

FIRST REGULAR SESSION

# SENATE BILL NO. 643

92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATOR YECKEL.

Read 1st time February 27, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

2021S.011

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## AN ACT

To repeal sections 487.020, 487.030, 487.040, 487.050, 487.100, 487.130, 487.150, and 488.2300, RSMo, and to enact in lieu thereof six new sections relating to family court commissioners.

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

Section A. Sections 487.020, 487.030, 487.040, 487.050, 487.100, 487.130, 487.150, and 488.2300, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 487.020, 487.050, 487.100, 487.130, 487.150, and 488.2300, to read as follows:

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, subject to appropriations,] **one or more associate circuit judges** 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

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

recommendations as provided in sections 487.010 to 487.190. The number of additional commissioners added as a result of the provisions of sections 487.010 to 487.190 may be appointed 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. A commissioner shall be appointed for a term of four years. Commissioners appointed 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. 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. 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.]

487.050. 1. To the extent feasible, **associate circuit** judges designated as family court judges [and the commissioners appointed under sections 487.020 to 487.040] shall be those who:

- (1) Desire to be so assigned;
- (2) Have the temperament necessary to deal properly with cases that come before the family court;
- (3) Have completed, or within six months after designation or appointment complete, a course of training in family law;
- (4) Attend annual continuing education courses to further training in family issues and law.

2. The qualifications contained in this section of any person designated as family court judge [or appointed commissioner] shall be reviewable within the superintending control vested in the supreme court and the districts of the court of appeals by article V, section 4 of the Constitution of Missouri.

3. [The commissioners shall act at all times in a manner befitting a member of the bench. The commissioner shall devote full time to the duties of commissioner

and shall not engage in the private practice of law.

4. A commissioner may be removed from office during a term by a majority of the circuit and associate circuit judges en banc upon proof at a hearing before such judges of crime, misconduct, habitual drunkenness, willful neglect of duty, corruption in office, incompetency or any offense involving moral turpitude or oppression in office or unsatisfactory performance of duties.

5.] Judges designated as family court judges shall serve in such capacity for a term of four years unless such judge's term is either extended at such family court judge's option or shortened with the agreement of the family court judge and the presiding judge.

487.100. In any family court case the judge [or commissioner] may, on the judge's [or commissioner's] own motion or, at the request of a party, order or recommend mediation, counseling or a home study. The costs of such mediation, counseling or home study may be assessed against any party at any time and may be taxed as court costs paid by the party against whom costs are taxed or may be paid from the family services and justice fund established pursuant to section [487.170] **488.2300, RSMo.** The party's ability to pay shall be a consideration when such costs are assessed.

487.130. In the event that there is an immediate need to hear a case falling within the exclusive original jurisdiction of the family court and no family court judge [or commissioner] is available to hear the matter, then the presiding judge may assign any judge of the proper venue in each circuit to hear such matter, subject to split venue and other provisions of law.

487.150. The administrative judge of the family court, or if none, the presiding judge of each circuit having a family court division or each circuit having a family court division in a county in the circuit may appoint a family court coordinating committee, which shall meet at least quarterly and shall serve as a liaison for the professions, agencies and organizations which utilize or provide services connected with the family court. The committee may be comprised of the following:

- (1) A family court judge[, commissioner] and administrator;
- (2) Two members of the Missouri Bar who are actively engaged in the practice of family law;
- (3) A representative from the division of family services;
- (4) A representative from the division of youth services;
- (5) Two professional counselors, psychologists or psychiatrists;

- (6) A representative from a local educational institution;
- (7) A representative from the general public;
- (8) A representative from an organized grandparents' association; and
- (9) A representative from a domestic violence coalition.

488.2300. 1. A "Family Services and Justice Fund" is hereby established in each county or circuit with a family court, for the purpose of aiding with the operation of the family court divisions and services provided by those divisions. In circuits or counties having a family court, the circuit clerk shall charge and collect a surcharge of thirty dollars in all proceedings falling within the jurisdiction of the family court. The surcharge shall not be charged when no court costs are otherwise required, shall not be charged for actions filed pursuant to the provisions of chapter 455, RSMo, shall not be charged to a government agency and shall not be charged in any proceeding when costs are waived or are to be paid by the state, county or municipality.

2. In juvenile proceedings under chapter 211, RSMo, a judgment of up to thirty dollars may be assessed against the child, parent or custodian of the child, in addition to other amounts authorized by law, in informal adjustments made under the provisions of sections 211.081 and 211.083, RSMo, and in an order of disposition or treatment under the provisions of section 211.181, RSMo. The judgment may be ordered paid to the clerk of the circuit where the assessment is imposed and shall be collected and disbursed in the manner provided by sections 488.010 to 488.020.

3. All sums collected pursuant to this section and section 487.140, RSMo, shall be payable to the various county family services and justice funds.

4. Any moneys in the family services and justice fund not expended for salaries of [commissioners,] family court administrators and family court staff shall be used toward funding the enhanced services provided as a result of the establishment of a family court; however, it shall not replace or reduce the current and ongoing responsibilities of the counties to provide funding for the courts as required by law. Moneys collected for the family services and justice fund shall be expended for the benefit of litigants and recipients of services in the family court, with priority given to services such as mediation, counseling, home studies, psychological evaluation and other forms of alternative dispute-resolution services. Expenditures shall be made at the discretion of the presiding judge or family court administrative judge, as designated by the circuit and associate circuit judges en banc, for the implementation of the family court system as set forth in this section. No moneys from the family services and justice fund may be used to pay for

mediation in any cause of action in which domestic violence is alleged.

5. [From the funds collected pursuant to this section and retained in the family services and justice fund, each circuit or county in which a family court commissioner in addition to those commissioners existing as juvenile court commissioners on August 28, 1993, have been appointed pursuant to sections 487.020 to 487.040, RSMo, shall pay to and reimburse the state for the actual costs of that portion of the salaries of family court commissioners appointed pursuant to the provisions of sections 487.020 to 487.040, RSMo.

6.] No moneys deposited in the family services and justice fund may be expended for capital improvements.

[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.]

[487.040. 1. The administrative judge of the family court, or in circuits or counties which have a family court pursuant to subsection 2 of

section 487.010 having one judge sitting as family court judge, the judge of the family court may direct that any case or class of cases may be heard by the commissioner in the manner provided for hearing of cases by law.

2. The circuit and associate circuit judges en banc may designate by order the location within the geographical jurisdiction of the court where the commissioners shall conduct hearings, provided, in circuits with split venue, one or more commissioners shall be assigned and shall conduct hearings in each venue with the exception of proceedings brought pursuant to the provisions of chapter 210, RSMo, or chapter 211, RSMo.]

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