, together with the costs.

2. Appeals to the court of appeals or to the supreme court shall be governed by the

same rules applicable to appeals from judgments rendered by circuit judges.**]**

[512.200. Such recognizance must be signed by the parties entering into the same, and be approved by the associate circuit judge, and may be in the following form:

We the undersigned, ... and ....., acknowledge ourselves indebted to ..... in the sum of ..... dollars, to be void upon this condition. Whereas, ... has made application for a trial de novo from a judgment of ....., an associate circuit judge, in an action between ....., plaintiff, and ....., defendant; now, if on such trial de novo judgment be given against the applicant, and he shall satisfy such judgment, or if his application shall be dismissed, and he shall pay the judgment of the associate circuit judge, together with the cost of the appeal, this recognizance shall be void.

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A B

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C D

Approved ....., day of ....., 19....

.....

Associate Circuit Judge**]**

[512.210. If an application for trial de novo is timely filed and a bond be given and approved and, in the meantime, execution shall have been issued, the associate circuit judge shall give the applicant a certificate that an application for trial de novo in the cause has been allowed and bond given, and on presentation of such certificate to the sheriff, he shall forthwith release the property of the defendant that may have been taken in execution.**]**

[512.250. When an application for a trial de novo is timely filed, the associate circuit judge or the clerk who has custody of the case papers shall forthwith transmit the case papers in the cause or a transcript thereof to the clerk receiving cases originally filed for hearing and determination before a circuit judge, and the cause shall thereupon be assigned for a trial de novo before a circuit or associate circuit judge in accordance with assignment procedures prescribed by local circuit court rule or as directed by the presiding judge of the circuit.**]**

[512.270. The judge assigned to hear the cause shall proceed to hear, try and determine the same anew with a record of the proceedings being made, without regarding any error, defect or other imperfection on the trial, judgment or other proceedings of the associate circuit judge in relation to the cause.**]**

[512.280. The same cause of action, and no other, that was tried before the associate circuit judge, shall be tried before the judge upon the trial de novo; provided, that new parties, plaintiff or defendant, necessary to a complete determination of the cause of action, may be added in the trial de novo.**]**

[512.290. In cases wherein the summons shall be personally served on the defendant, no setoff nor counterclaim shall be pleaded in the trial de novo proceedings that was not pleaded before the associate circuit judge.**]**

[512.300. In all cases of an application for trial de novo, the bill of items of the account sued on or filed as a counterclaim or setoff, or the statement of the plaintiff's cause of action, or of defendant's counterclaim or setoff, or other ground of defense filed before the associate circuit judge, may be amended upon a trial de novo to supply any deficiency or omission therein, when by such amendment substantial justice will be promoted; but no new item or cause of action not embraced or intended to be included in the original account or statement shall be added by such amendment. Such amendment shall be allowed upon such terms as to costs as the court may deem just and proper.**]**

[512.310. The trial de novo shall be governed by the practice in trials before circuit judges, except that by agreement of parties the case may be tried by a jury of not less than six persons.**]**

[512.320. In all cases of an application for trial de novo from an associate circuit judge, if on a trial anew, the judgment be against the applicant, such judgment shall be rendered against him or against him and his sureties in the recognizance for the application for trial de novo, if such recognizance be given.**]**

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

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

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

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

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

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

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

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

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

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

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, 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 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.

537.045. 1. The parent or guardian, excluding foster parents, of any unemancipated minor, under eighteen years of age, in their care and custody, against whom judgment has been rendered for purposely marking upon, defacing or in any way damaging any property, shall be liable for the payment of that judgment up to an amount not to exceed **[**two**]** **twenty** thousand dollars, provided that the parent or guardian has been joined as a party defendant in the original action. The judgment provided in this subsection to be paid shall be paid to the owner of the property damaged, but such payment shall not be a bar to any criminal action or any proceeding against the unemancipated minor for such damage for the balance of the judgment not paid by the parent or guardian.

2. The parent or guardian, excluding foster parents, of any unemancipated minor, under eighteen years of age, in their care and custody, against whom judgment has been rendered for purposely causing personal injury to any individual, shall be liable for the payment for that judgment up to an amount not to exceed **[**two**]** **twenty** thousand dollars, provided that the parent or guardian has been joined as a party defendant in the original action. The judgment provided in this subsection to be paid shall be paid to the person injured, but such payment shall not be a bar to any criminal action or any proceeding against the unemancipated minor for such damage for the balance of the judgment not paid by the parent or guardian.

3. Upon rendering a judgment in any proceeding under this section, the judge may order the parent or guardian, and the minor who damaged the property or caused the personal injury, to work for the owner of the property damaged or the person injured in lieu of payment, if the

parent, minor and the owner of the property damaged or the person injured are agreeable.

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

2. **[**Fifty percent of any final judgment awarding punitive damages after the deduction of attorneys' fees and expenses shall be deemed rendered in favor of the state of Missouri. The circuit clerks shall notify the attorney general of any final judgment awarding punitive damages rendered in their circuits. With respect to such fifty percent, the attorney general shall collect upon such judgment, and may execute or make settlements with respect thereto as he deems appropriate for deposit into the fund.**] The attorney general shall be notified by the plaintiff or plaintiffs of any case in which punitive damages are sought, except for actions brought for improper health care pursuant to chapter 538, RSMo. The state of Missouri shall have a lien to the extent of fifty percent of punitive damages awarded by final judgment in any such case, which shall attach when the final judgment is rendered and all appeals become final. In each case, the attorney general shall serve a lien notice by certified mail or registered mail upon the party or parties against whom the state has a claim. On a petition filed by the state, the court, on written notice to all interested parties, shall adjudicate the rights of the parties and enforce the charge. The lien shall not be satisfied out of any recovery until the attorney's claim for fees and expenses is paid. Cases resolved by arbitration, mediation or compromise settlement prior to final judgment are exempt from the provisions of this subsection. Nothing in this chapter shall hinder or in any way affect the right or ability of the parties to any claim or lawsuit to compromise or settle such claim or litigation on any terms and at any time the parties desire.**

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

4. **[**No disbursement shall be made from the tort victims' compensation fund until procedures for disbursement are established by further action of the general assembly.**] There is hereby established in the state treasury the "Legal Services for Low-Income People Fund", which may consist of up to twenty-five percent of all payments received by the tort victims' compensation fund regardless of source or designation. Moneys, funds or payments paid to the credit of the legal services for low-income people fund shall, at least as often as annually, upon appropriation, be distributed by the state treasurer to the legal services organizations in Missouri which are recipients of federal Legal Services Corporation funding and shall be used for no other purpose than as authorized pursuant to sections 537.675 to 537.693. The funds so distributed shall be used by legal services organizations in Missouri to provide legal services to its low-income population, in the manner approved by the board of directors of each legal services**

organization. Funds shall be allocated in their distribution by the state treasurer according to the most recent official census data from the Bureau of Census, United States Department of Commerce for people in poverty residing in Missouri. Notwithstanding the provisions of section 33.080, RSMo, any balance remaining in the legal services fund for low-income people at the end of an appropriation period shall not be transferred to general revenue, but shall remain in the fund and be distributed in accordance with the provisions of this section.

537.678. 1. Seventy-five percent of all payments received by the tort victims' compensation fund regardless of source or designation shall, upon appropriation, be credited to the division of workers' compensation to assist uncompensated tort victims and shall be used for no other purpose. Notwithstanding the provisions of section 33.080, RSMo, any balance remaining in the budget of the division of workers' compensation for compensation of uncompensated tort victims shall not be transferred to general revenue but shall remain in the fund.

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

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

(1) The name and address of the uncompensated victim;

(2) If the claimant is not the uncompensated victim, the name and address of the claimant and relationship to the victim, the name and address of any dependents of the victim, and the extent to which each is so dependent;

(3) The date and nature of the tort on which the application for compensation is based;

(4) The date andcourt in which a judgment was rendered against the tortfeasor, including the judgment amount specifying medical costs, if available;

(5) The nature and extent of the qualifying injuries sustained by the victim, the names and addresses of those giving medical and hospital treatment to the victim and whether death resulted;

(6) The loss to the claimant or a dependent resulting from the injury or death;

(7) The amount of benefits, payments or awards, if any, payable from any source that the claimant or dependent has received or for which the claimant or dependent is eligible as a result of the injury or death;

(8) Releases by the uncompensated victim authorizing any reports, documents and other information relating to the matters specified pursuant to this section to be transferred to the division; and

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

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

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

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

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

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

(1) An uncompensated tort victim as defined in section 537.678;

(2) In the case of the death of the uncompensated victim as a direct result of the tort:

(a) The class of persons identified in subsection 1 of section 537.080;

(b) Any member of the family who legally assumes the obligation, or who

incurred medical or burial expenses as a direct result of the tort at issue.

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

3. No compensation of any kind may be made to an uncompensated victim or intervenor injured while confined in any federal, state, county, or municipal jail, prison or other correctional facility, including house arrest.

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

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

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

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

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

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

7. A Missouri resident who suffers personal physical injury or, in the case of

death, the person or persons entitled to bring an action for wrongful death pursuant to section 537.080, may make application for compensation in Missouri if:

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

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

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

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

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

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

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

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

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

5. Prior to any hearing, the person filing a claim shall submit reports, if available, from all hospitals, physicians or surgeons who treated or examined the victim

for the injury for which compensation is sought. If, in the opinion of the division of workers' compensation, a report after an examination of the injured victim or a report on the cause of death of the victim would be of material aid, the division of workers' compensation may appoint a duly qualified, impartial physician to make an examination and report. A finding of the judge or jury in the underlying case shall be considered as evidence.

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

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

8. In the event that there are insufficient funds in the budget of the division of workers' compensation for payment of claims of uncompensated tort victims to pay all claims in full, claims shall be paid on a pro rata basis. If there are no funds available, then no claim shall be paid until funds have accumulated in the tort victims' compensation fund and have been appropriated to the division for payment to uncompensated tort victims. When sufficient funds become available for payment of claims of uncompensated tort victims, awards that have not been paid shall be paid in chronological order with the oldest paid first. Any award pursuant to this subsection that cannot be paid due to a lack of funds appropriated for payment of claims of uncompensated tort victims shall not constitute a claim against the state.

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

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

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

537.690. 1. Any of the parties to a decision of the division of workers' compensation on a claim heard under the provisions of sections 537.675 to 537.693 may, within thirty days following the date of notification or mailing of such decision, file a petition with the labor and industrial relations commission to have the decision reviewed by the commission. The commission may allow or deny a petition for review. If a petition is allowed, the commission may affirm, reverse or set aside the decision of the division of workers' compensation on the basis of the evidence

previously submitted in such case or may take additional evidence or may remand the matter to the division of workers' compensation with directions. The commission shall promptly notify the parties of its decision and the reasons therefore.

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

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

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

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

3. If a claimant initiates any legal proceeding to recover restitution or damages or enforce the underlying judgment related to the tort upon which the claim is based, or if the claimant enters into negotiations to receive any proceeds in settlement or a claim for restitution or damages related to the tort, the claimant shall give the division written notice within fifteen days of the filing of the action or entering into negotiations. The division may intervene in the proceeding of a complainant to recover any compensation awarded to the claimant. If a claimant fails to give such written notice to the division within the stated time period or prior to any attempt by claimant to reach a negotiated settlement of claims for recovery of damages related to the tort

upon which the claim is based, the division's right of subrogation to receive or recover funds from claimant, to the extent that compensation was awarded by the division, shall not be reduced in any amount or percentage by the costs incurred by claimant attributable to such legal proceedings or settlement, including, but not limited to, attorney's fees, investigative cost or court costs.

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

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

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 537.675 to 537.693 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

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**]**.

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

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

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

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

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

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

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

621.055. 1. Any person authorized**[**under**] pursuant to** section 208.153, RSMo, to provide services for which benefit payments are authorized **[**under**] pursuant to** section 208.152, RSMo, may seek review by the administrative hearing commission of any of the actions of the department of social services specified in subsection 2, 3, or 4 of section 208.156, RSMo. The review may be instituted by the filing of a petition with the administrative hearing commission. The procedures applicable to the processing of such review shall be those established by chapter 536, RSMo. The administrative hearing commission shall maintain a transcript of all testimony and proceedings in any review governed by this section, and copies thereof shall be made available to any interested person upon the payment of a fee which shall not exceed the reasonable cost of preparation and supply. Decisions of the administrative hearing commission under this section shall be binding subject to appeal by either party. If the provider of services prevails in any dispute **[**under**] pursuant to** this section, interest shall be allowed at the rate of eight percent per annum upon any amount found to have been wrongfully denied or withheld. In any proceeding before the administrative hearing commission **[**under**] pursuant to** this section the burden of proof shall be on the provider of services seeking review.

2. As compensation for the additional duties imposed upon the administrative hearing commission **[**under**] pursuant to** the provisions of this section and section 208.156, RSMo, each commissioner shall annually receive the sum of five thousand dollars plus any salary adjustment

provided pursuant to section 105.005, RSMo. Such additional compensation shall be paid in the same manner and at the same time as other compensation for the commissioners.

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

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

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

[621.175. Hearings in cases filed pursuant to section 536.050, RSMo, shall not be deemed to be contested cases and the procedures established by chapter 536, RSMo, or any other procedural requirements applicable to contested cases shall not apply to such hearings unless required by the provisions of the law relating to the administrative hearing commission, other independent statute or by constitutional provision. Unless the administrative hearing commission rules that special circumstances so require, and sets forth in writing such special circumstances and the reasons why they so require, evidentiary submissions shall be limited to written exhibits, physical evidence, testimony of persons present at the hearing, and affidavits. Cross-examination of persons testifying may be permitted, but shall be limited to situations where there are genuinely disputed questions of material facts. The administrative hearing commission shall maintain a transcript of all testimony and proceedings in hearings, and copies thereof shall be made available to any interested person upon the payment of a fee which shall in no case exceed the reasonable cost of preparation and supply. Rules of discovery shall not apply to hearings held under this section, but the administrative hearing commission, at the request of a party, or on its

own motion, may issue subpoenas duces tecum, but not subpoenas ad testificandum, subject to and consistent with the procedures set forth in section 536.077, RSMo. In cases heard under this section the administrative hearing commission may take judicial notice of judicially cognizable facts as well as generally recognized technical or internal administrative facts of which the administrative hearing commission has specialized knowledge. Parties shall be notified either before the hearing, or during the hearing, or by reference in preliminary reports, or otherwise, of the material so to be noticed and shall be afforded an opportunity to contest or to object to the noticing of such material.**]**

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

621.189. Final decisions of the administrative hearing commission in cases arising **[**under the provisions of sections 621.155 and 536.050, RSMo, and under**] pursuant to** the provisions of section 621.050 shall be subject to review pursuant to a petition for review to be filed in the court of appeals in the district in which the hearing, or any part thereof, is held or, where constitutionally required or ordered by transfer, to the supreme court, and by delivery of copies of the petition to each party of record, within thirty days after the mailing or delivery of the final decision and notice thereof in such a case. Review under this section shall be exclusive, and decisions of the administrative hearing commission reviewable under this section shall not be reviewable in any other proceeding, and no other official or court shall have power to review any such decision by an action in the nature of mandamus or otherwise except pursuant to the provisions of this section. The party seeking review shall be responsible for the filing of the transcript and record of all proceedings before the administrative hearing commission in the case with the appropriate court of appeals.

621.198. The administrative hearing commission shall publish and file with the secretary of state independent sets of rules of procedure for the conduct of proceedings before it. One set of rules shall apply exclusively to proceedings in licensing cases **[**under**] pursuant to** section 621.045. Another set of rules shall apply **[**exclusively to challenges to agency authority brought under section 621.155. A third set of rules shall apply**]** to sales and use and income tax disputes **[**under**] pursuant to** section 621.050. Rules of procedure adopted **[**under**] pursuant to** the authority of this section shall be designed to simplify the maintenance of actions and to enable review to be sought, where appropriate, without the need to be represented by independent counsel. **The administrative hearing commission may by rule set a reasonable filing fee for cases pursuant to section 407.1031, RSMo, and section 621.053. Such fee shall be not**

substantially greater than the administrative hearing commission's costs in administering cases pursuant to section 407.1031, RSMo, and section 621.053. [Each set of rules shall be promulgated under the procedures set forth in sections 536.020 to 536.035, RSMo**] Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void**.

650.055. 1. Every individual convicted in a Missouri circuit court, of a felony, defined as a violent offense under chapter 565, RSMo, or as a sex offense under chapter 566, RSMo, excluding sections 566.010 and 566.020, RSMo, shall have a blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis:

(1) Upon entering the department of correction's reception and diagnostic centers; or

(2) Before release from a county jail or detention facility; or

(3) If such individual is under the jurisdiction of the department of corrections on or after August 28, 1996. Such jurisdiction includes persons currently incarcerated, persons on probation, as defined in section 217.650, RSMo, and on parole, as also defined in section 217.650, RSMo.

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

2. The Missouri state highway patrol and department of corrections shall be responsible for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to this section shall be required to provide such sample, without the right of refusal, at a collection site designated by the Missouri state highway patrol and the department of corrections. Authorized personnel collecting or assisting in the collection of samples shall not be liable in any civil or criminal action when the act is performed in a reasonable manner. Such force may be used as necessary to the effectual carrying out and application of such processes and operations. The enforcement of these provisions by the authorities in charge of state correctional institutions and others having custody of those convicted of the felony which shall not be set aside or reversed, is hereby made mandatory.

3. The procedure and rules for the collection, analysis, storage, expungement, use of DNA database records and privacy concerns shall not conflict with procedures and rules applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA data bank system.

4. Unauthorized uses or dissemination of individually identifiable DNA information in a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

5. Implementation of section 650.050 and this section shall be subject to future appropriations to keep Missouri's DNA system compatible with the Federal Bureau of Investigation's DNA data bank system.

6. A defendant convicted of any felony listed in subsection 1 of this section may make a motion before the trial court that entered the judgment of conviction in his or her case for DNA testing on the defendant and on evidence that was secured in relation to the trial which resulted in the conviction. The defendant shall serve notice of the motion upon the prosecuting attorney of the county in which the conviction occurred. The defendant shall present a prima facie case that identity was a contested issue in the defendant's trial. If the defendant establishes a prima facie case, and the trial court determines that the results of the testing have the scientific potential to produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence, the trial court shall order the state to compare DNA test results regarding the trial evidence and the defendant.

Section 1. 1. This section shall apply to each agency of the executive branch of state government that employs or engages one or more administrative law judges, either full or part-time, to adjudicate contested cases, and which provides for chief administrative law judges or administrative law judges in charge of particular offices or groups of administrative law judges.

2. The office shall be headed by a chief administrative law judge selected by a majority of the administrative law judges to serve a term of two years, who may be removed only for cause and shall continue in office until a successor is appointed.

3. The chief administrative law judge shall:

(1) Supervise the administrative law judges in the office or group;

(2) Assign administrative law judges in any case referred to the office or group;

(3) Protect and ensure the decisional independence of each administrative law judge;

(4) Establish and implement standards and specialized training programs and provide materials for administrative law judges;

(5) Provide and coordinate continuing education programs and services for administrative law judges, including research, technical assistance, technical and professional publications, compile and disseminate information, and advise of changes in the law relative to their duties.

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. In all proceedings before the administrative hearing commission or any state agency it shall not be necessary for a corporation authorized to do business in this state to be represented by counsel if such corporation is represented by either the president or chief executive officer of such corporation or a person employed by such corporation and designated by the president or chief executive officer to represent the corporation. In any such proceeding before the administrative hearing commission or a state agency whereby a corporation is represented by either its president or chief executive officer, or by a designated person, such representation shall not be construed to be the practice of law as such term is defined in section 484.010.

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, and the enactment of section 1 of this act, shall become effective January 1, 2002.

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