

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 267

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR KLARICH.

Offered March 7, 2001.

Senate Substitute adopted, March 7, 2001.

Taken up for Perfection March 7, 2001. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

0981S.04P

AN ACT

To repeal sections 43.503, 56.085, 67.133, 210.140, 287.610, 303.025, 452.556, 455.040, 476.010, 478.610, 479.150, 482.330, 483.500, 487.020, 488.426, 488.445, 488.607, 488.5336, 490.130, 491.300, 494.410, 508.190, 534.070, 550.120, 565.030, 574.075, 575.200 and 610.105, RSMo 2000, section 303.041 as enacted by senate substitute for house substitute for house committee substitute for house bill no. 1797, ninetieth general assembly, second regular session and section 303.041 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19, ninetieth general assembly, first regular session, relating to court procedures, and to enact in lieu thereof thirty-seven new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 43.503, 56.085, 67.133, 210.140, 287.610, 303.025, 452.556, 455.040, 476.010, 478.610, 479.150, 482.330, 483.500, 487.020, 488.426, 488.445, 488.607, 488.5336, 490.130, 491.300, 494.410, 508.190, 534.070, 550.120, 565.030, 574.075, 575.200 and 610.105, RSMo 2000, section 303.041 as enacted by senate substitute for house substitute for house committee substitute for house bill no. 1797, ninetieth general assembly, second regular session and section 303.041 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19, ninetieth general assembly, first

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

regular session, are repealed and thirty-seven new sections enacted in lieu thereof, to be known as sections 34.360, 34.363, 34.369, 34.371, 43.503, 56.085, 67.133, 210.140, 287.610, 303.025, 303.041, 452.406, 452.556, 455.040, 476.010, 476.365, 476.777, 478.610, 479.150, 482.330, 483.500, 487.020, 488.426, 488.445, 488.607, 488.5336, 490.130, 491.300, 494.410, 508.190, 534.070, 550.120, 565.030, 574.075, 575.200, 610.105 and 1, to read as follows:

34.360. Sections 34.360 to 34.371 of this act may be known and may be cited as the "Private Attorney Retention Act".

34.363. For the purposes of sections 34.360 to 34.371, a contract is a contract or contracts in which the fee paid to an attorney or group of attorneys, either in the form of a flat, hourly, or contingent fee, and their expenses, exceeds or can be reasonably expected to exceed one hundred thousand dollars in any fiscal year.

34.369. No state agency shall enter into a contract or contracts for legal services or encumber on behalf of any such contract or contracts in an amount exceeding one hundred thousand dollars in any fiscal year without a specific appropriation for that purpose.

34.371. At the conclusion of any legal proceeding for which a state agency retained outside counsel on a contingent fee basis, the state agency shall receive from counsel a statement of the hours worked on the case, expenses incurred, the aggregate fee amount, and a breakdown as to the hourly rate, based on hours worked divided into fee recovered, less expenses. Each state agency shall transmit the information to the office of administration on October 1 for the preceding fiscal year and the office of administration shall submit a report to the general assembly before January 1, annually.

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.

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

287.610. 1. The division may appoint such number of administrative law judges as it may find necessary, but not exceeding twenty-five in number beginning January 1, 1999, with one additional appointment authorized as of July 1, 2000, and one additional appointment authorized in each succeeding year thereafter until and including the year 2004, for a maximum of thirty authorized administrative law judges. Appropriations for any additional appointment shall be based upon necessity, measured by the requirements and needs of each division office. Administrative law judges shall be duly licensed lawyers under the laws of this state. Administrative law judges shall not practice law or do law business and shall devote their whole time to the duties of their office. Any administrative law judge may be discharged or removed only by the governor pursuant to an evaluation and recommendation by the administrative law judge review committee, hereinafter referred to as "the committee", of the judge's conduct, performance and productivity.

2. The division shall require and perform annual evaluations of an administrative law judge, associate administrative law judge and legal advisor's conduct, performance and productivity based upon written standards established by rule. The division, by rule, shall establish the written standards on or before January 1, 1999.

(1) After an evaluation by the division, any administrative law judge, associate administrative law judge or legal advisor who has received an unsatisfactory evaluation in any of the three categories of conduct, performance or productivity, may appeal the evaluation to the committee.

(2) The division director **[may] shall** refer an unsatisfactory evaluation of any administrative law judge, associate administrative law judge or legal advisor to the committee.

(3) When a written, signed complaint is made against an administrative law judge, associate administrative law judge or legal advisor, it shall be referred to the director of the division

for a determination of merit. When the director finds the complaint has merit, it shall be referred to the committee for investigation and review.

3. The administrative law judge review committee shall be composed of one administrative law judge, who shall act as a peer judge on the committee and shall be domiciled in a division office other than that of the judge being reviewed, one employee representative and one employer representative, neither of whom shall have any direct or indirect employment or financial connection with a workers' compensation insurance company, claims adjustment company, health care provider nor be a practicing workers' compensation attorney. The employee representative and employer representative shall have a working knowledge of workers' compensation. The employee and employer representative shall serve for four-year staggered terms and they shall be appointed by the governor. The initial employee representative shall be appointed for a two-year term. The administrative law judge who acts as a peer judge shall be appointed by the chairman of the labor and industrial relations commission and shall not serve on any two consecutive reviews conducted by the committee. Chairmanship of the committee shall rotate between the employee representative and the employer representative every other year. Staffing for the administrative review committee shall be provided, as needed, by the director of the department of labor and industrial relations and shall be funded from the workers' compensation fund. The committee shall conduct a hearing as part of any review of a referral or appeal made according to subsection 2 of this section.

4. The committee shall determine within thirty days whether an investigation shall be conducted for a referral made pursuant to subdivision (3) of subsection 2 of this section. The committee shall make a final referral to the governor pursuant to subsection 1 of this section within two hundred seventy days of the receipt of a referral or appeal.

5. The administrative law judges appointed by the division shall only have jurisdiction to hear and determine claims upon original hearing and shall have no jurisdiction upon any review hearing, either in the way of an appeal from an original hearing or by way of reopening any prior award, except to correct a clerical error in an award or settlement if the correction is made by the administrative law judge within twenty days of the original award or settlement. The labor and industrial relations commission may remand any decision of an administrative law judge for a more complete finding of facts. The commission may also correct a clerical error in awards or settlements within thirty days of its final award. With respect to original hearings, the administrative law judges shall have such jurisdiction and powers as are vested in the division of workers' compensation under other sections of this chapter, and wherever in this chapter the word "commission", "commissioners" or "division" is used in respect to any original hearing, those terms shall mean the administrative law judges appointed under this section. When a hearing is necessary upon any claim, the division shall assign an administrative law judge to such hearing. Any administrative law judge shall have power to approve contracts of settlement, as

provided by section 287.390, between the parties to any compensation claim or dispute under this chapter pending before the division of workers' compensation. Any award by an administrative law judge upon an original hearing shall have the same force and effect, shall be enforceable in the same manner as provided elsewhere in this chapter for awards by the labor and industrial relations commission, and shall be subject to review as provided by section 287.480.

6. Any of the administrative law judges employed pursuant to this section may be assigned on a temporary basis to the branch offices as necessary in order to ensure the proper administration of this chapter.

7. All administrative law judges and legal advisors shall be required to participate in, on a continuing basis, specific training that shall pertain to those elements of knowledge and procedure necessary for the efficient and competent performance of the administrative law judges' and legal advisors' required duties and responsibilities. Such training requirements shall be established by the division subject to appropriations and shall include training in medical determinations and records, mediation and legal issues pertaining to workers' compensation adjudication. Such training may be credited toward any continuing legal education requirements.

8. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

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

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

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

(1) Enter an order suspending the driving privilege as of the date of the court order. If the court orders the suspension of the driving privilege, the court shall require the defendant to

surrender to it any driver's license then held by such person. The length of the suspension shall be as prescribed in subsection 2 of section 303.042. The court shall forward to the director of revenue the order of suspension of driving privilege and any license surrendered within ten days;

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

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

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

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

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

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

extend any suspension for failure to pay a delinquent late surrender fee pursuant to this subsection.

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

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452.406. 1. In order to effectuate the public policy of the state as set forth in section 452.375, the court shall make determinations of custody arrangements pursuant to the provisions of this section.

2. "Custody proceeding", as used in this section, means any case filed pursuant to chapter 452, RSMo, where determining or modifying custody is an issue.

3. In any custody proceeding, the judge or commissioner of the court shall enter a final judgment within eighteen months from the first date the issue of determining or modifying custody is first filed with the court. In any such case, however, final judgment shall be entered on or before sixty days from the date that all evidence has been received by the court.

4. Each judge or commissioner who fails to meet the time limitation set forth in this section shall notify the clerk of the circuit court in which the case is pending within five days following the expiration of the limitation period. The notice shall

contain the name and number of each case which has not been disposed of in accordance with the provisions of this section.

5. The clerk of the circuit court will cause to be published in a prominent place in the circuit clerk's office a register of each custody proceeding not disposed of pursuant to the time limitation of this section, identifying the case by the judge or commissioner before whom such case is pending and the case name and number. The circuit court clerk shall also submit a copy of the notice with the office of administration.

6. Any judge or commissioner who fails to comply with the terms and conditions of this section shall forfeit any increase in compensation or benefits for the calendar year following the violation.

7. The clerk of each circuit court shall submit a notice at the end of the month to the office of the state courts administrator. The notice shall contain the case name and number and date filed of any new action in which a petition or motion is filed to establish or modify custody, and the date upon which the court issues a final decision or judgment in any such pending case.

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.**

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

476.365. 1. No judge of any court in this state shall appoint an official court reporter who is not a court reporter certified by the board of certified court reporter examiners, as provided in Supreme Court Rule 14. In the absence of an official court reporter due to illness, physical incapacity, death, dismissal or resignation, a judge may appoint a temporary court reporter, but such temporary court reporter shall not serve more than six months without obtaining a certificate pursuant to the provisions of Supreme Court Rule 14.

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

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

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

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

2. The state treasurer shall invest moneys in the Missouri CASA fund in the same

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

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

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

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

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

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

478.610. 1. There shall be three circuit judges in the thirteenth judicial circuit consisting of the counties of Boone and Callaway. These judges shall sit in divisions numbered one, two and three.

2. The circuit judge in division two shall be elected in 1980. The circuit judges in divisions one and three shall be elected in 1982.

3. The authority for a majority of judges of the thirteenth judicial circuit to appoint or retain a commissioner pursuant to section 478.003 shall expire August 28, 2001. As of such date, there shall be one additional associate circuit judge position in Boone County than is provided pursuant to section 478.320.

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

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

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

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

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

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

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

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

(1) Is an assignee of the claim; or

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

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

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

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

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

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

483.500. 1. [Clerks of the supreme court and court of appeals shall severally be allowed and paid by the] **An** appellant or plaintiff in error **shall pay** court costs in an amount determined

pursuant to [section 514.015] **sections 488.010 to 488.020**, RSMo; provided, that nothing herein shall be construed to apply to proceedings when costs are waived or are to be paid by the state, county or municipality.

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

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

487.020. 1. In each circuit or a county having a family court, [a majority of the circuit and associate circuit judges en banc, in the circuit, may appoint] commissioners **shall be appointed or elected**, subject to appropriations, to hear family court cases and make findings as provided for in sections 487.010 to 487.190. [Any person serving as a commissioner of the juvenile division of the circuit court on August 28, 1993, shall become a commissioner of the family court. In each circuit or a county therein having a family court, a majority of the circuit and associate circuit judges en banc may appoint, in addition to those commissioners serving as commissioners of the juvenile division and becoming commissioners of the family court pursuant to the provisions of sections 487.020 to 487.040, no more than three additional commissioners to hear family court cases and make findings and recommendations as provided in sections 487.010 to 487.190.]

2. In circuits where judges are selected pursuant to section 25 of article V of the state constitution, commissioners of the family court shall be appointed by a majority of the circuit and associate circuit judges en banc, in the circuit. After this initial appointment commissioners shall, at the next general election following their appointment, stand for retention in the same manner as is provided for judges in section 25 of article V of the state constitution. Commissioners in all other circuits or counties with family courts shall be elected in the circuit or county in which they are to serve.

3. In each circuit or county having a family court, the position of commissioner of the juvenile division, as it existed on August 28, 1993, became the position of commissioner of the family court. Each circuit or county having a family court may, in addition to the number of commissioner positions existing on August 28, 1993, add no more than three additional commissioners to hear family court cases and make findings and recommendations as provided in sections 487.010 to 487.190. A majority of the circuit and associate circuit judges en banc may decide to add a commissioner or commissioners. The number of additional commissioners added as a result of the provisions of sections 487.010 to 487.190 may be appointed or elected only to the extent that the state is

reimbursed for the salaries of the commissioners as provided in sections 487.010 to 487.190 or by federal or county funds or by gifts or grants made for such purposes.

4. A commissioner shall [be appointed] **serve** for a term of four years. Commissioners appointed **or elected** pursuant to sections 487.020 to 487.040 shall serve in addition to circuit judges, associate circuit court judges and commissioners authorized to hear actions classified under section 487.080.

[2.] **5.** The circuit court in the eleventh judicial circuit may, in substitution of a family court commissioner currently appointed pursuant to this section whose salary is reimbursable, appoint one family court commissioner whose compensation shall be payable by the state without necessity of reimbursement. The provisions of this subsection shall not be construed to allow appointment of a family court commissioner in addition to the number of such family court commissioners holding office in the eleventh judicial circuit as of January 1, 1999, and the appointment of the state-paid commissioner shall be subject to appropriations for such purpose.

[3.] **6.** Each commissioner of the family court shall possess the same qualifications as a circuit judge. The compensation and retirement benefits of each commissioner shall be the same as that of an associate circuit judge, payable in the same manner and from the same source as that of an associate circuit judge.

488.426. **1.** The judges of the circuit court, en banc, in any circuit in this state[, by rule of court adopted prior to January 1, 1997,] may require any party filing a civil case in the circuit court, at the time of filing the suit, to deposit with the clerk of the court a surcharge [in the amount of not to exceed fifteen dollars] in addition to all other deposits required by law or court rule. Sections 488.426 to 488.432 shall not apply to proceedings when costs are waived or are to be paid by the county or state or any city.

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

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

488.445. **1.** The governing body of any county, or of any city not within a county, by order or ordinance [to be effective prior to January 1, 2001,] may impose a fee upon the issuance of a marriage license and may impose a surcharge upon any civil case filed in the circuit court. The surcharge shall not be charged when costs are waived or are to be paid by the state, county or

municipality.

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

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

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

2. The Missouri state highway patrol shall include in its voluntary system of reporting for compilation in the "Missouri Crime Index" all reported incidents of domestic violence, whether or not an arrest is made. All incidents shall be reported on forms provided by the Missouri state highway patrol in a manner prescribed by the patrol. For purposes of this subsection only, "domestic violence" shall be defined as any

dispute arising between spouses, former spouses, persons related by blood or marriage, individuals who are presently residing together or have resided together in the past and persons who have a child in common regardless of whether they have been married or have resided together at any time.

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

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

490.130. The records of judicial proceedings of any court of the United States, or of any state, attested by the clerk thereof, with the seal of the court annexed, if there be a seal, and certified by the judge, chief justice or presiding associate circuit judge of the court to be attested in

due form, shall have such faith and credit given to them in this state as they would have at the place whence the said records come. Copies from the record of proceedings of any court of this state, attested by the clerk thereof, with the seal of the court annexed, if there be a seal, or if there be no seal, with the private seal of the clerk, shall be received as evidence of the acts or proceedings of such court in any court of this state. Records of proceedings of any court of this state contained within any statewide court automated record-keeping system established by the supreme court shall be received as evidence of the acts or proceedings in any court of this state **without further certification of the clerk.**

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

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

3. Such fee shall be payable from funds appropriated to the office of the state public defender if the interpreter or translator is used to assist the state public defender in representing an indigent in preparing for court proceedings.

494.410. **1.** The board of jury commissioners shall compile and maintain a list of potential jurors and their addresses, and shall update such list periodically in a manner to be determined by the board. In compiling this list, to be known as the master jury list, the board of jury commissioners shall consult one or more public records. The master jury list shall be comprised of not less than five percent of the total population of the county or city not within a county as determined from the last decennial census. In no event shall the master jury list contain less than four hundred names. In compiling the master jury list the board of jury commissioners shall take reasonable measures to avoid duplication of names. The master jury list shall be the result of random selection of names from public records.

2. Whoever has custody, possession, or control of any record used in compiling the master jury list shall make the record available to the board of jury commissioners for inspection, reproduction and copying at all reasonable times.

3. The master jury list [shall be considered a public record. The master jury list] and copies of all records used in compiling the list shall be retained by the board of jury commissioners for at least five years after compilation of the list.

508.190. **1.** All the costs and expenses attending any such change of venue, made on the application of either party, shall be taxed against and paid by the petitioner, and shall not be taxed in the costs of the suit; provided, however, that when the change of venue is sought on the grounds of the prejudice of the inhabitants of the county, and the application is controverted by the opposing party, the costs incurred by the opposing party in hearing and determining said application shall be taxed against and paid by the losing party to said application.

2. All court costs paid or payable with respect to any civil case in which venue is transferred which are to be distributed to the county in which the case is filed, shall be paid to the county to which the case is transferred. If any such court costs have been paid by a party prior to the order changing venue, such costs shall be paid by the treasurer of the county in which the case was originally filed, to the county to which the case is transferred.

3. All expenses of whatever nature incurred by a county as a result of jury selection and service pursuant to the provisions of chapter 494, RSMo, shall be paid by the county in which the case was originally instituted to the county in which the case is actually tried.

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.

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.

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

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

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

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

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

(2) If the trier does not find beyond a reasonable doubt at least one of the statutory

aggravating circumstances set out in subsection 2 of section 565.032; or

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

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

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

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

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

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

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

574.075. It shall be unlawful for any person in this state to enter any schoolhouse or church house in which there is an assemblage of people, met for a lawful purpose, or any courthouse, in a drunken or intoxicated and disorderly condition, or to drink or offer to drink any intoxicating liquors in the presence of such assembly of people, or in any courthouse within this state and any person or persons so doing shall be guilty of a misdemeanor; **unless however, the circuit court has by local rule authorized law library associations to conduct social events after business hours in any courthouse.**

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

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

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

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

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.

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

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