

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1211
92ND GENERAL ASSEMBLY

Reported from the Committee on Judiciary, May 4, 2004, with recommendation that the House Committee Substitute for Senate Bill No. 1211 Do Pass.

4203L.03C

STEPHEN S. DAVIS, Chief Clerk

AN ACT

To repeal sections 2.030, 2.040, 2.050, 2.060, 3.130, 105.711, 211.031, 211.141, 452.310, 452.420, 452.423, 455.010, 455.501, 478.266, 478.725, 479.020, 482.330, 483.550, 488.429, 488.2275, 491.300, 494.400, 494.425, 494.430, 494.431, 494.445, 494.450, 494.460, 512.020, 512.180, 513.430, 513.440, 526.010, 526.020, 527.290, 535.020, 535.030, 537.046, 542.276, 544.020, 559.026, 570.030, 570.200, 570.210, 590.120, 595.045, 595.050, 610.100 and 630.130, RSMo, and to enact in lieu thereof fifty-five new sections relating to court procedures and court personnel, with penalty provisions.

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

Section A. Sections 2.030, 2.040, 2.050, 2.060, 3.130, 105.711, 211.031, 211.141, 452.310, 452.420, 452.423, 455.010, 455.501, 478.266, 478.725, 479.020, 482.330, 483.550, 488.429, 488.2275, 491.300, 494.400, 494.425, 494.430, 494.431, 494.445, 494.450, 494.460, 512.020, 512.180, 513.430, 513.440, 526.010, 526.020, 527.290, 535.020, 535.030, 537.046, 542.276, 544.020, 559.026, 570.030, 570.200, 570.210, 590.120, 595.045, 595.050, 610.100 and 630.130, RSMo, are repealed and fifty-five new sections enacted in lieu thereof, to be known as sections 2.030, 2.040, 2.050, 2.060, 3.130, 105.711, 211.031, 211.141, 452.025, 452.310, 452.423, 455.010, 455.090, 455.501, 472.075, 476.800, 476.810, 476.820, 478.266, 479.020, 482.330, 483.537, 483.550, 488.429, 488.2275, 494.400, 494.425, 494.430, 494.432, 494.445, 494.450, 494.460, 512.180, 512.020, 513.430, 513.440, 526.010, 527.290, 535.020, 535.030, 537.046, 542.276, 544.020, 559.026, 570.030, 570.200, 570.210, 590.118, 590.120, 595.045, 595.050, 610.100, 630.130, 1 and 2, to read as follows:

2.030. The [sixty-fourth general assembly and each general assembly thereafter, whether

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

in regular or extraordinary session, shall by concurrent resolution adopted by both houses, provide for collating, indexing, printing and binding] **joint committee on legislative research shall annually collate, index, print, and bind** all laws and resolutions [of the session] **passed or adopted by the general assembly** and all measures approved by the people since the last publication of the **session laws** [and resolutions in the manner directed by the resolution. The general assembly may by concurrent resolution require that all laws passed by the general assembly and all resolutions adopted prior to any recess of the general assembly for a period of thirty days or more shall be collated, indexed, bound and distributed as provided by law, and]. Any edition **of the session laws** published pursuant to [the concurrent resolution] **this section** is a part of the official laws and resolutions of the general assembly at which the laws and resolutions were passed.

2.040. The joint committee on legislative research shall provide copies of all laws, measures and resolutions duly enacted by the general assembly and all amendments to the constitution and all measures approved by the people since the last publication of [such laws and resolutions] **the session laws pursuant to section 2.030**, giving the date of the approval or adoption thereof [for printing in accordance with the directions of the general assembly as given by concurrent resolution]. The joint committee on legislative research shall [edit,] headnote, collate, index the laws, resolutions and constitutional amendments, and [shall] compare the proof sheets of the printed copies with the original rolls[, note all errors which have been committed, if any, and cause errata thereof to be annexed to the completed printed copies, and]. The revisor of statutes shall insert therein an attestation under the revisor's hand that the revisor has compared the laws, resolutions, constitutional amendments and measures therein contained with the original rolls and copies in the office of the secretary of state and that the same are true copies of such laws, measures, resolutions and constitutional amendments as the same appear in the original rolls in the office of the secretary of state. The joint committee on legislative research shall cause the completed laws, resolutions and constitutional amendments to be printed and bound.

2.050. The complete printed copies of laws, resolutions, constitutional amendments and measures when printed and bound shall be delivered to the revisor of statutes who shall distribute [copies without cost in the same number and to the same] **one copy without cost to each member of the general assembly and one copy each, without cost, to every county circuit clerk, circuit judge, associate circuit judge, prosecuting attorney, and sheriff. One copy each, without cost, shall be delivered to other** officers, institutions and agencies who are entitled to copies of the Revised Statutes of Missouri under section 3.130, RSMo, **if requested**.

2.060. [1.] The revisor of statutes may sell copies of the laws and resolutions, not required by this chapter to be distributed without charge, at actual cost of printing and binding, as determined by the [secretary of state] **joint committee on legislative research**, plus the cost of delivery, and the money received therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the statutory revision fund.

[2. The revisor of statutes shall also supply the clerk of the circuit court of each county order

blanks in a number sufficient to meet the public demand. The blanks may be used by the public to order copies which shall be sold by the revisor of statutes as provided in subsection 1.]

3.130. 1. Such number of copies of each volume of each edition of the revised statutes of Missouri and annotations thereto and such number of the supplements or pocket parts thereto as may be necessary to meet the demand as determined by the committee shall be printed[,] **and bound, and also produced in an electronic format**, and delivered to the revisor of statutes, who shall execute and file a receipt therefor with the director of revenue. The revisor of statutes shall distribute the copies, **in either version or combination**, without charge as follows:

(1) To each state department, and each division and bureau thereof, one copy **as requested in writing specifying the version**;

(2) To each member of the general assembly when first elected, [three copies] **one bound version and, if requested, one copy in the electronic version**; and at each general assembly thereafter, [three copies] **one printed version and one copy in the electronic version** if so requested in writing; each member to receive [three copies] **one printed version and, if requested, one copy in the electronic version** of each supplement and of each new edition of the revised statutes when published;

(3) To each judge of the supreme court, the court of appeals and to each judge of the circuit courts, except municipal judges, one copy **in either version**;

(4) To the probate divisions of the circuit courts of Jackson County, St. Louis County and the city of St. Louis, four additional copies each **in either version or combination**, and to the probate divisions of the circuit courts of those counties where the judge of the probate division sits in more than one city, one additional copy each **in either version**;

(5) To the law library of the supreme court, ten copies **in either version or combination**;

(6) To the law libraries of each district of the court of appeals, six copies each **in either version or combination**;

(7) To the library of the United States Supreme Court, one copy **in either version**;

(8) To the United States district courts and circuit court of appeals for Missouri, two copies each **in either version or combination**;

(9) To the state historical society, two copies **in either version or combination**;

(10) To the libraries of the state university at Columbia, at St. Louis, at Kansas City and at Rolla, [three copies] **one bound version and one electronic version** each;

(11) To the state colleges, Lincoln University, the [junior] **community** colleges, Missouri Western State College, **Linn State Technical College**, and Missouri Southern State College, [four copies] **one bound version and one electronic version** each;

(12) To the public school library of St. Louis, two copies **in either version or combination**;

(13) To the Library of Congress, one copy **in either version**;

(14) To the Mercantile Library of St. Louis, [two copies] **one bound version and one electronic version**;

- (15) To each public library in the state, if requested, one copy **in either version**;
- (16) To the law libraries of St. Louis, St. Louis County, Kansas City and St. Joseph, [three copies] **one bound version and one electronic version** each;
- (17) To the law schools of the state university, St. Louis University, and Washington University, [three copies] **one bound version and one electronic version** each;
- (18) To the circuit clerk of each county of the state for distribution [of one copy] to each county officer, to be by him **or her** delivered to his **or her** successor in office, one copy **in either version as requested in writing**;
- (19) To the director of the committee on legislative research, such number of copies **in either version or combination** as may be required by such committee for the performance of its duties;
- (20) To any county law library, when requested by the circuit clerk, [two copies] **one bound version and one electronic version**;
- (21) To each county library, one copy **of either version**, when requested **in writing**;
- (22) To any committee of the senate or house of representatives, as designated and requested by the accounts committee of the respective house.

2. The revisor of statutes shall also provide the librarians of the supreme court library[, of] **and** the committee on legislative research[, of the law schools of the state university] such copies **in either version or combination** as may be necessary, not exceeding fifty-one each, to enable them to exchange the copies for like compilations or revisions of the statute laws of other states and territories.

105.711. 1. There is hereby created a "State Legal Expense Fund" which shall consist of moneys appropriated to the fund by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716.

2. Moneys in the state legal expense fund shall be available for the payment of any claim or any amount required by any final judgment rendered by a court of competent jurisdiction against:

(1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or 536.087, RSMo, or section 537.600, RSMo;

(2) Any officer or employee of the state of Missouri or any agency of the state, including, without limitation, elected officials, appointees, members of state boards or commissions and members of the Missouri national guard upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state, or any agency of the state, provided that moneys in this fund shall not be available for payment of claims made under chapter 287, RSMo; or

(3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337 or 338, RSMo, who is employed by the state of Missouri or any agency of the state, under formal contract to conduct disability reviews on behalf of the department of elementary and

secondary education or provide services to patients or inmates of state correctional facilities **or county jails** on a part-time basis;

(b) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo, who is employed by or under contract with a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city charter, or a combined city-county health department to provide services to patients for medical care caused by pregnancy, delivery and child care, if such medical services are provided by the physician pursuant to the contract without compensation or the physician is paid from no other source than a governmental agency except for patient co-payments required by federal or state law or local ordinance;

(c) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, who is employed by or under contract with a federally funded community health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery and child care, if such medical services are provided by the physician pursuant to the contract or employment agreement without compensation or the physician is paid from no other source than a governmental agency or such a federally funded community health center except for patient co-payments required by federal or state law or local ordinance. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause against any such physician, and shall not exceed one million dollars for any one claimant;

(d) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered pursuant to chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, dental or nursing treatment within the scope of his license or registration at a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or a nonprofit community health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such treatment is restricted to primary care and preventive health services, provided that such treatment shall not include the performance of an abortion, and if such medical, dental or nursing services are provided by the physician, dentist, physician assistant, dental hygienist or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered to practice medicine, nursing or dentistry or to act as a physician assistant or dental hygienist in Missouri under the provisions of chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, nursing or dental treatment within the scope of his license or registration to students of a school whether a public, private or parochial elementary or secondary school, if such physician's treatment is restricted to primary care and preventive health services and if such medical, dental or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(4) Staff employed by the juvenile division of any judicial circuit; or

(5) Any attorney licensed to practice law in the state of Missouri who practices law at or through a nonprofit community social services center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through any agency of any federal, state, or local government, if such legal practice is provided by the attorney without compensation. In the case of any claim or judgment that arises under this subdivision, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars.

3. The department of health and senior services shall promulgate rules regarding contract procedures and the documentation of care provided under paragraphs (b), (c), (d), and (e) of subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to the provisions of section 105.721, provided in subsection [5] 6 of this section, shall not apply to any claim or judgment arising under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance obtained and maintained in force by any physician, dentist, physician assistant, dental hygienist, or nurse for coverage concerning his or her private practice and assets shall not be considered available under subsection [5] 6 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. However, a physician, nurse, dentist,

physician assistant, or dental hygienist may purchase liability or malpractice insurance for coverage of liability claims or judgments based upon care rendered under paragraphs (c), (d), and (e) of subdivision (3) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under those paragraphs. Even if paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is repealed or modified, the state legal expense fund shall be available for damages which occur while the pertinent paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is in effect.

4. The attorney general shall promulgate rules regarding contract procedures and the documentation of legal practice provided under subdivision (5) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to section 105.721 as provided in subsection 6 of this section shall not apply to any claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance otherwise obtained and maintained in force shall not be considered available under subsection 6 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under subdivision (5) of subsection 2 of this section. However, an attorney may obtain liability or malpractice insurance for coverage of liability claims or judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this section is repealed or amended, the state legal expense fund shall be available for damages which occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

5. All payments shall be made from the state legal expense fund by the commissioner of administration with the approval of the attorney general. Payment from the state legal expense fund of a claim or final judgment award against a physician, dentist, physician assistant, dental hygienist, or nurse described in paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section **or against an attorney in subdivision (5) of subsection 2 of this section** shall only be made for services rendered in accordance with the conditions of such paragraphs.

[5.] **6.** Except as provided in subsection 3 of this section, in the case of any claim or judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri, or an agency of the state, the aggregate of payments from the state legal expense fund and from any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be made from the state legal expense fund or any policy of insurance procured with state funds pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other policy of liability

insurance have been exhausted.

[6.] 7. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to the credit of the state legal expense fund at the end of an appropriation period shall not be transferred to general revenue.

[7.] 8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, 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, 1999, shall be invalid and void.

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130, RSMo;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product, **and except that the juvenile court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance;**

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or

the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570, RSMo, with the consent of the receiving court;

(5) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

211.141. 1. When a child is taken into custody as provided in section 211.131, the person taking the child into custody shall, unless it has been otherwise ordered by the court, return the child to his **or her** parent, guardian or legal custodian on the promise of such person to bring the child to court, if necessary, at a stated time or at such times as the court may direct. The court may also impose other conditions relating to activities of the child. If these additional conditions are not met, the court may order the child detained as provided in section 211.151. If additional conditions are imposed, the child shall be notified that failure to adhere to the conditions may result in the court imposing more restrictive conditions or ordering the detention of the child. If the person taking the child into custody believes it desirable, he may request the parent, guardian or legal custodian to sign a written promise to bring the child into court and acknowledging any additional conditions imposed on the child.

2. If the child is not released as provided in subsection 1 of this section, he **or she** may be conditionally released or detained in any place of detention specified in section 211.151 but only on order of the court specifying the reason for the conditional release or the detention. The parent, guardian or legal custodian of the child shall be notified of the terms of the conditional release or the place of detention as soon as possible.

3. The juvenile officer may conditionally release or detain a child for a period not to exceed twenty-four hours if it is impractical to obtain a written order from the court because of the unreasonableness of the hour or the fact that it is a Sunday or holiday. The conditional release shall be as provided in subsection 1 of this section, and the detention shall be as provided in section 211.151. A written record of such conditional release or detention shall be kept and a report in writing filed with the court. In the event that the judge is absent from his circuit, or is unable to act, the approval of another circuit judge of the same or adjoining circuit must be obtained as a condition

or continuing the conditional release or detention of a child for more than twenty-four hours.

4. In any matter referred to the juvenile court pursuant to section 211.031, the juvenile officer shall make [an] **a risk and needs** assessment of the child and, before the disposition of the matter, shall report the results of the assessment to the juvenile court. The assessment shall be written on a standardized form [developed and provided] **approved** by the [division of youth services] **office of state courts administrator**.

5. The division, in cooperation with juvenile officers and juvenile courts, shall at least biennially review a random sample of assessments of children and the disposition of each child's case to recommend assessment and disposition equity throughout the state. Such review shall identify any evidence of racial disparity in certification. Such review shall be conducted in a manner which protects the confidentiality of the cases examined.

452.025. 1. All pleadings required to be verified under this chapter may at the time of execution be made by the acknowledgment thereof by the petitioner or respondent made before an officer authorized to administer oaths under the laws of this state, and evidenced by the officer's certificate, under official seal, attached or annexed to the pleading in form and content substantially as follows:

THE STATE OF

COUNTY OF

(The undersigned), of lawful age, being duly sworn on his/her oath, states that he/she is the petitioner/respondent named above and that the facts stated in the are true according to his/her best knowledge and belief.

.....

Petitioner/Respondent

Subscribed and sworn to before me this day of, 20...

My commission expires:

.....

.....

Notary Public

2. All references in this chapter regarding a "verified" document shall be satisfied by compliance with the requirements of subsection 1 of this section.

452.310. 1. In any proceeding commenced pursuant to this chapter, the petition, a motion to modify, a motion for a family access order and a motion for contempt shall be verified. The petition in a proceeding for dissolution of marriage shall allege that the marriage is irretrievably broken and that therefore there remains no reasonable likelihood that the marriage can be preserved. The petition in a proceeding for legal separation shall allege that the marriage is not irretrievably broken and that therefore there remains a reasonable likelihood that the marriage can be preserved.

2. The petition in a proceeding for dissolution of marriage or legal separation shall set forth:

(1) The residence of each party, including the county, and the length of residence of each party in this state and in the county of residence;

(2) The date of the marriage and the place at which it is registered;

(3) The date on which the parties separated;

(4) The name, date of birth and address of each child, and the parent with whom each child has primarily resided for the sixty days immediately preceding the filing of the petition for dissolution of marriage or legal separation;

(5) Whether the wife is pregnant;

(6) The Social Security number of the petitioner, respondent and each child;

(7) Any arrangements as to the custody and support of the children and the maintenance of each party; and

(8) The relief sought.

3. Upon the filing of the petition in a proceeding for dissolution of marriage or legal separation, each child shall immediately be subject to the jurisdiction of the court in which the proceeding is commenced, unless a proceeding involving allegations of abuse or neglect of the child is pending in juvenile court. Until permitted by order of the court, neither parent shall remove any child from the jurisdiction of the court or from any parent with whom the child has primarily resided for the sixty days immediately preceding the filing of a petition for dissolution of marriage or legal separation.

4. The mere fact that one parent has actual possession of the child at the time of filing shall not create a preference in favor of such parent in any judicial determination regarding custody of the child.

5. The respondent shall be served in the manner provided by the rules of the supreme court and applicable court rules and, to avoid an interlocutory judgment of default, shall file a verified answer within thirty days of the date of service which shall not only admit or deny the allegations of the petition, but shall also set forth:

(1) The Social Security number of the petitioner, respondent and each child;

(2) Any arrangements as to the custody and support of the child and the maintenance of each party; and

(3) The relief sought.

6. Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

7. The petitioner and respondent shall submit a proposed parenting plan, either individually or jointly, within thirty days after service of process or the filing of the entry of appearance, whichever event first occurs of a motion to modify or a petition involving custody or visitation issues. The proposed parenting plan shall set forth the arrangements that the party believes to be in the best interest of the minor children and shall include but not be limited to:

(1) A specific written schedule detailing the custody, visitation and residential time for each

child with each party including:

- (a) Major holidays stating which holidays a party has each year;
 - (b) School holidays for school-age children;
 - (c) The child's birthday, Mother's Day and Father's Day;
 - (d) Weekday and weekend schedules and for school-age children how the winter, spring, summer and other vacations from school will be spent;
 - (e) The times and places for transfer of the child between the parties in connection with the residential schedule;
 - (f) A plan for sharing transportation duties associated with the residential schedule;
 - (g) Appropriate times for telephone access;
 - (h) Suggested procedures for notifying the other party when a party requests a temporary variation from the residential schedule;
 - (i) Any suggested restrictions or limitations on access to a party and the reasons such restrictions are requested;
- (2) A specific written plan regarding legal custody which details how the decision-making rights and responsibilities will be shared between the parties including the following:
- (a) Educational decisions and methods of communicating information from the school to both parties;
 - (b) Medical, dental and health care decisions including how health care providers will be selected and a method of communicating medical conditions of the child and how emergency care will be handled;
 - (c) Extracurricular activities, including a method for determining which activities the child will participate in when those activities involve time during which each party is the custodian;
 - (d) Child care providers, including how such providers will be selected;
 - (e) Communication procedures including access to telephone numbers as appropriate;
 - (f) A dispute resolution procedure for those matters on which the parties disagree or in interpreting the parenting plan;
 - (g) If a party suggests no shared decision-making, a statement of the reasons for such a request;
- (3) How the expenses of the child, including child care, educational and extraordinary expenses as defined in the child support guidelines established by the supreme court, will be paid including:
- (a) The suggested amount of child support to be paid by each party;
 - (b) The party who will maintain or provide health insurance for the child and how the medical, dental, vision, psychological and other health care expenses of the child not paid by insurance will be paid by the parties;
 - (c) The payment of educational expenses, if any;
 - (d) The payment of extraordinary expenses of the child, if any;

- (e) Child care expenses, if any;
- (f) Transportation expenses, if any.

8. If the proposed parenting plans of the parties differ and the parties cannot resolve the differences or if any party fails to file a proposed parenting plan, upon motion of either party and an opportunity for the parties to be heard, the court shall enter a temporary order containing a parenting plan setting forth the arrangements specified in subsection 7 of this section which will remain in effect until further order of the court. The temporary order entered by the court shall not create a preference for the court in its adjudication of final custody, child support or visitation.

9. Within one hundred twenty days after August 28, 1998, the Missouri supreme court shall have in effect guidelines for a parenting plan form which may be used by the parties pursuant to this section in any dissolution of marriage, legal separation or modification proceeding involving issues of custody and visitation relating to the child.

10. The filing of a parenting plan for any child over the age of eighteen for whom custody, visitation, or support is being established or modified by a court of competent jurisdiction is not required. Nothing in this section shall be construed as precluding the filing of a parenting plan upon agreement of the parties or if ordered to do so by the court for any child over the age of eighteen for whom custody, visitation, or support is being established or modified by a court of competent jurisdiction.

452.423. 1. In all proceedings for child custody or for dissolution of marriage or legal separation where custody, visitation, or support of a child is a contested issue, the court may appoint a guardian ad litem. The court shall appoint a guardian ad litem in any proceeding in which child abuse or neglect is alleged. Disqualification of a guardian ad litem shall be ordered in any legal proceeding only pursuant to chapter 210, RSMo, or this chapter, upon the filing of a written application by any party within ten days of appointment, or within ten days of August 28, 1998, if the appointment occurs prior to August 28, 1998. Each party shall be entitled to one disqualification of a guardian ad litem in each proceeding, except a party may be entitled to additional disqualifications of a guardian ad litem for good cause shown.

2. The guardian ad litem shall:

- (1) Be the legal representative of the child at the hearing, and may examine, cross-examine, subpoena witnesses and offer testimony;
- (2) Prior to the hearing, conduct all necessary interviews with persons having contact with or knowledge of the child in order to ascertain the child's wishes, feelings, attachments and attitudes. If appropriate, the child should be interviewed;
- (3) Request the juvenile officer to cause a petition to be filed in the juvenile division of the circuit court if the guardian ad litem believes the child alleged to be abused or neglected is in danger.

3. The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and

appoint another. The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference.

4. The guardian ad litem shall be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may:

(1) Issue a direct payment order to the parties. If a party fails to comply with the court's direct payment order, the court may find such party to be in contempt of court; or

(2) Award such fees as a judgment to be paid by any party to the proceedings or from public funds. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513, RSMo.

5. The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. The volunteer advocate shall be provided with all reports relevant to the case made to or by any agency or person and shall have access to all records of such agencies or persons relating to the child or such child's family members. Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses.

455.010. As used in sections 455.010 to 455.085, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Abuse" includes but is not limited to the occurrence of any of the following acts, attempts or threats against a person who may be protected pursuant to sections 455.010 to 455.085:

(a) "Assault", purposely or knowingly placing or attempting to place another in fear of physical harm;

(b) "Battery", purposely or knowingly causing physical harm to another with or without a deadly weapon;

(c) "Coercion", compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage;

(d) "Harassment", engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to another adult and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable adult to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner. Such conduct might include, but is not limited to:

a. Following another about in a public place or places;

b. Peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity;

(e) "Sexual assault", causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, or duress;

(f) "Unlawful imprisonment", holding, confining, detaining or abducting another person against that person's will;

(2) "Adult", any person eighteen years of age or older or otherwise emancipated;

(3) "Court", the circuit or associate circuit judge or a family court commissioner;

(4) "Ex parte order of protection", an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;

(5) "Family" or "household member", spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past, an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and adults who have a child in common regardless of whether they have been married or have resided together at any time;

(6) "Full order of protection", an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;

(7) "Order of protection", either an ex parte order of protection or a full order of protection;

(8) "Petitioner", a family or household member or an adult who has been the victim of stalking, who has filed a verified petition pursuant to the provisions of section 455.020;

(9) "Respondent", the family or household member or adult alleged to have committed an act of stalking, against whom a verified petition has been filed;

(10) "Stalking" is when an adult purposely and repeatedly [harasses or follows with the intent of harassing another adult. As used in this subdivision, "harasses" means to engage in a course of conduct directed at a specific adult that serves no legitimate purpose, that would cause a reasonable adult to suffer substantial emotional distress.] **engages in an unwanted course of conduct that causes alarm to another person when it is reasonable in that person's situation to have been alarmed by the conduct.** As used in this subdivision[,]:

(a) "Course of conduct" means a pattern of conduct composed of [a series of] **repeated** acts over a period of time, however short, [evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct".] **that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or unwanted contact;**

(b) "Repeated" means two or more incidents evidencing a continuity of purpose; and

(c) "Alarm" means to cause fear of danger of physical harm.

455.090. 1. The court shall retain jurisdiction over the full order of protection issued under this chapter for its entire duration. The court may schedule compliance review hearings to monitor the respondent's compliance with the order.

2. The terms of the order of protection issued under this chapter are enforceable by all remedies available at law for the enforcement of a judgment, and the court may punish a respondent who willfully violates the order of protection to the same extent as provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

455.501. As used in sections 455.500 to 455.538, the following terms mean:

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by an adult household member, or stalking of a child. Discipline including spanking, administered in a reasonable manner shall not be construed to be abuse;

(2) "Adult household member", any person eighteen years of age or older or an emancipated child who resides with the child in the same dwelling unit;

(3) "Child", any person under eighteen years of age;

(4) "Court", the circuit or associate circuit judge or a family court commissioner;

(5) "Ex parte order of protection", an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;

(6) "Full order of protection", an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;

(7) "Order of protection", either an ex parte order of protection or a full order of protection;

(8) "Petitioner", a person authorized to file a verified petition under the provisions of sections 455.503 and 455.505;

(9) "Respondent", the adult household member, emancipated child or person stalking the child against whom a verified petition has been filed;

(10) "Stalking", **when an adult** purposely and repeatedly [harassing or following with the intent of harassing a child. As used in this subdivision, "harassing" means engaging in a course of conduct directed at a specific child that serves no legitimate purpose, that would cause a reasonable adult to believe the child would suffer substantial emotional distress.] **engages in an unwanted course of conduct with regard to a child that causes another adult to believe that a child would suffer alarm by the conduct.** As used in this subdivision[,]:

(a) "[course] **Course** of conduct" means a pattern of conduct composed of [a series of] **repeated** acts over a period of time, however short, [evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct"] **that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or contact;**

(b) "**Repeated**" means two or more incidents evidencing a continuity of purpose; and

(c) "**Alarm**" means to cause fear of danger of physical harm;

(11) "Victim", a child who is alleged to have been abused by an adult household member.

472.075. The clerk and other nonjudicial personnel of the probate division of circuit courts of any city not within a county shall be appointed by the judge of the probate division with the consent of the court en banc, unless otherwise provided by local court rule.

476.800. 1. As used in sections 476.800 to 476.820, the following terms mean:

(1) "**NonEnglish speaking person**", any person involved in a legal proceeding who cannot readily speak or understand the English language, but does not include persons who are deaf or have a hearing disability;

(2) "Appointing authority", any court required to provide an interpreter;
(3) "Court proceeding", any proceeding before a court of record;
(4) "Qualified interpreter", an impartial and unbiased person who is readily able to render a complete and accurate interpretation or translation of spoken and written English for nonEnglish speaking persons and of nonEnglish oral or written statements into spoken English.

476.810. 1. The courts shall appoint qualified interpreters and translators in all legal proceedings in which the nonEnglish speaking person is a party or a witness.

2. Any nonEnglish speaking party, or any party who intends to call a nonEnglish speaking witness shall provide such prior notice to the court of the need for an interpreter or translator as may be required by court rules.

3. The appointing authority shall appoint a qualified interpreter to assist the nonEnglish speaking parent, guardian, or custodian of a juvenile brought before the court.

4. The court may accept a waiver of the right to a qualified interpreter by a nonEnglish speaking person at any point in the court proceeding if the court advises the person of the nature and effect of the waiver and determines that the waiver has been made knowingly, intelligently, and voluntarily. The nonEnglish speaking person may retract his or her waiver and request that a qualified interpreter shall be appointed.

5. An interpreter shall take an oath that he or she will make a true interpretation to the party or witness in a language that the party or witness understands and that he or she will make a true interpretation of the party or witness' answers to questions to counsel, court, or jury, in the English language, with his or her best skill and judgment. The interpreter shall not give explanations or legal advice or express personal opinions.

6. An interpreter or translator cannot be compelled to testify as to the information that would otherwise be protected by attorney-client privilege as between the party and his or her attorney.

476.820. 1. Interpreters and translators in civil, juvenile, and criminal proceedings shall be allowed a reasonable fee approved by the court and necessary travel expenses not to exceed state rates. Interpreters shall not be compensated for travel time.

2. If the person requiring an interpreter or translator during the proceeding is a party to or a witness in any criminal proceeding, such fees and expenses shall be payable by the state from funds appropriated for such purpose.

478.266. 1. [Notwithstanding the provisions of section 478.265,] On and after January 2, 1979, each county of the first class having a charter form of government and containing all or part of a city having a population of at least four hundred fifty thousand or more a majority of the circuit and associate circuit judges, meeting en banc, may appoint one person, who shall possess the same qualifications as a circuit judge, to act as commissioner of the probate division of the circuit court. The commissioner shall be appointed for a term of four years. The compensation of the

commissioner shall be the same as that of a circuit judge, payable in the same manner and from the same source as the compensation of the judge who serves in the probate division of the circuit court. Subject to approval or rejection by the judge of the probate division, the commissioner shall have all the powers and duties of the judge **for matters within the jurisdiction of the judge of the probate division.** [The] A judge shall by order of record reject or confirm all orders, judgments and decrees of the commissioner within the time the judge could set aside such orders, judgments or decrees had the same been made by him. If so confirmed, the orders, judgments and decrees shall have the same effect as if made by the judge on the date of their confirmation.

2. The judge of the probate division of the circuit court of each county of the first class having a charter form of government and containing a population of at least four hundred fifty thousand inhabitants and in any city not within a county and, after January 1, 1991, in each county of the first class having a charter form of government and not containing all or part of a city having a population of at least four hundred fifty thousand or more may appoint a person to be known as deputy commissioner of the probate division of the circuit court, who shall possess the same qualifications and take and subscribe a like oath as such **a circuit** judge. The deputy commissioner shall be appointed for a term of four years. The compensation of the deputy commissioner shall be the same as that of an associate circuit judge [of the circuit court in a county of the first class], payable in the same manner and from the same source as the compensation of an associate circuit judge [of the circuit court of a first class county]. Subject to approval or rejection by the judge of the probate division, the commissioner shall have all the powers and duties of the clerk of the probate division and [such] **the** judge; but [the] **a** judge shall by order of record reject or confirm all orders, judgments, and decrees of the deputy commissioner within the time such judge could set aside such orders, judgments, or decrees, had the same been made by him; and if so confirmed such orders, judgments, and decrees shall have the same effect as if made by the judge on the date of such confirmation. **In any city not within a county, any deputy commissioner of the probate court may be temporarily assigned by the presiding judge of the circuit court to serve as a family court commissioner.**

479.020. 1. Any city, town or village, including those operating under a constitutional or special charter, may, and cities with a population of four hundred thousand or more shall, provide by ordinance or charter for the selection, tenure and compensation of a municipal judge or judges consistent with the provisions of this chapter who shall have original jurisdiction to hear and determine all violations against the ordinances of the municipality. The method of selection of municipal judges shall be provided by charter or ordinance. Each municipal judge shall be selected for a term of not less than two years as provided by charter or ordinance.

2. Except where prohibited by charter or ordinance, the municipal judge may be a part-time judge and may serve as municipal judge in more than one municipality.

3. No person shall serve as a municipal judge of any municipality with a population of seven thousand five hundred or more or of any municipality in a county of the first class with a charter

form of government unless the person is licensed to practice law in this state unless, prior to January 2, 1979, such person has served as municipal judge of that same municipality for at least two years.

4. Notwithstanding any other statute, a municipal judge need not be a resident of the municipality or of the circuit in which the municipal judge serves except where ordinance or charter provides otherwise. Municipal judges shall be residents of Missouri.

5. Judges selected under the provisions of this section shall be municipal judges of the circuit court and shall be divisions of the circuit court of the circuit in which the municipality, or major geographical portion thereof, is located. The judges of these municipal divisions shall be subject to the rules of the circuit court which are not inconsistent with the rules of the supreme court. The presiding judge of the circuit shall have general administrative authority over the judges and court personnel of the municipal divisions within the circuit. [Notwithstanding the foregoing provisions of this subsection, in any city with a population of over four hundred thousand with full-time municipal judges who are subject to a plan of merit selection and retention, such municipal judges and court personnel of the municipal divisions shall not be subject to court management and case docketing in the municipal divisions by the presiding judge or the rules of the circuit court of which the municipal divisions are a part.]

6. No municipal judge shall hold any other office in the municipality which the municipal judge serves as judge. The compensation of any municipal judge and other court personnel shall not be dependent in any way upon the number of cases tried, the number of guilty verdicts reached or the amount of fines imposed or collected.

7. Municipal judges shall be at least twenty-one years of age. No person shall serve as municipal judge after that person has reached that person's seventy-fifth birthday.

8. Within six months after selection for the position, each municipal judge who is not licensed to practice law in this state shall satisfactorily complete the course of instruction for municipal judges prescribed by the supreme court. The state courts administrator shall certify to the supreme court the names of those judges who satisfactorily complete the prescribed course. If a municipal judge fails to complete satisfactorily the prescribed course within six months after the municipal judge's selection as municipal judge, the municipal judge's office shall be deemed vacant and such person shall not thereafter be permitted to serve as a municipal judge, nor shall any compensation thereafter be paid to such person for serving as municipal judge.

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] **twelve** other claims in the Missouri small claims courts during the current calendar year. If the court finds that a party has filed more claims than are permitted by this section, the court shall dismiss the claim without prejudice.

2. At the time of filing an action in small claims court, a plaintiff shall sign a statement that he **or she** is not the assignee of the claim sued on and that he **or she** has not filed more than [eight]

twelve 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.

483.537. The clerk of any state court who, by deputy or otherwise, takes or processes applications for passports or their renewal shall account for the fees charged for such service, and remit eighty percent of the same on the last day of each month to the state, and twenty percent to the county where the application was taken.

483.550. 1. Each circuit clerk, or person fulfilling the duties of the circuit clerk pursuant to this chapter, however denominated, shall charge, collect, and be the responsible clerk for every court cost accruing to such clerk's office to which such clerk may be entitled under the law, except that the circuit clerk shall not be accountable or responsible for or under a duty to collect the following court costs:

(1) Court costs in a case pending in the probate division of the circuit court;

(2) Court costs in a case while it pends in a municipal division of the circuit court, 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;

(3) Court costs in a case which was originally filed and pends before an associate circuit judge; provided, however, that such exception with respect to cases filed and pending before an associate circuit judge shall not apply (a) in the city of St. Louis and (b) when by local circuit court rule it is provided that cases which are to be heard by associate circuit judges shall be centrally filed and final judgments therein maintained in an office which is operated and staffed by the circuit clerk and such clerk's deputies[;

(4) Fees to which he is entitled for services performed in preparing or completing passport applications, which fees may be retained by the circuit clerk].

2. Each chief division clerk for the probate division of the circuit court shall charge and collect every court cost accruing to the probate division of the circuit court to which it may be entitled under the law.

3. In divisions presided over by associate circuit judges for which the circuit clerk is not responsible for collecting court costs as hereinabove provided, the associate circuit judge shall designate by order entered of record a division clerk who shall be responsible for the collection of all court costs with respect to cases in the division; or if there be a centralized filing and docketing

system for two or more divisions presided over by an associate circuit judge, then a division clerk or clerks shall be designated in accordance with the provisions of local circuit court rule by an order which shall be entered of record, and if there be no such rule adopted, then a majority of the associate circuit judges being served shall designate a division clerk or clerks who shall be responsible for the collection of all court costs with respect to cases in the divisions served by the centralized filing and docketing system.

4. Notwithstanding the provisions of subsections 1, 2 and 3 of this section, by vote of all judges, circuit and associate circuit, of a circuit court, en banc, the circuit court may adopt a system by local circuit rule whereby the circuit clerks within the circuit shall have administrative control over and be responsible for the charging and collection of all court costs accruing to the court other than court costs in a case while it pends in the municipal divisions of the circuit court, 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. The chief division clerk for the probate divisions of the circuit court may be designated by the local circuit rule to charge and collect every court cost accruing to the probate divisions of the circuit court to which it may be entitled under the law, under the supervision of the circuit clerk.

5. The responsible clerks shall make periodic reports of delinquent court costs which are due at such times and in such form as may be required by the state courts administrator.

6. It shall be the duty of each prosecuting attorney when such be referred to such prosecuting attorney by the responsible clerk to reasonably attempt to collect such delinquent court costs. In the case of delinquent court costs which are payable to the state, it shall be the duty of each prosecuting attorney, and the attorney general when such be referred to the attorney general by the state courts administrator to reasonably attempt to collect such delinquent court costs.

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

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

3. In any county [of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants, in any

county of the third classification without a township form of government and with more than forty thousand four hundred but less than forty thousand five hundred inhabitants, in any county of the third classification without a township form of government and with more than thirteen thousand four hundred but less than thirteen thousand five hundred inhabitants, in any county of the third classification without a township form of government and with more than thirteen thousand five hundred but less than thirteen thousand six hundred inhabitants, in any county of the third classification without a township form of government and with more than twenty-three thousand two hundred fifty but less than twenty-three thousand three hundred fifty inhabitants, in any county of the third classification without a township form of government and with more than eleven thousand seven hundred fifty but less than eleven thousand eight hundred fifty inhabitants, in any county of the third classification without a township form of government and with more than thirty-seven thousand two hundred but less than thirty-seven thousand three hundred inhabitants, in any county of the fourth classification with more than fifty-five thousand six hundred but less than fifty-five thousand seven hundred inhabitants, or in any county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants], **other than a county on the nonpartisan court plan**, such fund may also be applied and expended for courtroom renovation and technology enhancement [in those counties], **or for debt service on county bonds for such renovation or enhancement projects.**

488.2275. 1. In addition to all other court costs prescribed by law, a surcharge of ten dollars shall be assessed as costs in each court proceeding filed in any court in the state located within a county of the first classification with a population of at least two hundred thousand inhabitants which does not adjoin any other county of the first classification, **and in any county of the first classification having a population of at least eighty-two thousand inhabitants, but less than eighty-two thousand one hundred inhabitants**, in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including infractions, except that no such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law 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. Such surcharges shall be collected and disbursed as provided by sections 488.010 to 488.020 and shall be payable to the treasurer of the county where the violation occurred.

2. Each county shall use all funds received under this section only to pay for the costs associated with the operation of the county judicial facility including, but not limited to, utilities, maintenance and building security. The county shall maintain records identifying such operating costs, and any moneys not needed for the operating costs of the county judicial facility shall be

transmitted quarterly to the general revenue fund of the county.

494.400. All persons qualified for grand or petit jury service shall be citizens of the state and shall be selected at random from a fair cross section of the citizens of the county or of a city not within a county for which the jury may be impaneled, and all such citizens shall have the opportunity to be considered for jury service and an obligation to serve as jurors when summoned for that purpose, **unless excused**. A citizen of the county or of a city not within a county for which the jury may be impaneled shall not be excluded from selection for possible grand or petit jury service on account of race, color, religion, sex, national origin, or economic status.

494.425. The following persons shall be disqualified from serving as a petit or grand juror:

(1) Any person who is less than twenty-one years of age;
(2) Any person not a citizen of the United States;
(3) Any person not a resident of the county or city not within a county served by the court issuing the summons;

(4) Any person who has been convicted of a felony, unless such person has been restored to his civil rights;

(5) Any person unable to read, speak and understand the English language, **unless such person's inability is due to a vision or hearing impairment which can be adequately compensated for through the use of auxiliary aids or services**;

(6) Any person on active duty in the armed forces of the United States or any member of the organized militia on active duty under order of the governor;

(7) [Any licensed attorney at law;

(8)] Any judge of a court of record;

[(9)] **(8)** Any person who, in the judgment of the court [or the board of jury commissioners], is incapable of performing the duties of a juror because of mental or physical illness or infirmity. **The juror or the juror's personal representative, may provide the court with documentation from a physician licensed to practice medicine verifying that a mental or physical condition renders the person unfit for jury service for a period of up to twenty-four months.**

494.430. **1.** Upon timely application to the court, the following persons shall be excused from service as a petit or grand juror:

(1) [Any person actually performing the duties of a clergyman;

(2)] Any person who has served on a state or federal petit or grand jury within the preceding [year] **two years**;

[(3)] **(2)** Any person whose absence from his **or her** regular place of employment would, in the judgment of the court, tend materially and adversely to affect the public safety, health, welfare or interest;

[(4)] **(3)** Any person upon whom service as a juror would in the judgment of the court impose an **undue or extreme physical or financial** hardship[;

(5) Any person licensed to engage in and actively engaged in the practice of medicine,

osteopathy, chiropractic, dentistry or pharmacy].

2. A judge of the court for which the individual was called to jury service shall make undue or extreme physical or financial hardship determinations. The authority to make these determinations is delegable only to court officials or personnel who are authorized by the laws of this state to function as members of the judiciary.

3. A person asking to be excused based on a finding of undue or extreme physical or financial hardship must take all actions necessary to have obtained a ruling on that request by no later than the date on which the individual is scheduled to appear for jury duty.

4. For purposes of sections 494.400 to 494.460 undue or extreme physical or financial hardship is limited to circumstances in which an individual would:

(1) Be required to abandon a person under his or her personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the jury pool or on the jury; or

(2) Incur costs that would have a substantial adverse impact on the payment of the individual's necessary daily living expenses or on those for whom he or she provides the principal means of support; or

(3) Suffer physical hardship that would result in illness or disease.

5. Undue or extreme physical or financial hardship does not exist solely based on the fact that a prospective juror will be required to be absent from his or her place of employment.

6. A person asking a judge to grant an excuse based on undue or extreme physical or financial hardship shall be required to provide the judge with documentation, such as but not limited to, federal and state income tax returns, medical statements from licensed physicians, proof of dependency or guardianship, and similar documents, which the judge finds to clearly support the request to be excused. Failure to provide satisfactory documentation shall result in a denial of the request to be excused. Such documents shall be filed under seal.

7. After two years, a person excused from jury service shall become eligible once again for qualification as a juror unless the person was excused from service permanently. A person is excused from jury service permanently only when the deciding judge determines that the underlying grounds for being excused are of a permanent nature.

494.432. 1. Individuals scheduled to appear for jury service have the right to postpone the date of their initial appearance for jury service one time only for reasons other than undue influence or extreme physical or financial hardship. When requested, postponements shall be granted, provided that:

(1) The prospective juror has not previously been granted a postponement;

(2) The prospective juror appears in person or contacts the board of jury commissioners by telephone, electronic mail, or in writing to request a postponement; and

(3) Prior to the grant of a postponement with the concurrence of the board of jury commissioners, the prospective juror fixes a date certain on which he or she will appear for

jury service that is not more than six months after the date on which the prospective juror originally was called to serve and on which date the court will be in session. A prospective juror who is a full-time student of any accredited institution may fix a date certain on which he or she will appear for jury service that is not more than twelve months after the date on which the prospective juror originally was called to serve and on which the court will be in session.

2. A subsequent request to postpone jury service may be approved by a judicial officer only in the event of an extreme emergency, such as a death in the family, sudden grave illness, or a natural disaster or national emergency in which the prospective juror is personally involved, that could not have been anticipated at the time the initial postponement was granted. Prior to the grant of a second postponement, the prospective juror must fix a date certain on which the individual will appear for jury service within six months of the postponement on a date when the court will be in session.

494.445. 1. Except as otherwise provided in subsections 2 and 3, no petit juror shall be required to attend court for prospective jury service more than twenty days in any one-year period except as is necessary to complete service in a particular case.

2. Subsequent to January 1, 2005, in jurisdictions on the nonpartisan court plan, no petit juror shall be required to attend court for prospective jury service for more than two days pursuant to a jury summons unless selected to a panel of prospective jurors for jury service pursuant to subsection 2 of section 494.420, or selected to serve as a petit juror in one particular case.

[2.] 3. In jurisdictions on the nonpartisan court plan, no petit juror shall be required to serve as a juror for more than twenty days in any one-year period except as is necessary to complete service in a particular case.

494.450. A person who is summoned for jury service and who willfully fails to appear **and who has failed to obtain a postponement in compliance with section 494.432 or as an excuse pursuant to section 494.430**, or to respond to the juror qualification form [is guilty of criminal] **shall be in civil contempt of court**, enforceable by an order directing him **or her** to show cause for his **or her** failure to comply with the summons and the juror qualification form[, and upon conviction may be fined not more than two hundred and fifty dollars].

Following an order to show cause hearing, the court may impose a fine not to exceed five hundred dollars. The prospective juror may be excused from paying sanctions for good cause shown or in the interests of justice. In addition to, or in lieu of, the fine, the court may order that the prospective juror complete a period of community service for a period of no less than if the prospective juror would have completed jury service, and require that he or she provide proof of completion of such community service to the court.

494.460. 1. An employer shall not terminate, discipline, threaten or take adverse actions against an employee on account of that employee's receipt of or response to a jury summons.

2. An employee discharged in violation of this section may bring civil action against his **or**

her employer within ninety days of discharge for recovery of lost wages and other damages caused by the violation and for an order directing reinstatement of the employee. If [he] **the employee** prevails, the employee shall be entitled to receive a reasonable attorney's fee.

3. An employee may not be required or requested to use annual, vacation, personal, or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or time spent actually serving on a jury. Nothing in this provision shall be construed to require an employer to provide annual, vacation, personal, or sick leave to employees under the provisions of this statute who otherwise are not entitled to such benefits under company policies.

4. A court shall automatically postpone and reschedule the service of a summoned juror of an employer with five or fewer full-time employees, or their equivalent, if another employee of that employer has been previously summoned to appear during the same period. Such postponement will not effect an individual's right to one automatic postponement pursuant to section 494.432.

512.020. Any party to a suit aggrieved by any judgment of any trial court in any civil cause from which an appeal is not prohibited by the constitution, nor clearly limited in special statutory proceedings, may take his **or her** appeal to a court having appellate jurisdiction from any:

- (1) Order granting a new trial[, or];
- (2) Order refusing to revoke, modify, or change an interlocutory order appointing a receiver or receivers, or dissolving an injunction[, or from any];
- (3) **Order granting or denying class action certification provided that:**
 - (a) **The court of appeals, in its discretion, permits such an appeal; and**
 - (b) **An appeal of such an order shall not stay proceedings in the court unless the judge or the court of appeals so orders;**
- (4) Interlocutory judgments in actions of partition which determine the rights of the parties[, or from any]; **or**
- (5) Final judgment in the case or from any special order after final judgment in the cause; but a failure to appeal from any action or decision of the court before final judgment shall not prejudice the right of the party so failing to have the action of the trial court reviewed on an appeal taken from the final judgment in the case.

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 pleading claims damages not to exceed three thousand dollars] **tried before municipal court or under the provisions of chapters 482, 534, and 535, RSMo.**

2. In all other contested civil cases tried with or without a jury before an associate circuit judge or on assignment under such procedures applicable before circuit judges or in any

misdemeanor case or county ordinance violation case a record shall be kept, and any person aggrieved by a judgment rendered in any such case may have an appeal upon that record to the appropriate appellate court. At the discretion of the judge, but in compliance with the rules of the supreme court, the record may be a stenographic record or one made by the utilization of electronic, magnetic, or mechanical sound or video recording devices.

513.430. 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed [one] **three** thousand dollars in value in the aggregate;

(2) **A wedding ring not to exceed one thousand five hundred dollars in value and other** jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value [four] **six** hundred dollars in the aggregate;

(4) Any implements[,] **or** professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed [two] **three** thousand dollars in value in the aggregate;

(5) Any motor vehicle **in the aggregate**, not to exceed [one] **three** thousand dollars in value;

(6) Any mobile home used as the principal residence **but not on or attached to real property in which the debtor has a fee interest**, not to exceed [one] **five** thousand dollars in value;

(7) Any one or more unmaturred life insurance contracts owned by such person, other than a credit life insurance contract;

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmaturred life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person, the amount exempt in such proceedings shall not exceed in value one hundred fifty thousand dollars in the aggregate less any amount of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance contract which was purchased by such person within one year prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a local public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed [five] **seven** hundred **fifty** dollars a month;

(e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any plan described, defined, or established pursuant to section 456.072, RSMo, the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

a. Such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose;

b. Such payment is on account of age or length of service; and

c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b), 408, 408A or 409);

except that any such payment to any person shall be subject to attachment or execution pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan or profit-sharing plan that is qualified under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, except as provided in this paragraph. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its division of family services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986, as amended.

If proceedings under Title 11 of the United States Code are commenced by or against such person,

no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in section 456.630, RSMo, and for the period such person participated within three years prior to the commencement of such proceedings. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

(11) The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal Revenue Code of 1986, as amended.

513.440. Each head of a family may select and hold, exempt from execution, any other property, real, personal or mixed, or debts and wages, not exceeding in value the amount of [eight hundred fifty dollars plus two hundred] **one thousand two hundred fifty dollars plus three hundred** fifty dollars for each of such person's unmarried dependent children under the age of eighteen years **or dependent as defined by the Internal Revenue Code of 1986, as amended, determined to be disabled by the Social Security Administration**, except ten percent of any debt, income, salary or wages due such head of a family.

526.010. Injunctions may be granted by a circuit judge, [and if specially assigned or transferred to hear the cause or if there is no circuit judge present within the county, by] **or** an associate circuit judge.

527.290. **1.** Public notice of such a change of name shall be given at least three times in a newspaper published in the county where such person is residing, within twenty days after the order of court is made, and if no newspaper is published in his or any adjacent county, then such notice shall be given in a newspaper published in the city of St. Louis, or at the seat of government.

2. Public notice of such name change through publication as required in subsection 1 of this section shall not be required if the petitioner is:

(1) The victim of a crime, the underlying factual basis of which is found by the court on the record to include an act of domestic violence, as defined in section 455.200, RSMo;

(2) The victim of child abuse, as defined in section 210.110, RSMo; or

(3) The victim of abuse by a family or household member, as defined in section 455.010, RSMo.

535.020. Whenever any rent has become due and payable, and payment has been demanded by the landlord or the landlord's agent from the lessee or person occupying the premises, and payment thereof has not been made, the landlord or agent may file a statement, verified by affidavit, with any associate circuit judge in the county in which the property is situated, setting forth the

terms on which such property was rented, and the amount of rent actually due to such landlord; that the rent has been demanded from the tenant, lessee or person occupying the premises, and that payment has not been made, and substantially describing the property rented or leased. **Giving the notice provided in section 441.060, RSMo, is not required prior to filing a statement or obtaining the relief provided in this chapter.** In such case, the clerk of the court shall immediately issue a summons directed to such tenant or lessee and to all persons occupying the premises, by name, requiring them to appear before the judge upon a day to be therein named, and show cause why possession of the property should not be restored to the plaintiff. The landlord or agent may, in such an action for unpaid rent, join a claim for any other unpaid sums, other than property damages, regardless of how denominated or defined in the lease, to be paid by or on behalf of a tenant to a landlord for any purpose set forth in the lease; provided that such other sums shall not be considered rent for purposes of this chapter, and judgment for the landlord for recovery of such other sums shall not by itself entitle the landlord to an order for recovery of possession of the premises. The provisions of this section providing for the filing of a statement before an associate circuit judge shall not preclude adoption of a local circuit court rule providing for the centralized filing of such cases, nor the assignment of such cases to particular circuit or associate circuit judges pursuant to local circuit court rule or action by the presiding judge of the circuit. The case shall be heard and determined under the practice and procedure provided in the Missouri rules of civil procedure, except where otherwise provided by this chapter.

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

3. If the plaintiff does not request service of the original summons by posting and mailing

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

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

537.046. 1. As used in this section, the following terms mean:

(1) "Childhood sexual abuse", any act committed by the defendant against the plaintiff which act occurred when the plaintiff was under the age of eighteen years and which act would have been a violation of section 566.030, 566.040, 566.050, 566.060, 566.070, 566.080, 566.090, 566.100, 566.110, or 566.120, RSMo, or section 568.020, RSMo;

(2) "Injury" or "illness", either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.

2. [In any civil action for recovery of damages suffered as a result of childhood sexual abuse, the time for commencement of the action shall be within five years of the date the plaintiff attains the age of eighteen or within three years of the date the plaintiff discovers or reasonably should have discovered that the injury or illness was caused by child sexual abuse, whichever later occurs.] **Any action to recover damages from injury or illness caused by childhood sexual abuse in an action brought pursuant to this section, shall be commenced within ten years of the plaintiff attaining the age of twenty-one or within three years of the date the plaintiff discovers, or reasonably should have discovered, that the injury or illness was caused by childhood sexual abuse, whichever later occurs.**

3. This section shall apply to any action commenced on or after August 28, 1990, including any action which would have been barred by the application of the statute of limitation applicable

prior to that date.

542.276. 1. Any peace officer or prosecuting attorney may make application under section 542.271 for the issuance of a search warrant.

2. The application shall:

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

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

4. The judge shall [hold a nonadversary hearing to] determine whether sufficient facts have been stated to justify the issuance of a search warrant. If it appears from the application and any supporting affidavit that there is probable cause to believe that property, article, material, substance, or person subject to seizure is on the person or at the place or in the thing described, a search warrant shall immediately be issued. The warrant shall be issued in the form of an original and two copies.

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

6. The search warrant shall:

- (1) Be in writing and in the name of the state of Missouri;
- (2) Be directed to any peace officer in the state;
- (3) State the time and date the warrant is issued;
- (4) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

(5) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he **or she** is to search;

(6) Command that the described person, place, or thing be searched and that any of the described property, article, material, substance, or person found thereon or therein be seized [or] **and** photographed or copied [and be returned, or the photograph or copy be brought, within ten days after filing of the application, to the judge who issued the warrant, to be dealt with according to law] **within ten days after filing of the application, all photographs and copies or photographs or copies of the items shall be filed with the circuit clerk;**

(7) Be signed by the judge, with his **or her** title of office indicated.

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

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

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

10. A search warrant shall be deemed invalid:

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

544.020. Whenever complaint shall be made, in writing and upon oath, to any associate circuit judge setting forth that a felony has been committed, and the name of the person accused thereof, it shall be the duty of such associate circuit judge to issue a warrant reciting the accusation, and commanding the officer to whom it shall be directed forthwith to take the accused and bring him before such associate circuit judge, to be dealt with according to law. **The complaint may be made and the warrant may be issued via facsimile or other electronic means.**

559.026. Except in infraction cases, when probation is granted, the court, in addition to

conditions imposed pursuant to section 559.021, may require as a condition of probation that the offender submit to a period of detention up to forty-eight hours after the determination by a probation or parole officer that the offender violated a condition of continued probation or parole in an appropriate institution at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court shall designate, or the board of probation and parole shall direct. Any person placed on probation in a county of the first class or second class or in any city with a population of five hundred thousand or more and detained as herein provided shall be subject to all provisions of section 221.170, RSMo, even though he was not convicted and sentenced to a jail or workhouse.

(1) In misdemeanor cases, the period of detention under this section shall not exceed the shorter of [fifteen] **thirty** days or the maximum term of imprisonment authorized for the misdemeanor by chapter 558, RSMo.

(2) In felony cases, the period of detention under this section shall not exceed one hundred twenty days.

(3) If probation is revoked and a term of imprisonment is served by reason thereof, the time spent in a jail, half-way house, honor center, workhouse or other institution as a detention condition of probation shall be credited against the prison or jail term served for the offense in connection with which the detention condition was imposed.

570.030. 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution pursuant to this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse;

(5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal price code label, or possesses with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

3. Notwithstanding any other provision of law, any offense in which the value of property or services is an element is a class C felony if:

(1) The value of the property or services appropriated is five hundred dollars or more but

less than twenty-five thousand dollars; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo; or

(l) Anhydrous ammonia; [or]

(m) Ammonium nitrate; or

(n) Any document of historical significance which has fair market value of five hundred dollars or more.

4. If an actor appropriates any material with a value less than five hundred dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class C felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

5. The theft of any item of property or services pursuant to subsection 3 of this section which exceeds five hundred dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any offense in which the value of property or services is an element is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.

8. Any violation of this section for which no other penalty is specified in this section is a

class A misdemeanor.

570.200. As used in this act, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Library", any public library or any library of an educational, historical or eleemosynary institution, organization or society; **any museum; any repository of public or institutional records; or any archive;**

(2) "Library card", a card or other device utilized by a library for purposes of identifying a person authorized to borrow library material, subject to all limitations and conditions imposed on such borrowing by the library issuing or honoring such card;

(3) "Library material", any book, plate, picture, photograph, engraving, painting, sculpture, artifact, drawing, map, newspaper, microform, sound recording, audiovisual material, magnetic or other tape, electronic data processing record or other document, written or printed material, regardless of physical form or characteristic, which is a constituent element of a library's collection or any part thereof, belonging to, on loan to, or otherwise in the custody of a library;

(4) "Notice in writing", any notice deposited as certified or registered mail in the United States mail and addressed to the person at his address as it appears on the library card or to his last known address. The notice shall contain a statement that failure to return the library material within ten days of receipt of the notice may subject the user to criminal prosecution;

(5) "Premises of a library", a building structure or other enclosure in which a library is located or in which the library keeps, displays and makes available for inspection, borrowing or return of library materials.

570.210. 1. A person commits the crime of library theft if with the purpose to deprive, [he] **such person:**

(1) Knowingly removes any library material from the premises of a library without authorization; or

(2) Borrows or attempts to borrow any library material from a library by use of a library card:

(a) Without the consent of the person to whom it was issued; or

(b) Knowing that the library card is revoked, canceled or expired; or

(c) Knowing that the library card is falsely made, counterfeit or materially altered; or

(3) Borrows library material from any library pursuant to an agreement or procedure established by the library which requires the return of such library material and, with the purpose to deprive the library of the library material, fails to return the library material to the library; **or**

(4) **Knowingly writes on, injures, defaces, tears, cuts, mutilates, or destroys a book, document, or other library material belonging to, on loan to, or otherwise in the custody of a library.**

2. It shall be prima facie evidence of the person's purpose to deprive the library of the library materials if, within ten days after notice in writing deposited as certified mail from the library

demanding the return of such library material, [he] **such person** without good cause shown fails to return the library material. A person is presumed to have received the notice required by this subsection if the library mails such notice to the last address provided to the library by such person. **Payment to the library, in an amount equal to the fair market value of an item of no historical significance shall be considered returning the item for purposes of this subsection.**

3. The crime of library theft [is a class C felony if the value of the library material is five hundred dollars or more; otherwise, library theft] is a class C misdemeanor **if the value of the library materials is less than five hundred dollars. The crime of library theft is a class C felony if the value of the library material is between five hundred dollars and twenty-five thousand dollars. The crime of library theft is a class B felony if the value of the library material is greater than twenty-five thousand dollars.**

590.118. 1. All completed investigations of alleged acts of a peace officer shall be made available to any hiring law enforcement agency. The transfer of any law enforcement agency record to another law enforcement agency does not make the record a public record.

2. Any law enforcement agency with information showing a peace officer's unfitness for licensure shall provide such information to the peace officer's standards and training commission.

590.120. 1. There is hereby established within the department of public safety a "Peace Officer Standards and Training Commission" which shall be composed of [nine] **eleven** members, including a voting public member, appointed by the governor, by and with the advice and consent of the senate, from a list of qualified candidates submitted to the governor by the director of the department of public safety. No member of the POST commission shall reside in the same congressional district as any other at the time of their appointments but this provision shall not apply to the public member **nor to the two peace officer members.** Three members of the POST commission shall be police chiefs, three members shall be sheriffs, one member shall represent a state law enforcement agency covered by the provisions of this chapter, and one member shall be a chief executive officer of a certified training academy. The public member shall be at the time of appointment a registered voter; a person who is not and never has been a member of any profession certified or regulated under this chapter or the spouse of such person; and a person who does not have and never has had a material financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession certified or regulated under this chapter. **Two members shall be police officers, one from a police department with thirty or more officers and one from a police department with fewer than thirty officers.** Each member of the POST commission shall have been at the time of his appointment a citizen of the United States and a resident of this state for a period of at least one year, and members who are peace officers shall be qualified as established by this chapter. No member of the POST commission serving a full term of three years may be reappointed to the POST commission until at least one year after the expiration of his most recent term.

2. Three of the original members of the POST commission shall be appointed for terms of one year, three of the original members shall be appointed for terms of two years, and three of the original members shall be appointed for terms of three years. Thereafter the terms of the members of the POST commission shall be for three years or until their successors are appointed. The director may remove any member of the POST commission for misconduct or neglect of office. Any member of the POST commission may be removed for cause by the director but such member shall first be presented with a written statement of the reasons thereof, and shall have a hearing before the POST commission if the member so requests. Any vacancy in the membership of the commission shall be filled by appointment for the unexpired term.

3. Annually the director shall appoint one of the members as chairperson. The POST commission shall meet at least twice each year as determined by the director or a majority of the members to perform its duties. A majority of the members of the POST commission shall constitute a quorum.

4. No member of the POST commission shall receive any compensation for the performance of his official duties.

5. The POST commission shall guide and advise the director concerning duties pursuant to this chapter.

595.045. 1. There is established in the state treasury the "Crime Victims' Compensation Fund". A surcharge of seven dollars and fifty cents shall be assessed as costs in each court proceeding filed in any court in the state in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance; except that no such fee 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. A surcharge of seven dollars and fifty cents shall be assessed as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

2. Notwithstanding any other provision of law to the contrary, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with sections 488.010 to 488.020, RSMo, and shall be payable to the director of the department of revenue.

3. The director of revenue shall deposit annually the amount of two hundred fifty thousand dollars to the state forensic laboratory account administered by the department of public safety to provide financial assistance to defray expenses of crime laboratories if such analytical laboratories are registered with the federal Drug Enforcement Agency or the Missouri department of health and senior services. Subject to appropriations made therefor, such funds shall be distributed by the department of public safety to the crime laboratories serving the courts of this state making analysis of a controlled substance or analysis of blood, breath or urine in relation to a court proceeding.

4. The remaining funds collected under subsection 1 of this section shall be denoted to the

payment of an annual appropriation for the administrative and operational costs of the office for victims of crime and, if a statewide automated crime victim notification system is established pursuant to section 650.310, RSMo, to the monthly payment of expenditures actually incurred in the operation of such system. Additional remaining funds shall be subject to the following provisions:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on [October 1, 1996] **September 1, 2004**, and on the first of each month, [if the balance of the funds available exceeds one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then] the director of revenue or the director's designee shall deposit fifty percent **of the balance of funds available** to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100[;

(3) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100].

5. The director of revenue or such director's designee shall at least monthly report the moneys paid pursuant to this section into the crime victims' compensation fund and the services to victims fund to the division of workers' compensation and the department of public safety, respectively.

6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this section shall be collected and disbursed as provided by sections 488.010 to 488.020, RSMo. Five percent of such moneys shall be payable to the city treasury of the city from which such funds were collected. The remaining ninety-five percent of such moneys shall be payable to the director of revenue. The funds received by the director of revenue pursuant to this subsection shall be distributed as follows:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on [October 1, 1996] **September 1, 2004**, and on the first of each month[, if the balance of the funds available exceeds one million dollars plus one hundred percent of the

previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then] the director of revenue or the director's designee shall deposit fifty percent **of the balance of funds available** to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100[;

(3) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100].

7. These funds shall be subject to a biennial audit by the Missouri state auditor. Such audit shall include all records associated with crime victims' compensation funds collected, held or disbursed by any state agency.

8. In addition to the moneys collected pursuant to subsection 1 of this section, the court shall enter a judgment in favor of the state of Missouri, payable to the crime victims' compensation fund, of sixty-eight dollars [if the conviction is] **upon a plea of guilty or a finding of guilt** for a class A or B felony; forty-six dollars if the conviction is for a class C or D felony; and ten dollars [if the conviction is] **upon a plea of guilty or a finding of guilt** for any misdemeanor under [the following] Missouri [laws:

- (1) Chapter 195, RSMo, relating to drug regulations;
- (2) Chapter 311, RSMo, but relating only to felony violations of this chapter committed by persons not duly licensed by the supervisor of liquor control;
- (3) Chapter 491, RSMo, relating to witnesses;
- (4) Chapter 565, RSMo, relating to offenses against the person;
- (5) Chapter 566, RSMo, relating to sexual offenses;
- (6) Chapter 567, RSMo, relating to prostitution;
- (7) Chapter 568, RSMo, relating to offenses against the family;
- (8) Chapter 569, RSMo, relating to robbery, arson, burglary and related offenses;
- (9) Chapter 570, RSMo, relating to stealing and related offenses;
- (10) Chapter 571, RSMo, relating to weapons offenses;
- (11) Chapter 572, RSMo, relating to gambling;
- (12) Chapter 573, RSMo, relating to pornography and related offenses;
- (13) Chapter 574, RSMo, relating to offenses against public order;
- (14) Chapter 575, RSMo, relating to offenses against the administration of justice;
- (15) Chapter 577, RSMo, relating to public safety offenses.] **law except for those in chapter 252, RSMo, relating to fish and game, chapter 302, RSMo, relating to drivers' and**

commercial drivers' license, chapter 303, RSMo, relating to motor vehicle financial responsibility, chapter 304, RSMo, relating to traffic regulations, chapter 306, RSMo, relating to watercraft regulation and licensing, and chapter 307, RSMo, relating to vehicle equipment regulations.

Any clerk of the court receiving moneys pursuant to such judgments shall collect and disburse such crime victims' compensation judgments in the manner provided by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the state treasury and deposited to the credit of the crime victims' compensation fund.

9. The clerk of the court processing such funds shall maintain records of all dispositions described in subsection 1 of this section and all dispositions where a judgment has been entered against a defendant in favor of the state of Missouri in accordance with this section; all payments made on judgments for alcohol-related traffic offenses; and any judgment or portion of a judgment entered but not collected. These records shall be subject to audit by the state auditor. The clerk of each court transmitting such funds shall report separately the amount of dollars collected on judgments entered for alcohol-related traffic offenses from other crime victims' compensation collections or services to victims collections.

10. The clerks of the court shall report all delinquent payments to the department of revenue by October first of each year for the preceding fiscal year, and such sums may be withheld pursuant to subsection 15 of this section.

11. The department of revenue shall maintain records of funds transmitted to the crime victims' compensation fund by each reporting court and collections pursuant to subsection 18 of this section and shall maintain separate records of collection for alcohol-related offenses.

12. [Notwithstanding any other provision of law to the contrary, the provisions of subsections 9 and 10 of this section shall expire and be of no force and effect upon the effective date of the supreme court rule adopted pursuant to sections 488.010 to 488.020, RSMo.

13.] The state courts administrator shall include in the annual report required by section 476.350, RSMo, the circuit court caseloads and the number of crime victims' compensation judgments entered.

[14.] **13.** All awards made to injured victims under sections 595.010 to 595.105 and all appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance remaining in the crime victims' compensation fund at the end of each biennium shall not be subject to the provision of section 33.080, RSMo, requiring the transfer of such unexpended balance to the ordinary revenue fund of the state, but shall remain in the crime victims' compensation fund. In the event that there are insufficient funds in the crime victims' compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime victims' compensation fund, then no claim shall be paid until funds have again accumulated in the crime

victims' compensation fund. When sufficient funds become available from the fund, awards which have not been paid shall be paid in chronological order with the oldest paid first. In the event an award was to be paid in installments and some remaining installments have not been paid due to a lack of funds, then when funds do become available that award shall be paid in full. All such awards on which installments remain due shall be paid in full in chronological order before any other postdated award shall be paid. Any award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid due to a lack of funds in the crime victims' compensation fund.

[15.] **14.** When judgment is entered against a defendant as provided in this section and such sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for such judgment. The director of the department of corrections shall have the authority to pay into the crime victims' compensation fund from an offender's compensation or account the amount owed by the offender to the crime victims' compensation fund, provided that the offender has failed to pay the amount owed to the fund prior to entering a correctional facility of the department of corrections.

[16.] **15.** All interest earned as a result of investing funds in the crime victims' compensation fund shall be paid into the crime victims' compensation fund and not into the general revenue of this state.

[17.] **16.** Any person who knowingly makes a fraudulent claim or false statement in connection with any claim hereunder is guilty of a class A misdemeanor.

[18.] **17.** Any gifts, contributions, grants or federal funds specifically given to the division for the benefit of victims of crime shall be credited to the crime victims' compensation fund. Payment or expenditure of moneys in such funds shall comply with any applicable federal crime victims' compensation laws, rules, regulations or other applicable federal guidelines.

595.050. 1. From funds appropriated for services to victims of crime, the director may contract with public or private agencies to provide assistance to victims of crime through direct services, emergency services, crisis intervention counseling and victim advocacy. Any such contract may consist solely of, or may include, educational and informational services to the public about the availability of services for victims of crime which are designed to alleviate the results of criminal acts. Under no circumstances shall the expenditures from general revenue for the purpose provided in this section exceed the amount of ninety thousand dollars each fiscal year.

2. The director shall ensure that funds administered under section 595.055, section 595.105 and this section will not be used by any agency to supplant existing funds which are presently being used to provide assistance to victims of crime. **This restriction shall not apply to funds used by**

any not-for-profit agency.

3. Each contract shall be subject to review by the director at least annually.

610.100. 1. As used in sections 610.100 to 610.150, the following words and phrases shall mean:

(1) "Arrest", an actual restraint of the person of the defendant, or by his or her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked;

(2) "Arrest report", a record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor;

(3) "Inactive", an investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:

(a) A decision by the law enforcement agency not to pursue the case;

(b) Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten years after the commission of the offense; whichever date earliest occurs;

(c) Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons;

(4) "Incident report", a record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency;

(5) "Investigative report", a record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties.

2. Each law enforcement agency of this state, of any county, and of any municipality, shall maintain records of all incidents reported to the agency, investigations and arrests made by such law enforcement agency. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of subsections 4, 5 and 6 of this section or section 320.083, RSMo, investigative reports of all law enforcement agencies are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed and except as provided in section 610.120.

3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a record or document of a law enforcement officer or agency, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal

investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this chapter.

4. Any person, **including a family member of such person within the first degree of consanguinity if such person is deceased or incompetent**, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section or section 610.150 for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, his or her **family member within the first degree of consanguinity if such individual is deceased or incompetent**, his or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by a law enforcement agency pursuant to this section. Within thirty days of such request, the agency shall provide the requested material or file a motion pursuant to this subsection with the circuit court having jurisdiction over the law enforcement agency stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If, based on such motion, the court finds for the law enforcement agency, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

5. Any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of the information contained in an investigative report of any law enforcement agency, which would otherwise be closed pursuant to this section. The court may order that all or part of the information contained in an investigative report be released to the person bringing the action. In making the determination as to whether information contained in an investigative report shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the investigative report in regard to the need for law enforcement agencies to effectively investigate and prosecute criminal activity. The investigative report in question may be examined by the court in camera. The court may find that the party seeking disclosure of the investigative report shall bear the reasonable and necessary costs and attorneys' fees of both parties, unless the court finds that the decision of the law enforcement agency not to open the investigative report was substantially unjustified under all relevant circumstances, and in that event, the court may assess such reasonable and necessary costs and attorneys' fees to the law enforcement agency.

6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction for an order requiring a law enforcement agency to open incident reports and arrest reports being unlawfully closed pursuant to this section. If the court finds by a preponderance of the evidence that

the law enforcement officer or agency has purposely violated this section, the officer or agency shall be subject to a civil penalty in an amount not to exceed five hundred dollars, and the court shall order payment by such officer or agency of all costs and attorneys' fees, as provided by section 610.027.

7. The victim of an offense as provided in chapter 566, RSMo, may request that his or her identity be kept confidential until a charge relating to such incident is filed.

630.130. 1. Every patient, whether voluntary or involuntary, in a public or private mental health facility shall have the right to refuse electroconvulsive therapy.

2. Before electroconvulsive therapy may be administered voluntarily to a patient, the patient shall be informed, both orally and in writing, of the risks of the therapy and shall give his express written voluntary consent to receiving the therapy.

3. Involuntary electroconvulsive therapy may be administered under a court order after a full evidentiary hearing where the patient refusing such treatment is represented by counsel who shall advocate his **or her** position. The therapy may be administered on an involuntary basis only if it is shown, by clear and convincing evidence, that the therapy is necessary under the following criteria:

(1) There is a strong likelihood that the therapy will significantly improve or cure the patient's mental disorder for a substantial period of time without causing him any serious functional harm; and

(2) There is no less drastic alternative form of therapy which could lead to substantial improvement in the patient's condition. At the conclusion of such hearing, if the petitioner has sustained his burden of proof, the court may order up to a specified number of involuntary electroconvulsive therapy treatments to be performed over a specified period of time.

4. Parents of minor patients or legal guardians of incompetent patients shall be required to obtain court orders authorizing electroconvulsive therapy under the procedures specified in subsection 3 of this section.

5. Persons who are diagnosed solely as mentally retarded shall not be subject to electroconvulsive therapy.

6. If the judge finds that the respondent is unable to pay attorney's fees for the services rendered in the proceedings the judge shall allow a reasonable attorney's fee for the services, which fee shall be assessed as costs and paid together with all the costs in the proceeding by the state, in accordance with rules and regulations promulgated by the state court administrator, from funds appropriated to the office of administration for such purposes provided that no attorney's fees shall be allowed for services rendered by any attorney who is a salaried employee of a public agency or a private agency which receives public funds.

Section 1. 1. A real estate licensee shall be immune from liability for statements made by engineers, land surveyors, geologists, environmental hazard experts, wood destroying inspection and control experts, termite inspectors, mortgage brokers, home inspectors, or

other home inspection experts unless:

- (1) The statement was made by a person employed by the licensee or the broker with whom the licensee is associated;**
- (2) The person making the statement was selected by and engaged by the licensee; or**
- (3) The licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.**

2. A real estate licensee shall not be the subject of any action and no action shall be instituted against a real estate licensee for any information contained in a seller's disclosure for residential, commercial, industrial, farm, or vacant real estate furnished to a buyer, unless the real estate licensee is a signatory to such or the licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.

3. A real estate licensee acting as a courier of documents referenced in this section shall not be considered to be making the statements contained in such documents.

Section 2. 1. On or before July 1, 2005, and every year thereafter, the chief justice of the supreme court shall designate the ten judicial circuits with the lowest number of filings per judge in the proceeding year.

2. The court reporters in the judicial circuits designated in subsection 1 may be assigned by the chief justice of the supreme court to prepare transcripts pursuant to section 488.2250, RSMo, for criminal defendants who are unable to pay the costs of the transcript for purposes of perfecting an appeal. Court reporters who receive such assignments pursuant to this section shall not receive additional compensation pursuant to section 488.2250, RSMo, for the preparation of such transcripts.

[452.420. All proceedings authorized in chapter 452 to be maintained in circuit court shall be heard by circuit judges, except that said proceedings may be heard by an associate circuit judge if he is assigned to hear such case or class of cases or if he is transferred to hear such case or class of cases pursuant to other provisions of law or section 6 of article V of the constitution.]

[478.725. When any person is, by the statutes of this state, entitled to a lien for performing any work or labor upon or furnishing any materials, fixtures, engine, boiler or machinery for any building, erection or improvement upon land, or for repairing the same, in Mason or Miller townships, in Marion County, under or by virtue of any contract with the owner or proprietor thereof, or his agent, trustee, contractor or subcontractor, and such person so entitled to such lien, wishing to avail himself of the benefit of said laws, shall file his lien in the office of the clerk of district number 2 of the Marion County circuit court, and not elsewhere.]

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

2. Such fee shall be payable by the state in criminal cases from funds

appropriated to the office of the state courts administrator if the person requiring an interpreter or translator during the court proceeding is a party to or witness in the proceeding.]

[494.431. Any police officer subject to section 84.160, RSMo, shall be excused from service as a juror, either grand or petit.]

[526.020. Unless an associate circuit judge is specially assigned or transferred to hear the cause, before an injunction shall be granted by an associate circuit judge, the applicant shall produce satisfactory evidence that there is not then any circuit judge within such county.]

Section B. The provisions of section A of this act are severable. If any portion of section A of this act is declared unconstitutional or the application of any part of this act to any person or circumstance is held invalid, the remaining portions of the act and their applicability to any person or circumstance shall remain valid and enforceable.

Bill

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