

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 547**  
**100TH GENERAL ASSEMBLY**

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Reported from the Committee on Veterans and Military Affairs, April 11, 2019, with recommendation that the Senate Committee Substitute do pass.

1004S.03C

ADRIANE D. CROUSE, Secretary.

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**AN ACT**

To repeal sections 56.765 and 478.001, RSMo, and to enact in lieu thereof three new sections relating to alternative methods for the disposal of cases in the judicial system.

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

Section A. Sections 56.765 and 478.001, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 56.765, 478.001, and  
3 557.014, to read as follows:

56.765. 1. A surcharge of [one dollar] **five dollars** shall be assessed as  
2 costs in each court proceeding filed in any court in the state in all criminal cases  
3 including violations of any county ordinance or any violation of a criminal or  
4 traffic law of the state, including an infraction; except that no such surcharge  
5 shall be collected in any proceeding in any court when the proceeding or the  
6 defendant has been dismissed by the court or when costs are to be paid by the  
7 state, county or municipality.

8 2. One-half of all moneys collected under the provisions of subsection 1 of  
9 this section shall be payable to the state of Missouri and remitted to the director  
10 of revenue who shall deposit the amount collected pursuant to this section to the  
11 credit of the "Missouri Office of Prosecution Services Fund" which is hereby  
12 created in the state treasury. The moneys credited to the Missouri office of  
13 prosecution services fund from each county shall be used only for the purposes set  
14 forth in sections 56.750, 56.755, and 56.760. The state treasurer shall be the  
15 custodian of the fund, and shall make disbursements, as allowed by lawful

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

16 appropriations. All earnings resulting from the investment of money in the fund  
17 shall be credited to the Missouri office of prosecution services fund. The Missouri  
18 office of prosecution services may collect a registration fee to pay for expenses  
19 included in sponsoring training conferences. The revenues and expenditures of  
20 the Missouri office of prosecution services shall be subject to an annual audit to  
21 be performed by the Missouri state auditor. The Missouri office of prosecution  
22 services shall also be subject to any other audit authorized and directed by the  
23 state auditor.

24         3. One-half of all moneys collected under the provisions of subsection 1 of  
25 this section shall be payable to the county treasurer of each county from which  
26 such funds were generated. The county treasurer shall deposit all of such funds  
27 into the county treasury in a separate fund to be used solely for the purpose of  
28 additional training for circuit and prosecuting attorneys and their staffs. If the  
29 funds collected and deposited by the county are not totally expended annually for  
30 the purposes set forth in this subsection, then the unexpended moneys shall  
31 remain in said fund and the balance shall be kept in said fund to accumulate  
32 from year to year, or at the request of the circuit or prosecuting attorney, with the  
33 approval of the county commission or the appropriate governing body of the  
34 county or the City of St. Louis, and may be used to pay for expert witness fees,  
35 travel expenses incurred by victim/witnesses in case preparation and trial, for  
36 expenses incurred for changes of venue, for expenses incurred for special  
37 prosecutors, and for other lawful expenses incurred by the circuit or prosecuting  
38 attorney in operation of that office.

39         4. There is hereby established in the state treasury the "Missouri Office  
40 of Prosecution Services Revolving Fund". Any moneys received by or on behalf  
41 of the Missouri office of prosecution services from registration fees, federal and  
42 state grants or any other source established in section 56.760 in connection with  
43 the purposes set forth in sections 56.750, 56.755, and 56.760 shall be deposited  
44 into the fund.

45         5. The moneys in the Missouri office of prosecution services revolving fund  
46 shall be kept separate and apart from all other moneys in the state treasury. The  
47 state treasurer shall administer the fund and shall disburse moneys from the  
48 fund to the Missouri office of prosecution services pursuant to appropriations for  
49 the purposes set forth in sections 56.750, 56.755 and 56.760.

50         6. Any unexpended balances remaining in the Missouri office of  
51 prosecution services fund and the Missouri office of prosecution services revolving

52 fund at each biennium shall be exempt from the provisions of section 33.080  
53 relating to the transfer of unexpended balances to general revenue.

478.001. 1. For purposes of sections 478.001 to 478.009, the following  
2 terms shall mean:

3 (1) "Adult treatment court", a treatment court focused on addressing the  
4 substance use disorder or co-occurring disorder of defendants charged with a  
5 criminal offense;

6 (2) "Community-based substance use disorder treatment program", an  
7 agency certified by the department of mental health as a substance use disorder  
8 treatment provider;

9 (3) "Co-occurring disorder", the coexistence of both a substance use  
10 disorder and a mental health disorder;

11 (4) "DWI court", a treatment court focused on addressing the substance  
12 use disorder or co-occurring disorder of defendants who have pleaded guilty to or  
13 been found guilty of driving while intoxicated or driving with excessive blood  
14 alcohol content;

15 (5) "Family treatment court", a treatment court focused on addressing a  
16 substance use disorder or co-occurring disorder existing in families in the juvenile  
17 court, family court, or criminal court in which a parent or other household  
18 member has been determined to have a substance use disorder or co-occurring  
19 disorder that impacts the safety and well-being of the children in the family;

20 (6) "Juvenile treatment court", a treatment court focused on addressing  
21 the substance use disorder or co-occurring disorder of juveniles in the juvenile  
22 court;

23 (7) "Medication-assisted treatment", the use of pharmacological  
24 medications, in combination with counseling and behavioral therapies, to provide  
25 a whole-patient approach to the treatment of substance use disorders;

26 (8) "Mental health disorder", any organic, mental, or emotional  
27 impairment that has substantial adverse effects on a person's cognitive,  
28 volitional, or emotional function and that constitutes a substantial impairment  
29 in a person's ability to participate in activities of normal living;

30 (9) "Risk and needs assessment", an actuarial tool, approved by the  
31 treatment courts coordinating commission and validated on a targeted population  
32 of drug-involved adult offenders, scientifically proven to determine a person's risk  
33 to recidivate and to identify criminal risk factors that, when properly addressed,  
34 can reduce that person's likelihood of committing future criminal behavior;

35 (10) "Substance use disorder", the recurrent use of alcohol or drugs that  
36 causes clinically significant impairment, including health problems, disability,  
37 and failure to meet major responsibilities at work, school, or home;

38 (11) "Treatment court commissioner", a person appointed by a majority of  
39 the circuit and associate circuit judges in a circuit to preside as the judicial officer  
40 in the treatment court division;

41 (12) "Treatment court division", a specialized, nonadversarial court  
42 division with jurisdiction over cases involving substance-involved offenders and  
43 making extensive use of comprehensive supervision, drug or alcohol testing, and  
44 treatment services. Treatment court divisions include, but are not limited to, the  
45 following specialized courts: adult treatment court, DWI court, family treatment  
46 court, juvenile treatment court, veterans treatment court, or any combination  
47 thereof;

48 (13) "Treatment court team", the following members who are assigned to  
49 the treatment court: the judge or treatment court commissioner, treatment court  
50 administrator or coordinator, prosecutor, public defender or member of the  
51 criminal defense bar, a representative from the division of probation and parole,  
52 a representative from law enforcement, substance use disorder treatment  
53 providers, and any other person selected by the treatment court team;

54 (14) "Veterans treatment court", a treatment court focused on substance  
55 use disorders, co-occurring disorders, or mental health disorders of defendants  
56 charged with a criminal offense who are military veterans or current military  
57 personnel.

58 2. A treatment court division [may] **shall** be established, **prior to**  
59 **August 28, 2021**, by any circuit court pursuant to sections 478.001 to 478.009  
60 to provide an alternative for the judicial system to dispose of cases which stem  
61 from, or are otherwise impacted by, substance use. The treatment court division  
62 may include, but not be limited to, cases assigned to an adult treatment court,  
63 DWI court, family treatment court, juvenile treatment court, veterans treatment  
64 court, or any combination thereof. A treatment court shall combine judicial  
65 supervision, drug or alcohol testing, and treatment of participants. Except for  
66 good cause found by the court, a treatment court making a referral for substance  
67 use disorder treatment, when such program will receive state or federal funds in  
68 connection with such referral, shall refer the person only to a program which is  
69 certified by the department of mental health, unless no appropriate certified  
70 treatment program is located within the same county as the treatment

71 court. Upon successful completion of the treatment court program, the charges,  
72 petition, or penalty against a treatment court participant may be dismissed,  
73 reduced, or modified, unless otherwise stated. Any fees received by a court from  
74 a defendant as payment for substance treatment programs shall not be considered  
75 court costs, charges or fines.

76 3. An adult treatment court may be established by any circuit court under  
77 sections 478.001 to 478.009 to provide an alternative for the judicial system to  
78 dispose of cases which stem from substance use.

79 4. Under sections 478.001 to 478.009, a DWI court may be established by  
80 any circuit court to provide an alternative for the judicial system to dispose of  
81 cases that stem from driving while intoxicated.

82 5. A family treatment court may be established by any circuit court. The  
83 juvenile division of the circuit court or the family court, if one is established  
84 under section 487.010, may refer one or more parents or other household  
85 members subject to its jurisdiction to the family treatment court if he or she has  
86 been determined to have a substance use disorder or co-occurring disorder that  
87 impacts the safety and well-being of the children in the family.

88 6. A juvenile treatment court may be established by the juvenile division  
89 of any circuit court. The juvenile division may refer a juvenile to the juvenile  
90 treatment court if the juvenile is determined to have committed acts that violate  
91 the criminal laws of the state or ordinances of a municipality or county and a  
92 substance use disorder or co-occurring disorder contributed to the commission of  
93 the offense.

94 7. **The general assembly finds and declares that it is the public**  
95 **policy of this state to encourage and provide an alternative method for**  
96 **the disposal of cases for military veterans and current military**  
97 **personnel with substance use disorders, mental health disorders, or co-**  
98 **occurring disorders. In order to effectuate this public policy,** a veterans  
99 treatment court may be established by any circuit court, or combination of circuit  
100 courts upon agreement of the presiding judges of such circuit courts, to provide  
101 an alternative for the judicial system to dispose of cases that stem from a  
102 substance use disorder, mental health disorder, or co-occurring disorder of  
103 military veterans or current military personnel. A veterans treatment court shall  
104 combine judicial supervision, drug or alcohol testing, and substance use and  
105 mental health disorder treatment to participants who have served or are  
106 currently serving the United States Armed Forces, including members of the

107 Reserves or National Guard, **with preference given individuals who have**  
108 **combat service. For the purposes of this section, combat service shall**  
109 **be shown through military service documentation that reflects service**  
110 **in a combat theater, receipt of combat service medals, or receipt of**  
111 **imminent danger or hostile fire pay or tax benefits.** Except for good cause  
112 found by the court, a veterans treatment court shall make a referral for substance  
113 use or mental health disorder treatment, or a combination of substance use and  
114 mental health disorder treatment, through the Department of Defense health  
115 care, the Veterans Administration, or a community-based substance use disorder  
116 treatment program. Community-based programs utilized shall receive state or  
117 federal funds in connection with such referral and shall only refer the individual  
118 to a program certified by the department of mental health, unless no appropriate  
119 certified treatment program is located within the same circuit as the veterans  
120 treatment court.

557.014. 1. As used in this section, the following terms shall

2 **mean:**

3 (1) "Accusatory instrument", a warrant of arrest, information, or  
4 indictment;

5 (2) "Accused", an individual accused of a criminal offense, but not  
6 yet charged with a criminal offense;

7 (3) "Defendant", any person charged with a criminal offense;

8 (4) "Deferred prosecution", the suspension of a criminal case for  
9 a specified period upon the request of both the prosecuting attorney  
10 and the accused or the defendant;

11 (5) "Diversionary screening", the discretionary power of the  
12 prosecuting attorney to suspend all formal prosecutorial proceedings  
13 against a person who has become involved in the criminal justice  
14 system as an accused or defendant;

15 (6) "Prosecution diversion", the imposition of conditions of  
16 behavior and conduct by the prosecuting attorney upon an accused or  
17 defendant for a specified period of time as an alternative to proceeding  
18 to adjudication on a complaint, information, or indictment;

19 (7) "Prosecuting attorney", includes the prosecuting attorney or  
20 circuit attorney for each county of the state and the city of St. Louis.

21 2. Each prosecuting attorney in the state of Missouri shall have  
22 the authority to, upon agreement with an accused or a defendant,  
23 divert a criminal case to a prosecution diversion program for a period

24 of six months to two years, thus allowing for any statute of limitations  
25 to be tolled for that time alone. The period of diversion may be  
26 extended by the prosecuting attorney as a disciplinary measure or to  
27 allow sufficient time for completion of any portion of the prosecution  
28 diversion including restitution; provided, however, that no extension  
29 of such diversion shall be for a period of more than two years.

30 3. The prosecuting attorney may divert cases, under this  
31 program, out of the criminal justice system where the prosecuting  
32 attorney determines that the advantages of utilizing prosecution  
33 diversion outweigh the advantages of immediate court activity.

34 4. Prior to or upon the issuance of an accusatory instrument,  
35 with consent of the accused or defendant, other than for an offense  
36 enumerated in this section, the prosecuting attorney may forego  
37 continued prosecution upon the parties' agreement to a prosecution  
38 diversion plan. The prosecution diversion plan shall be for a specified  
39 period and be in writing. The prosecuting attorney has the sole  
40 authority to develop diversionary program requirements, but minimum  
41 requirements are as follows:

42 (1) The alleged crime is nonviolent, nonsexual, and does not  
43 involve a child victim or possession of an unlawful weapon;

44 (2) The accused or defendant must submit to all program  
45 requirements;

46 (3) Any newly discovered criminal behavior while in a  
47 prosecution diversion program will immediately forfeit his or her right  
48 to continued participation in said program at the sole discretion of the  
49 prosecuting attorney;

50 (4) The alleged crime does not also constitute a violation of a  
51 current condition of probation or parole;

52 (5) The alleged crime is not a traffic offense in which the accused  
53 or defendant was a holder of a commercial driver license or was  
54 operating a commercial motor vehicle at the time of the offense; and

55 (6) Any other criteria established by the prosecuting attorney.

56 5. During any period of prosecution diversion, the prosecuting  
57 attorney may impose conditions upon the behavior and conduct of the  
58 accused or defendant that assures the safety and well-being of the  
59 community as well as that of the accused or defendant. The conditions  
60 imposed by the prosecuting attorney shall include, but are not limited

61 to, requiring the accused or defendant to remain free of any criminal  
62 behavior during the entire period of prosecution diversion.

63       6. The responsibility and authority to screen or divert specific  
64 cases, or to refuse to screen or divert specific cases, shall rest within  
65 the sole judgment and discretion of the prosecuting attorney as part of  
66 their official duties as prosecuting attorney. The decision of the  
67 prosecuting attorney regarding diversion shall not be subject to appeal  
68 nor be raised as a defense in any prosecution of a criminal case  
69 involving the accused or defendant.

70       7. Any person participating in the program:

71       (1) Shall have the right to insist on criminal prosecution for the  
72 offense for which he or she is accused at any time; and

73       (2) May have counsel of the person's choosing present during all  
74 phases of the prosecution diversion proceedings, but counsel is not  
75 required and no right to appointment of counsel is hereby created.

76       8. In conducting the program, the prosecuting attorney may  
77 require at any point the reinitiation of criminal proceedings when, in  
78 his or her judgment, such is warranted.

79       9. Any county, city, person, organization, or agency, or employee  
80 or agent thereof, involved with the supervision of activities, programs,  
81 or community service that are a part of a prosecution diversion  
82 program, shall be immune from any suit by the person performing the  
83 work under the deferred prosecution agreement, or any person  
84 deriving a cause of action from such person, except for an intentional  
85 tort or gross negligence. Persons performing work or community  
86 service pursuant to a deferred prosecution agreement as described  
87 shall not be deemed to be engaged in employment within the meaning  
88 of the provisions of chapter 288. A person performing work or  
89 community service pursuant to a deferred prosecution agreement shall  
90 not be deemed an employee within the meaning of the provisions of  
91 chapter 287.

92       10. Any person supervising or employing an accused or  
93 defendant under the program shall report to the prosecuting attorney  
94 any violation of the terms of the prosecution diversion program.

95       11. After completion of the program and any conditions imposed  
96 upon the accused or defendant, to the satisfaction of the prosecuting  
97 attorney, the individual shall be entitled to a dismissal or alternative



98 **disposition of charges against them. Such disposition may, in the**  
99 **discretion of the prosecuting attorney, be without prejudice to the state**  
100 **of Missouri for the reinstitution of criminal proceedings, within the**  
101 **statute of limitations, upon any subsequent criminal activity on the**  
102 **part of the accused. Any other provision of law notwithstanding, such**  
103 **individual shall be required to pay any associated costs prior to**  
104 **dismissal of pending charges.**

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