

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE FOR  
HOUSE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILLS NOS. 1, 92, 111, 129 & 222

90TH GENERAL ASSEMBLY

1999

S0493.17T

## AN ACT

To repeal sections 57.130, 88.013, 88.023, 211.031, 211.453, 211.477, 407.025, 455.045, 476.415, 476.681, 476.682, 476.760, 477.087, 478.320, 478.625, 487.090, 491.300, 494.415, 494.445, 494.455, 494.485, 508.190, 511.440, 511.450, 528.620, 550.140 and 550.240, RSMo 1994, and sections 57.280, 105.464, 351.025, 354.065, 452.310, 452.340, 452.400, 452.401, 452.552, 452.554, 455.035, 455.040, 455.050, 455.067, 455.083, 455.205, 476.385, 476.515, 478.001, 478.268, 479.261, 487.020, 488.015, 506.363, 506.369, 506.372, 506.375, 506.390, 514.040, 550.260, 590.140 and 632.492, RSMo Supp. 1998, relating to jurisdiction and procedures of courts, and to enact in lieu thereof sixty-nine new sections relating to the same subject, with an expiration date for a certain section.

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

Section A. Sections 57.130, 88.013, 88.023, 211.031, 211.453, 211.477, 407.025, 455.045, 476.415, 476.681, 476.682, 476.760, 477.087, 478.320, 478.625, 487.090, 491.300, 494.415, 494.445, 494.455, 494.485, 508.190, 511.440, 511.450, 528.620, 550.140 and 550.240, RSMo 1994, and sections 57.280, 105.464, 351.025, 354.065, 452.310, 452.340, 452.400, 452.401, 452.552, 452.554, 455.035, 455.040, 455.050, 455.067, 455.083, 455.205, 476.385, 476.515, 478.001, 478.268, 479.261,

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

487.020, 488.015, 506.363, 506.369, 506.372, 506.375, 506.390, 514.040, 550.260, 590.140 and 632.492, RSMo Supp. 1998, are repealed and sixty-nine new sections enacted in lieu thereof, to be known as sections 57.130, 57.280, 88.013, 88.023, 105.464, 211.031, 211.453, 211.477, 351.025, 354.065, 407.025, 452.310, 452.340, 452.400, 452.552, 452.554, 453.072, 455.035, 455.040, 455.045, 455.050, 455.067, 455.083, 455.205, 476.385, 476.415, 476.515, 476.681, 476.682, 476.760, 477.087, 478.001, 478.268, 478.320, 478.625, 479.261, 487.020, 487.090, 488.015, 491.300, 494.415, 494.445, 494.455, 494.485, 506.363, 506.369, 506.372, 506.375, 506.390, 508.190, 511.440, 511.450, 514.040, 528.620, 536.053, 550.140, 550.240, 550.260, 590.140, 600.101, 632.492, 1, 2, 3, 4, 5, 6, 7 and 8, to read as follows:

57.130. **1.** The sheriffs of the several counties shall collect and account for all the fines, penalties, forfeitures and other sums of money, by whatever name designated, accruing to the state or any county by virtue of any order, judgment or decree of a court of record, provided that by court rule provision may be made for a court clerk to collect fines, penalties, forfeitures and other sums of money accruing to the state by virtue of any order, judgment or decree of the court.

**2. The provisions of this section shall expire and be of no force and effect on and after July 1, 2002.**

57.280. **1.** Sheriffs shall receive a charge for service of any summons, writ or other order of court, in connection with any civil case, and making on the same either a return indicating service, a non est return or a nulla bona return, the sum of twenty dollars for each item to be served, except that a sheriff shall receive a charge for service of any subpoena, and making a return on the same, the sum of ten dollars; however, no such charge shall be collected in any proceeding when court costs are to be paid by the state, county or municipality. In addition to such charge, the sheriff shall be entitled to receive for each mile actually traveled in serving any summons, writ, subpoena or other order of court, the rate prescribed by the Internal Revenue Service for all allowable expenses for motor vehicle use expressed as an amount per mile, provided that such mileage shall not be charged for more than one subpoena or summons or other writ served in the same cause on the same trip. All of such charges shall be received by the sheriff who is requested to perform the service. Except as otherwise provided by law, all charges made pursuant to this section shall be collected by the court clerk as court costs and are payable prior to the time the service is rendered; provided that if the amount of such charge cannot be readily determined, then the sheriff shall receive a deposit based upon the likely amount of such charge, and the balance of such charge shall be payable immediately upon ascertainment of the proper amount of said charge. A sheriff may refuse to perform any service in any action or proceeding, other than when court costs are waived as provided by law, until the charge provided by this section is paid. Failure to receive the charge shall not affect the validity of the service.

**2.** The sheriff shall receive for receiving and paying moneys on execution or other process, where lands or goods have been levied and advertised and sold, five percent on five hundred

dollars and four percent on all sums above five hundred dollars, and half of these sums, when the money is paid to the sheriff without a levy, or where the lands or goods levied on shall not be sold and the money is paid to the sheriff or person entitled thereto, his agent or attorney. The party at whose application any writ, execution, subpoena or other process has issued from the [supreme] court shall pay **the sheriff's costs** for the removal, transportation, storage, safekeeping and support of any property to be seized pursuant to legal process before such seizure [and]. **The sheriff** shall [cause the same to be returned without charge unless the court shall, for special reasons, order the personal attendance of the sheriff, in which case he shall] be allowed for each mile, going and returning from the courthouse of the county in which he resides to the place where the court is held, the rate prescribed by the Internal Revenue Service for all allowable expenses for motor vehicle use expressed as an amount per mile. **The provisions of this subsection shall not apply to garnishment proceeds.**

3. The sheriff upon the receipt of the charge herein provided for shall pay into the treasury of the county any and all charges received pursuant to the provisions of this section; however, in any county, any funds, not to exceed fifty thousand dollars in any calendar year, other than as a result of regular budget allocations or land sale proceeds, coming into the possession of the sheriff's office, such as from the sale of recovered evidence, shall be held in a fund established by the county treasurer, which may be expended at the discretion of the sheriff for the furtherance of the sheriff's set duties. Any such funds in excess of fifty thousand dollars, other than regular budget allocations or land sale proceeds, shall be placed to the credit of the general revenue fund of the county. Moneys in the fund shall be used only for the procurement of services and equipment to support the operation of the sheriff's office. Moneys in the fund established pursuant to this subsection shall not lapse to the county general revenue fund at the end of any county budget or fiscal year.

88.013. Thereupon the attorney for the city, in the name of the city, shall apply to the circuit court of the county where the city is located, by petition, setting forth the limits of the benefit district, a correct description of the property that is sought to be acquired or condemned, the use for which such land is to be taken and dedicated or the general nature of the improvements proposed to be made, the names of the owners of the several lots, tracts or parcels of land if known, or if unknown a correct description of the parcels whose owners are unknown, and praying the appointment of three disinterested commissioners, who are residents of the [city] **county, in which the real estate or a portion thereof is situated**, to assess the damages which the owners may severally sustain by reason of the appropriation and condemnation of such real estate by the city for any of the purposes described in this section, and to assess the property especially benefited by the improvements within the benefited district, in proportion to the benefits accruing to each from the proposed improvements.

88.023. The court on being satisfied that proper notice has been given to all the defendants

and to the owners of property within the benefited district and that the ordinance and petition are regular and valid, shall appoint three persons, who are residents of the [city] **county, in which the real estate or a portion thereof is situated**, as commissioners to assess the damages which the owners of the land may severally sustain by reason of such appropriation, and to assess the property especially benefited by said improvements within the benefited district to pay therefor.

105.464. 1. No person serving in a judicial or quasi-judicial capacity shall participate in such capacity in any proceeding in which[:

(1)] the person knows that a party is any of the following: the person or the person's great-grandparent, grandparent, parent, stepparent, guardian, foster parent, spouse, former spouse, child, stepchild, foster child, ward, niece, nephew, brother, sister, uncle, aunt, or cousin[, or any firm or corporation in which the person has an ownership interest, or any trust in which the person has any legal, equitable or beneficial interest;

(2) The person knows the subject matter is such that the person may receive a direct or indirect financial gain from any potential result of the proceeding, except that no provision in this subsection shall be construed to prohibit the person from participating in any proceeding by reason of the fact that the state, or any agency of the state, or any agency of a political subdivision thereof, is a party].

2. No provision in the section shall be construed to prohibit him from entering an order disqualifying himself or herself or transferring the matter to another court, body, or person for further proceedings.

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 [under] **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;

(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;**

(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 [under] **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.

211.453. 1. Service of summons shall be made as in other civil cases in the manner prescribed in section 506.150, RSMo. However, if service cannot be made as prescribed in section 506.150, RSMo, and it is not waived, then the service shall be made by mail or publication as provided in section 506.160, RSMo.

2. Persons who shall be summoned and receive a copy of the petition shall include:

(1) The parent of the child, including a putative father who has acknowledged the child as his own by affirmatively asserting his paternity, **unless the parent has filed a consent to the termination of parental rights in court;**

(2) The guardian of the person of the child;

(3) The person, agency or organization having custody of the child;

(4) The foster parent, relative or other person with whom the child has been placed; and

(5) Any other person whose presence the court deems necessary.

3. The court shall not require service in the case of a parent whose identity is unknown and cannot be ascertained, or cannot be located.

4. Any person required to receive summons may waive appearance or service of summons.

211.477. 1. If, after the dispositional hearing, the court finds that one or more of the grounds set out in section 211.447 exists or that the parent has consented to the termination pursuant to section 211.444 and that it is in the best interests of the child, the court may terminate the rights of the parent in and to the child. After ordering termination and after consideration of the social study and report, the court shall transfer legal custody to:

(1) The division of family services;

(2) A private child-placing agency;

(3) A foster parent, relative or other person participating in the proceedings pursuant to section 211.464; or

(4) Any other person or agency the court deems suitable to care for the child.

2. If only one parent consents or if the conditions specified in section 211.447 are found to exist as to only one parent, the rights of only that parent with reference to the child may be terminated and the rights of the other parent shall not be affected.

3. The court may order termination whether or not the child is in adoptive placement or an adoptive placement is available for the child.

4. If, after the dispositional hearing, the court finds that one or more of the grounds set out in section 211.447 exists, but that termination is not in the best interests of the child because the court finds that the child would benefit from the continued parent-child relationship or because the child is fourteen or more years of age and objects to the termination, the court may:

(1) Dismiss the petition and order that the child be returned to the custody of the parent;

(2) Retain jurisdiction of the case and order that the child be placed in the legal custody of the parent, the division, a private child-caring or placing agency, a foster parent, relative or other suitable person who is able to provide long-term care for the child. Any order of the court under this subdivision shall designate the period of time it shall remain in effect, with mandatory review by the court no later than six months thereafter. The court shall also specify what residual rights and responsibilities remain with the parent. Any individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the court; or

(3) Appoint a guardian under the provisions of chapter 475, RSMo.

5. Orders of the court issued pursuant to sections 211.442 to 211.487 shall recite the jurisdictional facts, factual findings on the existence of grounds for termination and that the best interests of the child are served by the disposition stated in the order. [The order shall be a final order after thirty days from the date of its entry for purposes of and subject to the rights of appeal.]

351.025. 1. Any existing corporation heretofore organized for profit under any special law of this state may accept the provisions of this chapter and be entitled to all of the rights, privileges and benefits provided by this chapter, as well as accepting the obligations and duties imposed by

this chapter, by filing with the secretary of state a certificate of acceptance of this chapter, signed by its president and secretary, duly authorized by its board of directors, and approved by the affirmative vote of a majority of its outstanding shares.

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

3. The provisions of subsection 2 of this section shall expire and have no force and effect on and after August 31, [1999] **2000**.

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

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

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

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

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

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

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

(4) By complying with the provisions of sections 355.616 and 355.621, RSMo, to the extent those sections would apply if such health services corporation were merging with a domestic



business corporation with the proposed amended articles of incorporation serving as the proposed plan of merger.

3. The provisions of subsection 2 of this section shall expire and have no force and effect on and after August 31, [1999] **2000**.

407.025. 1. Any person who purchases or leases goods or services primarily for personal, family or household purposes and thereby suffers an ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by section 407.020, may bring a private civil action in either the circuit court of the county in which the seller or lessor resides or in which the transaction complained of took place, to recover actual damages. The court may, in its discretion, award punitive damages and may award to the prevailing party attorney's fees, based on the amount of time reasonably expended, and may provide such equitable relief as it deems necessary or proper.

2. Persons entitled to bring an action under subsection 1 of this section may, if the unlawful method, act or practice has caused similar injury to numerous other persons, institute an action as representative or representatives of a class against one or more defendants as representatives of a class, and the petition shall allege such facts as will show that these persons or the named defendants specifically named and served with process have been fairly chosen and adequately and fairly represent the whole class, to recover damages as provided for in subsection 1 of this section. The plaintiff shall be required to prove such allegations, unless all of the members of the class have entered their appearance, and it shall not be sufficient to prove such facts by the admission or admissions of the defendants who have entered their appearance. In any action brought under this section, the court may in its discretion order, in addition to damages, injunction or other equitable relief and reasonable attorney's fees.

3. An action may be maintained as a class action **in a manner consistent with Rule 23 of the Federal Rules of Civil Procedure and Missouri rule of civil procedure 52.08 to the extent such state rule is not inconsistent with the federal rule** if:

- (1) The class is so numerous that joinder of all members is impracticable;
- (2) There are questions of law or fact common to the class;
- (3) The claims or defenses of the representative parties are typical of the claims or defenses of the class; and
- (4) The representative parties will fairly and adequately protect the interests of the class; and, in addition
- (5) The prosecution of separate action by or against individual members of the class would create a risk of:
  - (a) Inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class; or
  - (b) Adjudications with respect to individual members of the class which would as a

practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; or

(6) The party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole; or

(7) The court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include:

(a) The interest of members of the class in individually controlling the prosecution or defense of separate actions;

(b) The extent and nature of any litigation concerning the controversy already commenced by or against members of the class;

(c) The desirability or undesirability of concentrating the litigation of the claims in the particular forum;

(d) The difficulties likely to be encountered in the management of a class action.

4. (1) As soon as practicable after the commencement of an action brought as a class action, the court shall determine by order whether it is to be so maintained. An order under this subdivision may be conditional, and may be altered or amended before the decision on the merits.

(2) In any class action maintained under subdivision (7) of subsection 3, the court shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice shall advise each member that:

(a) The court will ~~[include]~~ **exclude** him in the class if he so requests by a specified date;

(b) The judgment, whether favorable or not, will include all members who **do not** request ~~[inclusion]~~ **exclusion**; and

(c) Any member who does request ~~[inclusion]~~ **exclusion** may, if he desires, enter an appearance through his counsel.

(3) The judgment in an action maintained as a class action under subdivision (5) of subsection 3 or subdivision (6) of subsection 3, whether or not favorable to the class, shall include and describe those whom the court finds to be members of the class. The judgment in an action maintained as a class action under subdivision (7) of subsection 3, whether or not favorable to the class, shall include and specify or describe those to whom the notice provided in subdivision (2) of subsection 4 was directed, and who have requested ~~[inclusion]~~ **exclusion**, and whom the court finds to be members of the class.

(4) When appropriate an action may be brought or maintained as a class action with respect to particular issues, or a class may be divided into subclasses and each subclass treated

as a class, and the provisions of this section shall then be construed and applied accordingly.

5. In the conduct of actions to which this section applies, the court may make appropriate orders:

(1) Determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument;

(2) Requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in such manner as the court may direct to some or all of the members of any step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or otherwise to come into the action;

(3) Imposing conditions on the representative parties or on intervenors;

(4) Requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons, and that the action proceed accordingly;

(5) Dealing with similar procedural matters.

6. A class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.

7. Upon commencement of any action brought under subsection 1 of this section, the plaintiff or plaintiffs shall inform the clerk of the court in which such action is brought, on forms to be provided by such clerk, that the action is brought under this section. The clerk of the court shall forthwith inform the attorney general of the commencement of such action, together with a copy of the complaint or other [intitial] **initial** pleading, and, upon entry of any judgment or decree in the action, the clerk shall mail a copy of such judgment or decree to the attorney general.

8. Any permanent injunction, judgment or order of the court made under section 407.100 shall be prima facie evidence in an action brought under this section that the respondent used or employed a method, act or practice declared unlawful by section 407.020.

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. [A party] **The petitioner and respondent** shall submit a proposed parenting plan [at the time of filing], **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. [A party shall submit a proposed parenting plan when filing the answer in such cases or within thirty days after service of a motion to modify.] 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.

452.340. 1. In a proceeding for dissolution of marriage, legal separation or child support, the court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the support of the child, including an award retroactive to the date of filing the petition, without regard to marital misconduct, after considering all relevant factors including:

- (1) The financial needs and resources of the child;
- (2) The financial resources and needs of the parents;
- (3) The standard of living the child would have enjoyed had the marriage not been dissolved;
- (4) The physical and emotional condition of the child, and the child's educational needs;
- (5) The child's physical and legal custody arrangements, including the amount of time the child spends with each parent and the reasonable expenses associated with the custody or visitation arrangements; and
- (6) The reasonable work-related child care expenses of each parent.

2. The obligation of the parent ordered to make support payments shall abate, in whole or in part, for such periods of time in excess of thirty consecutive days that the other parent has voluntarily relinquished physical custody of a child to the parent ordered to pay child support, notwithstanding any periods of visitation or temporary physical and legal or physical or legal custody pursuant to a judgment of dissolution or legal separation or any modification thereof. In a IV-D case, the division of child support enforcement may determine the amount of the abatement under this subsection for any child support order. In such cases, upon notification by the division, the circuit clerk shall record the amount of abatement on the child support trusteeship record

established pursuant to this chapter and chapter 454, RSMo.

3. Unless the circumstances of the child manifestly dictate otherwise and the court specifically so provides, the obligation of a parent to make child support payments shall terminate when the child:

(1) Dies;

(2) Marries;

(3) Enters active duty in the military;

(4) Becomes self-supporting, provided that the custodial parent has relinquished the child from parental control by express or implied consent; [or]

(5) Reaches age eighteen, unless the provisions of subsection 4 or 5 of this section apply;

or

**(6) Reaches age twenty-two, unless the provisions of the child support order specifically extend the parental support order past the child's twenty-second birthday for reasons provided by subsection 4 of this section.**

4. If the child is physically or mentally incapacitated from supporting himself and insolvent and unmarried, the court may extend the parental support obligation past the child's eighteenth birthday.

5. If when a child reaches age eighteen, the child is enrolled in and attending a secondary school program of instruction, the parental support obligation shall continue, if the child continues to attend and progresses toward completion of said program, until the child completes such program or reaches age twenty-one, whichever first occurs. If the child is enrolled in an institution of vocational or higher education not later than October first following graduation from a secondary school or completion of a graduation equivalence degree program and so long as the child enrolls for and completes at least twelve hours of credit each semester, not including the summer semester, at an institution of vocational or higher education and achieves grades sufficient to reenroll at such institution, the parental support obligation shall continue until the child completes his or her education, or until the child reaches the age of twenty-two, whichever first occurs. To remain eligible for such continued parental support, at the beginning of each semester the child shall submit to each parent a transcript or similar official document provided by the institution of vocational or higher education which includes the courses the child is enrolled in and has completed for each term, the grades and credits received for each such course, and an official document from the institution listing the courses which the child is enrolled in for the upcoming term and the number of credits for each such course. If the circumstances of the child manifestly dictate, the court may waive the October first deadline for enrollment required by this subsection. If the child is enrolled in such an institution, the child or parent obligated to pay support may petition the court to amend the order to direct the obligated parent to make the payments directly to the child. As used in this section, an "institution of vocational education"

means any postsecondary training or schooling for which the student is assessed a fee and attends classes regularly. "Higher education" means any junior college, community college, college, or university at which the child attends classes regularly. A child who has been diagnosed with a learning disability, or whose physical disability or diagnosed health problem limits the child's ability to carry the number of credit hours prescribed in this subsection, shall remain eligible for child support so long as such child is enrolled in and attending an institution of vocational or higher education, and the child continues to meet the other requirements of this subsection. A child who is employed at least fifteen hours per week during the semester may take as few as nine credit hours per semester and remain eligible for child support so long as all other requirements of this subsection are complied with.

6. The court shall consider ordering a parent to waive the right to claim the tax dependency exemption for a child enrolled in an institution of vocational or higher education in favor of the other parent if the application of state and federal tax laws and eligibility for financial aid will make an award of the exemption to the other parent appropriate.

7. The general assembly finds and declares that it is the public policy of this state that frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage is in the best interest of the child except for cases where the court specifically finds that such contact is not in the best interest of the child. In order to effectuate this public policy, a court with jurisdiction shall enforce visitation, custody and child support orders in the same manner. A court with jurisdiction may abate, in whole or in part, any past or future obligation of support and may transfer the physical and legal or physical or legal custody of one or more children if it finds that a parent has, without good cause, failed to provide visitation or physical and legal or physical or legal custody to the other parent pursuant to the terms of a judgment of dissolution, legal separation or modifications thereof. The court shall also award, if requested and for good cause shown, reasonable expenses, attorney's fees and court costs incurred by the prevailing party.

8. The Missouri supreme court shall have in effect a rule establishing guidelines by which any award of child support shall be made in any judicial or administrative proceeding. Said guidelines shall contain specific, descriptive and numeric criteria which will result in a computation of the support obligation. The guidelines shall address how the amount of child support shall be calculated when an award of joint physical custody results in the child or children spending substantially equal time with both parents. Not later than October 1, 1998, the Missouri supreme court shall publish child support guidelines and specifically list and explain the relevant factors and assumptions that were used to calculate the child support guidelines. Any rule made pursuant to this subsection shall be reviewed by the promulgating body not less than once every three years to ensure that its application results in the determination of appropriate child support award amounts.



9. There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the guidelines established pursuant to subsection 8 of this section is the correct amount of child support to be awarded. A written finding or specific finding on the record in a judicial or administrative proceeding that the application of the guidelines would be unjust or inappropriate in a particular case, after considering all relevant factors, including the factors set out in subsection 1 of this section, is required if requested by a party and shall be sufficient to rebut the presumption in the case. The written finding or specific finding on the record shall detail the specific relevant factors that required a deviation from the application of the guidelines.

10. Pursuant to this or any other chapter, when a court determines the amount owed by a parent for support provided to a child by another person, other than a parent, prior to the date of filing of a petition requesting support, or when the director of the division of child support enforcement establishes the amount of state debt due pursuant to subdivision (2) of subsection 1 of section 454.465, RSMo, the court or director shall use the guidelines established pursuant to subsection 8 of this section. The amount of child support resulting from the application of the guidelines shall be applied retroactively for a period prior to the establishment of a support order and the length of the period of retroactivity shall be left to the discretion of the court or director. There shall be a rebuttable presumption that the amount resulting from application of the guidelines under subsection 8 of this section constitutes the amount owed by the parent for the period prior to the date of the filing of the petition for support or the period for which state debt is being established. In applying the guidelines to determine a retroactive support amount, when information as to average monthly income is available, the court or director may use the average monthly income of the noncustodial parent, as averaged over the period of retroactivity, in determining the amount of presumed child support owed for the period of retroactivity. The court or director may enter a different amount in a particular case upon finding, after consideration of all relevant factors, including the factors set out in subsection 1 of this section, that there is sufficient cause to rebut the presumed amount.

**11. The obligation of a parent to make child support payments may be terminated as follows:**

**(1) Provided that the child support order contains the child's date of birth, the obligation shall be deemed terminated without further judicial or administrative process when the child reaches age twenty-two if the child support order does not specifically require payment of child support beyond age twenty-two for reasons provided by subsection 4 of this section;**

**(2) The obligation shall be deemed terminated without further judicial or administrative process when the parent receiving child support furnishes a sworn statement or affidavit notifying the obligor parent of the child's emancipation in**

accordance with the requirements of subsection 4 of section 452.370, and a copy of such sworn statement or affidavit is filed with the court which entered the order establishing the child support obligation, or the division of child support enforcement;

(3) The obligation shall be deemed terminated without further judicial or administrative process, when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the division of child support enforcement, stating that the child is emancipated and reciting the factual basis for such statement; which statement or affidavit is served by the court or division on the child support obligee; and which is either acknowledged and affirmed by the child support obligee in writing, or which is not responded to in writing within thirty days of receipt by the child support obligee;

(4) The obligation shall be terminated as provided by this subdivision by the court which entered the order establishing the child support obligation, or the division of child support enforcement, when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the division of child support enforcement, stating that the child is emancipated and reciting the factual basis for such statement; and which statement or affidavit is served by the court or division on the child support obligee. If the obligee denies the statement or affidavit, the court or division shall thereupon treat the sworn statement or affidavit as a motion to modify the support obligation pursuant to section 452.370 or section 454.496, RSMo, and shall proceed to hear and adjudicate such motion as provided by law; provided that the court may require the payment of a deposit as security for court costs and any accrued court costs, as provided by law, in relation to such motion to modify.

12. The court may enter a judgment terminating child support pursuant to subdivisions (1) to (3) of subsection 11 of this section without necessity of a court appearance by either party. The clerk of the court shall mail a copy of a judgment terminating child support entered pursuant to subsection 11 of this section on both the obligor and obligee parents. The supreme court may promulgate uniform forms for sworn statements and affidavits to terminate orders of child support obligations for use pursuant to subsection 11 of this section and subsection 4 of section 452.370.

452.400. 1. A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger the child's physical health or impair his emotional development. The court shall enter an order specifically detailing the visitation rights of the parent without physical custody rights. In determining the granting of visitation rights, the court shall consider evidence of domestic violence. If the court finds that domestic violence has occurred, the court may find that granting visitation to the abusive party is in the best interests of the child. The court shall not grant visitation to the parent not granted

custody if such parent has been found guilty of or pled guilty to a felony violation of chapter 566, RSMo, when the child was the victim, or a violation of chapter 568, RSMo, except for section 568.040, RSMo, when the child was the victim or an offense committed in another state, when the child is the victim, that would be a felony violation of chapter 566, RSMo, or chapter 568, RSMo, except for section 568.040, RSMo, if committed in Missouri. The court shall consider the parent's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on other persons and shall grant visitation in a manner that best protects the child and the parent or other family or household member who is the victim of domestic violence from any further harm. The court, if requested by a party, shall make specific findings of fact to show that the visitation arrangements made by the court best [protects] **protect** the child or the parent or other family or household member who is the victim of domestic violence from any further harm.

2. The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child, but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger the child's physical health or impair his emotional development. When a court restricts a parent's visitation rights or when a court orders supervised visitation because of allegations of abuse or domestic violence, a showing of proof of treatment and rehabilitation shall be made to the court before unsupervised visitation may be ordered. "Supervised visitation", as used in this section, is visitation which takes place in the presence of a responsible adult appointed by the court for the protection of the child.

3. The court shall mandate compliance with its order by all parties to the action, including parents, children and third parties. In the event of noncompliance, the aggrieved person may file a verified motion for contempt. If custody, visitation or third-party custody is denied or interfered with by a parent or third party without good cause, the aggrieved person may file a family access motion with the court stating the specific facts which constitute a violation of the judgment of dissolution or legal separation. The state courts administrator shall develop a simple form for pro se motions to the aggrieved person, which shall be provided to the person by the circuit clerk. Clerks, under the supervision of a circuit clerk, shall explain to aggrieved parties the procedures for filing the form. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerk's offices. The location of the office where the family access motion may be filed shall be conspicuously posted in the court building. The performance of duties described in this section shall not constitute the practice of law as defined in section 484.010, RSMo. Such form for pro se motions shall not require the assistance of legal counsel to prepare and file. The cost of filing the motion shall be the standard **court** costs [plus a fee not to exceed twenty-five dollars] **otherwise due for instituting a civil action in the circuit court.**

4. Within five **court** days after the filing of the family access motion pursuant to subsection 3 of this section, the clerk of the court shall issue a summons pursuant to applicable

state law, and applicable local or supreme court rules. A copy of the motion shall be personally served upon the respondent by personal process server as provided by law or by any sheriff. Such service shall be served at the earliest time and shall take priority over service in other **civil** actions, except those of an emergency nature or those filed pursuant to chapter 455, RSMo. The motion shall contain the following statement in boldface type: "PURSUANT TO SECTION 452.400, RSMO, YOU ARE REQUIRED TO RESPOND TO THE CIRCUIT CLERK WITHIN TEN DAYS OF THE DATE OF SERVICE. FAILURE TO RESPOND TO THE CIRCUIT CLERK MAY RESULT IN THE FOLLOWING:

(1) AN ORDER FOR A COMPENSATORY PERIOD OF CUSTODY, VISITATION OR THIRD-PARTY CUSTODY AT A TIME CONVENIENT FOR THE AGGRIEVED PARTY NOT LESS THAN THE PERIOD OF TIME DENIED;

(2) PARTICIPATION BY THE VIOLATOR IN COUNSELING TO EDUCATE THE VIOLATOR ABOUT THE IMPORTANCE OF PROVIDING THE CHILD WITH A CONTINUING AND MEANINGFUL RELATIONSHIP WITH BOTH PARENTS;

(3) ASSESSMENT OF A FINE OF UP TO FIVE HUNDRED DOLLARS AGAINST THE VIOLATOR;

(4) REQUIRING THE VIOLATOR TO POST BOND OR SECURITY TO ENSURE FUTURE COMPLIANCE WITH THE COURT'S ORDERS;

(5) ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE AGGRIEVED PARTY AND THE CHILD; AND

(6) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE REASONABLE EXPENSES, INCLUDING ATTORNEY'S FEES AND COURT COSTS ACTUALLY INCURRED BY THE AGGRIEVED PARTY AS A RESULT OF THE DENIAL OF CUSTODY, VISITATION OR THIRD-PARTY CUSTODY."

5. If an alternative dispute resolution program is available pursuant to section 452.372, the clerk shall also provide information to all parties on the availability of any such services, and within fourteen days of the date of service, the court may schedule alternative dispute resolution.

6. [If an alternative dispute resolution program is not available pursuant to section 452.372, each circuit may use the twenty-five-dollar family access fee to cover the costs of such program or, if the twenty-five-dollar family access fee is waived pursuant to section 452.401, the court shall develop a method appropriate for that court to cover the costs of the program. If alternative dispute resolution is not available pursuant to supreme court rule, a hearing shall be scheduled within fourteen days of the date of service.

7.] Upon a finding by the court pursuant to a motion for a family access order or a motion for contempt that its order for custody, visitation or third-party custody has not been complied with, without good cause, the court shall order a remedy, which may include, but not be limited

to:

- (1) A compensatory period of visitation, custody or third-party custody at a time convenient for the aggrieved party not less than the period of time denied;
- (2) Participation by the violator in counseling to educate the violator about the importance of providing the child with a continuing and meaningful relationship with both parents;
- (3) Assessment of a fine of up to five hundred dollars against the violator payable to the aggrieved party;
- (4) Requiring the violator to post bond or security to ensure future compliance with the court's access orders; and
- (5) Ordering the violator to pay the cost of counseling to reestablish the parent-child relationship between the aggrieved party and the child.

[8.] 7. The reasonable expenses incurred as a result of denial or interference with custody or visitation, including attorney's fees and costs of a proceeding to enforce visitation rights, custody or third-party custody, shall be assessed, if requested and for good cause, against the parent or party who unreasonably denies or interferes with visitation, custody or third-party custody. In addition, the court may utilize any and all powers relating to contempt conferred on it by law or rule of the Missouri supreme court.

[9.] 8. Final disposition of a motion for a family access order filed pursuant to this section shall take place not more than sixty days after the service of such motion, unless waived by the parties or determined to be in the best interest of the child. Final disposition shall not include appellate review.

[10.] 9. Motions filed pursuant to this section shall not be deemed an independent civil action from the original action pursuant to which the judgment or order sought to be enforced was entered.

[452.401. The family access fee of up to twenty-five dollars established in section 452.400 shall be charged and collected by every clerk of the court in this state. The court may waive such fee, in whole or in part, upon motion of the party and for good cause shown. Such fee shall be deposited in the "Family Access Fund" which shall be established in each county for the purpose of defraying the costs associated with family access motions filed pursuant to section 452.400. Any circuit which does not have a family court shall establish a "family access fund" within their circuit to aid in the payment of services offered by that circuit's courts pursuant to section 452.400.]

452.552. In addition to any other court costs required to institute an action [pursuant to an action for dissolution of marriage] **in the circuit division of the circuit court**, a surcharge of [ten] **three** dollars shall be paid by the person filing such action. The surcharge shall be collected and disbursed in a manner provided by sections 488.012 to 488.020, RSMo, by the court clerk at the time the petition is filed and shall be payable to the director of revenue for deposit in

the domestic relations resolution fund established in section 452.554.

452.554. There is established in the state treasury a special fund to be known as the "Domestic Relations Resolution Fund". The director of revenue shall credit to and deposit all amounts received pursuant to section 452.552[, and all fines imposed pursuant to section 452.400,] to the fund. The general assembly shall appropriate moneys annually from the domestic relations resolution fund to the state courts administrator to pay the cost associated with the handbook created in section 452.556 and to reimburse local judicial circuits for the costs associated with the implementation of [this act] **and creation of education programs for parents of children, alternative dispute resolution programs and similar programs applicable to domestic relations cases.** The provisions of section 33.080, RSMo, shall not apply to the domestic relations resolution fund.

**453.072. Any subsidies available to adoptive parents pursuant to section 453.073 and section 453.074 shall also be available to a qualified relative of a child who is granted legal guardianship of the child in the same manner as such subsidies are available for adoptive parents. As used in this section "relative" means any grandparent, aunt, uncle or adult sibling of the child.**

455.035. **1.** Upon the filing of a verified petition [under] **pursuant to** sections 455.010 to 455.085 and for good cause shown in the petition, the court may immediately issue an ex parte order of protection. An immediate and present danger of abuse to the petitioner shall constitute good cause for purposes of this section. An ex parte order of protection entered by the court shall [be in effect until the time of the hearing.] **take effect when entered and shall remain in effect until there is valid service of process and a hearing is held on the motion.**

**2. Failure to serve an ex parte order of protection on the respondent shall not affect the validity or enforceability of such order.**

455.040. **1.** Not later than fifteen days after the filing of a petition [under] **pursuant to** sections 455.010 to 455.085 a hearing shall be held unless the court deems, for good cause shown, that a continuance should be granted. At the hearing, if the petitioner has proved the allegation of abuse or stalking by a preponderance of the evidence, the court shall issue a full order of protection for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. Upon motion by the petitioner, and after a hearing by the court, the full order of protection may be renewed for a period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year from the expiration date of the originally issued full order of protection. If for good cause a hearing cannot be held on the motion to renew the full order of protection prior to the expiration date of the originally issued full order of protection, an ex parte order of protection may be issued until a hearing is held on the motion. Upon motion by the petitioner, and after a hearing by the court, the second full order of

protection may be renewed for an additional period of time the court deems appropriate, except that the protective order shall be valid for at least one hundred eighty days and not more than one year. For purposes of this subsection, a finding by the court of a subsequent act of abuse is not required for a renewal order of protection.

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

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

455.045. Any ex parte order of protection granted **[under] pursuant to** sections 455.010 to 455.085 shall be to protect the petitioner from abuse or stalking and may include:

(1) Restraining the respondent from abusing, threatening to abuse, molesting, stalking or disturbing the peace of the petitioner;

(2) Restraining the respondent from entering the premises of the dwelling unit of petitioner when the dwelling unit is:

(a) Jointly owned, leased or rented or jointly occupied by both parties; or

(b) Owned, leased **[or]**, rented **or occupied** by petitioner individually; or

(c) Jointly owned, leased or rented by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief **[under] pursuant to** this section by reason of the absence of a property interest in the dwelling unit; **or**

**(d) Jointly occupied by the petitioner and a person other than the respondent;**

**provided that the respondent has no property interest in the dwelling unit;**

(3) A temporary order of custody of minor children where appropriate.

455.050. 1. Any full or ex parte order of protection granted [under] **pursuant to** sections 455.010 to 455.085 shall be to protect the petitioner from abuse or stalking and may include:

(1) Temporarily enjoining the respondent from abusing, threatening to abuse, molesting, stalking or disturbing the peace of the petitioner;

(2) Temporarily enjoining the respondent from entering the premises of the dwelling unit of the petitioner when the dwelling unit is:

(a) Jointly owned, leased or rented or jointly occupied by both parties; or

(b) Owned, leased or rented by petitioner individually; or

(c) Jointly owned, leased or rented by petitioner and a person other than respondent; provided, however, no spouse shall be denied relief [under] **pursuant to** this section by reason of the absence of a property interest in the dwelling unit; **or**

**(d) Jointly occupied by the petitioner and a person other than respondent; provided that the respondent has no property interest in the dwelling unit.**

2. Mutual orders of protection are prohibited unless both parties have properly filed written petitions and proper service has been made in accordance with sections 455.010 to 455.085.

3. When the court has, after a hearing for any full order of protection, issued an order of protection, it may, in addition:

(1) Award custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interests of the child require such order be issued;

(2) Establish a visitation schedule that is in the best interests of the child;

(3) Award child support in accordance with supreme court rule 88.01 and chapter 452, RSMo;

(4) Award maintenance to petitioner when petitioner and respondent are lawfully married in accordance with chapter 452, RSMo;

(5) Order respondent to make or to continue to make rent or mortgage payments on a residence occupied by the petitioner if the respondent is found to have a duty to support the petitioner or other dependent household members;

(6) Order the respondent to pay the petitioner's rent at a residence other than the one previously shared by the parties if the respondent is found to have a duty to support the petitioner and the petitioner requests alternative housing;

(7) Order that the petitioner be given temporary possession of specified personal property, such as automobiles, checkbooks, keys, and other personal effects;

(8) Prohibit the respondent from transferring, encumbering, or otherwise disposing of specified property mutually owned or leased by the parties;



(9) Order the respondent to participate in a court-approved counseling program designed to help batterers stop violent behavior or to participate in a substance abuse treatment program;

(10) Order the respondent to pay a reasonable fee for housing and other services that have been provided or that are being provided to the petitioner by a shelter for victims of domestic violence;

(11) Order the respondent to pay court costs.

4. A verified petition seeking orders for maintenance, support, custody, visitation, payment of rent, payment of monetary compensation, possession of personal property, prohibiting the transfer, encumbrance, or disposal of property, or payment for services of a shelter for victims of domestic violence, shall contain allegations relating to those orders and shall pray for the orders desired.

5. In making an award of custody, the court shall consider all relevant factors including the presumption that the best interests of the child will be served by placing the child in the custody and care of the nonabusive parent, unless there is evidence that both parents have engaged in abusive behavior, in which case the court shall not consider this presumption but may appoint a guardian ad litem or a court-appointed special advocate to represent the children in accordance with chapter 452, RSMo, and shall consider all other factors in accordance with chapter 452, RSMo.

6. The court shall grant to the noncustodial parent rights to visitation with any minor child born to or adopted by the parties, unless the court finds, after hearing, that visitation would endanger the child's physical health, impair **[his] the child's** emotional development or would otherwise conflict with the best interests of the child, or that no visitation can be arranged which would sufficiently protect the custodial parent from further abuse. The court may appoint a guardian ad litem or court-appointed special advocate to represent the minor child in accordance with chapter 452, RSMo, whenever the custodial parent alleges that visitation with the noncustodial parent will damage the minor child.

7. The court shall make an order requiring the noncustodial party to pay an amount reasonable and necessary for the support of any child to whom the party owes a duty of support when no prior order of support is outstanding and after all relevant factors have been considered, in accordance with Missouri supreme court rule 88.01 and chapter 452, RSMo.

8. The court may grant a maintenance order to a party for a period of time, not to exceed one hundred eighty days. Any maintenance ordered by the court shall be in accordance with chapter 452, RSMo.

455.067. 1. Any order of protection issued by any other state, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, shall be given full faith and credit throughout the state **[in the manner provided by this section,]** in all courts, and by all law enforcement officials and agencies, and all public officials.

2. A person entitled to protection under a foreign order of protection as described in subsection 1 of this section may file a petition seeking registration of the foreign order in the circuit court having jurisdiction. A certified copy of the foreign order of protection shall be attached to such petition. The petition shall set forth the date of the entry of the foreign order of protection and a record of any subsequent orders affecting such foreign order of protection, and shall state that to the best of such person's knowledge, the order filed with the petition is in effect. The court shall receive and consider such petition in the manner provided by sections 455.025 to 455.035, and its inquiry shall be limited to whether and the extent that the foreign order of protection is in effect. If the court decides such issues in the affirmative, the court shall issue an order giving full faith and credit to the foreign order of protection throughout the state, as if such foreign order was originally issued by a court of this state. A foreign order of protection as described in subsection 1 of this section shall be enforceable in this state so long as it is in effect in the issuing state.

3. A copy of the Missouri court's order recognizing a foreign order of protection shall be sent by the court to the respondent by certified mail, at his last known address, with a copy of the petition and foreign order of protection. At any time during the duration of the order recognizing the foreign order of protection, the respondent may move the court to modify or set aside its order recognizing the foreign order of protection. Such motion shall be heard only if a copy of the motion and a summons indicating a date and time certain for such hearing is personally served on the petitioner, and the respondent shall not be entitled to a continuance of such hearing. Such motion shall be sustained only if the respondent demonstrates to the court by clear and convincing evidence that the Missouri court's order was not issued in compliance with this section. The petitioner shall not be required to appear or to deny or rebut the allegations or evidence submitted by respondent in order for the court to deny respondent's motion.

**4. Registration and a Missouri court order recognizing a foreign order of protection shall not be required for the enforcement of a certified foreign order of protection in this state.**

455.083. A law enforcement officer in this state may rely upon a copy of any order of protection issued under sections 455.010 to 455.085 or a **certified** foreign order of protection [registered pursuant to section 455.067,] which has been provided to the peace officer from any source, in determining action to be taken pursuant to sections 455.080 and 455.085.

455.205. 1. The governing body of any county, or of any city not within a county, by order or ordinance to be effective prior to January 1, [1997] **2000**, may impose a fee upon the issuance of a marriage license and may impose a surcharge upon [the entry of a decree of dissolution of marriage by a] **any civil case filed in the** circuit court under the provisions of section 452.305, RSMo. **The surcharge shall not be charged when no court costs are otherwise required, and shall not be charged when costs are waived or are to be paid by the state, county**

**or municipality.**

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

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

476.385. 1. The judges of the supreme court may appoint a committee consisting of at least seven associate circuit judges, who shall meet en banc and establish and maintain a schedule of fines to be paid for violations of **section 210.104, RSMo, and** chapters 252, 301, 302, 304, 306, 307 and 390, RSMo, with such fines increasing in proportion to the severity of the violation. The associate circuit judges of each county may meet en banc and adopt the schedule of fines and participation in the centralized bureau pursuant to this section. Notice of such adoption and participation shall be given in the manner provided by supreme court rule. Upon order of the supreme court, the associate circuit judges of each county may meet en banc and establish and maintain a schedule of fines to be paid for violations of municipal ordinances for cities, towns and villages electing to have violations of its municipal ordinances heard by associate circuit judges, pursuant to section 479.040, RSMo; and for traffic court divisions established pursuant to section 479.500, RSMo. The schedule of fines adopted for violations of municipal ordinances may be modified from time to time as the associate circuit judges of each county en banc deem advisable. No fine established pursuant to this subsection may exceed the maximum amount specified by statute or ordinance for such violation.

2. In no event shall any schedule of fines adopted pursuant to this section include offenses involving the following:

- (1) Any violation resulting in personal injury or property damage to another person;
- (2) Operating a motor vehicle while intoxicated or under the influence of intoxicants or drugs;
- (3) Operating a vehicle with a counterfeited, altered, suspended or revoked license;
- (4) Fleeing or attempting to elude an officer.

3. There shall be a centralized bureau to be established by supreme court rule in order to accept pleas of not guilty or guilty and payments of fines and court costs for violations of the laws and ordinances described in subsection 1 of this section, made pursuant to a schedule of fines established pursuant to this section. The centralized bureau shall collect, with any plea of guilty and payment of a fine, all court costs which would have been collected by the court of the jurisdiction from which the violation originated.

4. If a person elects not to contest the alleged violation, the person shall send payment in the amount of the fine and any court costs established for the violation to the centralized bureau. Such payment shall be payable to the "central violations bureau", shall be made by mail or in any other manner established by the centralized bureau, and shall constitute a plea of guilty, waiver of trial and a conviction for purposes of section 302.302, RSMo, and for purposes of imposing any collateral consequence of a criminal conviction provided by law. Notwithstanding any provision of law to the contrary, the prosecutor shall not be required to sign any information, ticket or indictment if disposition is made pursuant to this subsection. In the event that any payment is made pursuant to this section by credit card or similar method, the centralized bureau may charge an additional fee in order to reflect any transaction cost, surcharge or fee imposed on the recipient of the credit card payment by the credit card company.

5. If a person elects to plead not guilty, such person shall send the plea of not guilty to the centralized bureau. The bureau shall send such plea and request for trial to the prosecutor having original jurisdiction over the offense. Any trial shall be conducted at the location designated by the court. The clerk of the court in which the case is to be heard shall notify in writing such person of the date certain for the disposition of such charges. The prosecutor shall not be required to sign any information, ticket or indictment until the commencement of any proceeding by the prosecutor with respect to the notice of violation.

6. In courts adopting a schedule of fines pursuant to this section, any person receiving a notice of violation pursuant to this section shall also receive written notification of the following:

(1) The fine and court costs established pursuant to this section for the violation **or information regarding how the person may obtain the amount of the fine and court costs for the violation;**

(2) That the person must respond to the notice of violation by paying the prescribed fine and court costs, or pleading not guilty and appearing at trial, and that other legal penalties prescribed by law may attach for failure to appear and dispose of the violation. The supreme court may modify the suggested forms for uniform complaint and summons for use in courts adopting the procedures provided by this section, in order to accommodate such required written notifications.

7. Any moneys received in payment of fines and court costs pursuant to this section shall not be considered to be state funds, but shall be held in trust by the centralized bureau for benefit

of those persons or entities entitled to receive such funds pursuant to this subsection. All amounts paid to the centralized bureau shall be maintained by the centralized bureau, invested in the manner required of the state treasurer for state funds by sections 30.240, 30.250, 30.260 and 30.270, RSMo, and disbursed as provided by the constitution and laws of this state[, provided that all fees included within any court costs collected pursuant to this section except those fees collected pursuant to section 476.053 and section 488.200, RSMo, shall be payable to the state general revenue fund, notwithstanding any provision of law to the contrary]. Any interest earned on such fund shall be payable to the director of the department of revenue for deposit into a revolving fund to be established pursuant to this subsection. The state treasurer shall be the custodian of the revolving fund, and shall make disbursements, as allowed by lawful appropriations, only to the judicial branch of state government for goods and services related to the administration of the judicial system.

8. Any person who receives a notice of violation subject to this section who fails to dispose of such violation as provided by this section shall be guilty of failure to appear provided by section 544.665, RSMo; and may be subject to suspension of driving privileges in the manner provided by section 302.341, RSMo. The centralized bureau shall notify the appropriate prosecutor of any person who fails to either pay the prescribed fine and court costs, or plead not guilty and request a trial within the time allotted by this section, for purposes of application of section 544.665, RSMo. The centralized bureau shall also notify the department of revenue of any failure to appear subject to section 302.341, RSMo, and the department shall thereupon suspend the license of the driver in the manner provided by section 302.341, RSMo, as if notified by the court.

9. In addition to the remedies provided by subsection 8 of this section, the centralized bureau and the courts may use the remedies provided by sections 488.010 to 488.020, RSMo, for the collection of court costs payable to courts, in order to collect fines and court costs for violations subject to this section.

476.415. 1. There is hereby created a "Commission on Judicial Resources", to be comprised of the following persons:

(1) A circuit court judge [appointed by the supreme court] **elected by the circuit court judges of the state;**

(2) A judge of the court of appeals [appointed by the supreme court] **elected by the judges of the court of appeals of the state;**

(3) An associate circuit judge [appointed by the supreme court] **elected by the associate circuit judges of the state;**

(4) **A municipal court judge appointed by the supreme court;**

(5) A senior judge under the provisions of section 476.001 appointed by the supreme court;

[(5)] (6) An attorney appointed by the board of governors of the Missouri Bar;

[(6)] (7) The chairman of the judiciary committee of the senate;

[(7)] **(8)** The chairman of the judiciary committee of the house of representatives;

[(8)] **(9)** A member of the appropriations committee of the senate, appointed by the president pro tem;

[(9)] **(10)** A member of the budget committee of the house of representatives, appointed by the speaker;

[(10)] **(11)** The executive director of the public defender commission; and

[(11)] **(12)** One prosecuting or circuit attorney elected by the prosecuting and circuit attorneys of this state.

2. The legislative members of the commission shall serve during the period they hold the committee assignments qualifying them for the office. The appointed and elective members shall serve for two years and until their successors are appointed and qualified. If a vacancy occurs in any of the appointed or elected members, a successor shall be appointed or elected by the body originally appointing or electing the position for whom the vacancy occurs for the remainder of the unexpired term. The commission shall meet within sixty days after the appointment of the members at the call of the chief justice of the supreme court and shall meet subsequently at the call of the chairman. The commission shall elect its own officers as necessary. The members of the commission shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses paid out of appropriations made for that purpose except that senior judges shall be credited for time actually spent in the performance of duties according to section 476.682.

3. The commission shall have full access to the reports filed pursuant to section 476.412, examine and prepare a digest of such reports, conduct a comprehensive study of the state's judicial system, assess the needs, priorities, work load, case management and general performance of the court system and for the judges thereof. The commission shall make an annual report to the supreme court and the general assembly before the convening of each session of the general assembly in which they shall detail the true state of the judicial system in this state, its success or inability to handle the caseload, and the efficiency of disposition of judicial business and the administration of justice. The report shall detail the utilization of judges transferred between circuits and of senior judges as provided in section 476.681, including an appraisal of the effect that the appointment of senior judges and transfer of judges has on the efficiency of the courts and the reduction of caseloads. The report shall include a detailed breakdown of the needs of specific courts and the commission's recommendations.

4. The commission may employ consultants and other staff within the limits of any appropriations made for that purpose, or may employ senior judges who may be compensated pursuant to section 476.682, and may call upon the committee on legislative research, the state courts administrator, and the research staffs of the house and the senate for staff necessary to carry out the duties of the commission. The commission may seek and receive gifts, donations and

grants in aid from private or other sources to defray expenses incurred in its assessment of judicial resources.

476.515. 1. As used in sections 476.515 to 476.565, unless the context clearly indicates otherwise, the following terms mean:

(1) "Beneficiary", a surviving spouse married to the deceased judge continuously for a period of at least two years immediately preceding the judge's death or if there is no surviving spouse eligible to receive benefits pursuant to sections 476.515 to [476.570] **476.565**, the term "beneficiary" shall mean any minor child of the deceased judge, who shall share in the benefits on an equal basis with all other beneficiaries;

(2) "Benefit", a series of equal monthly payments payable during the life of a judge retiring pursuant to the provisions of sections 476.515 to [476.570] **476.565** or payable to a beneficiary as provided in sections 476.515 to [476.570] **476.565**; all benefits paid pursuant to sections 476.515 to [476.570] **476.565** in excess of any contributions made to the system by a judge shall be considered to be a part of the compensation provided a judge for the judge's services;

(3) "Commissioner of administration", the commissioner of administration of the state of Missouri;

(4) "Judge", any person who has served or is serving as a judge or commissioner of the supreme court or of the court of appeals; or as a judge of any circuit court, probate court, magistrate court, court of common pleas or court of criminal corrections of this state; as a justice of the peace; or as commissioner **or deputy commissioner** of the [probate division of the] circuit court appointed after February 29, 1972[, in a county of the first classification having a charter form of government or in a city not within a county; or as commissioner of the juvenile division of the circuit court appointed pursuant to section 211.023, RSMo];

(5) "Salary", the total compensation paid for personal services as a judge by the state or any of its political subdivisions.

2. A surviving spouse whose benefits were terminated because of remarriage prior to October 1, 1984, shall, upon written application to the board within six months after October 1, 1984, have the surviving spouse's rights as a beneficiary restored. Benefits shall resume as of October 1, 1984.

476.681. 1. Any retired judge **or retired commissioner** receiving retirement benefits under any of the applicable provisions of this chapter, who is willing to serve as a senior judge **or senior commissioner, respectively**, may make application for such service with the clerk of the supreme court on forms provided by the clerk. The application shall contain information relating to the prior legal and judicial experience of the applicant, the applicant's physical and mental health, and the times of the applicant's availability. The clerk may request physical or mental examinations of any applicant and may request that the applicant furnish or authorize the furnishing of any relevant medical or other health records. An application shall be submitted to

the supreme court for approval or disapproval and shall be valid for a period of one year from the date of approval.

2. Upon written request of the chief judge of any district of the court of appeals or the presiding judge of any circuit, the supreme court may appoint a senior judge **or senior commissioner** from the file of approved applications maintained by the clerk of the supreme court. Appointments to serve shall be based on caseload and need, as determined by the supreme court in its discretion, taking into consideration reports filed pursuant to section 476.412, recommendations made by the judicial resources commission created herein and such other matters that the court deems relevant. The appointment may be made for a specific case or cases or for a specified period of time not to exceed one year. The appointment may be extended for additional periods of time not to exceed one year each if the appointed senior judge **or senior commissioner** maintains an annual updated and approved application for appointment. Persons serving as a senior judge **or senior commissioner** pursuant to the provisions of this section shall receive compensation as provided in section 476.682.

476.682. 1. Any person assigned as a senior judge **or senior commissioner** pursuant to section 26 of article V of the Missouri Constitution **and who has served in this state an aggregate of at least two years, continuously or otherwise, as a judge or commissioner**, shall receive for each day of service an amount [that when added to the daily amount of annual compensation, salary or retirement compensation payable pursuant to sections 476.450 to 476.595, equals one hundred] **equal to fifty** percent of the current annual salary of the office from which the judge **or senior commissioner** retired attributable to one day of service. **Notwithstanding the foregoing, any judge or commissioner who has retired prior to August 28, 1999, who serves subsequent to said date as a senior judge or commissioner may receive compensation pursuant to this section regardless of their length of service; and no senior judge or senior commissioner shall receive less daily compensation than an amount, that when added to the daily amount of annual compensation payable pursuant to sections 476.450 to 476.595, is less than one hundred percent of the current annual salary of the office from which the judge or commissioner retired attributable to one day of service.** For purposes of this subsection, one year shall equal two hundred thirty-five days. **No senior judge or senior commissioner shall receive compensation pursuant to this subsection in a total amount that when such compensation is added to the annual compensation, salary or retirement compensation payable pursuant to sections 476.450 to 476.595, the sum is greater than the current annual salary of the office from which the judge or commissioner retired.**

2. A senior judge **or senior commissioner** assigned pursuant to section 26 of article V of the Missouri Constitution for service outside the county where he **or she** resides shall be reimbursed for his **or her** travel and other actual and necessary expenses incurred in the



performance of his **or her** services.

3. On or before the tenth day of each month a senior judge **or senior commissioner** shall certify to the state courts administrator the period during the previous month during which he **or she** was assigned services and, if such services were completed, the date thereof and at the same time shall certify his **or her** expenses incurred and allowable under this section. The state courts administrator shall then issue a warrant to the state treasurer for the payment of the salary and expenses to the extent and within limitations provided for in this section. The state treasurer upon receipt of such warrant shall pay the same out of any appropriations made for this purpose on the last day of the month during which the warrant was received by him **or her**.

4. On or before the twentieth day of each month the state courts administrator shall certify the period of service reported by each senior judge **or senior commissioner** pursuant to subsection 3 of this section to the Missouri state employees' retirement system. Any senior judge **or senior commissioner** accumulating two hundred thirty-five days of such service shall receive credit for one year of judicial service for purposes of sections 476.520 and 476.545, for each two hundred thirty-five days of service certified by the state courts administrator to the Missouri state employees' retirement system, except, if a pro rata portion of two hundred thirty-five days would cause the senior judge's **or senior commissioner's** total judicial service to equal twelve years, the Missouri state employees' retirement system shall credit the service at the time the pro rata portion is certified. Upon receipt of such certification, the retirement benefit of the senior judge **or senior commissioner** shall be recalculated to reflect the attainment of twelve years; the adjusted benefit will become effective the first of the month following certification.

5. Notwithstanding the provisions of section 476.510 or 476.565, no person shall receive benefits pursuant to the provisions of this section if the person is engaged in the private practice of law or doing a law business.

6. The judicial conference of the state of Missouri shall annually report on the use of senior judges **and senior commissioners** pursuant to this section. Such report shall include at least the number of senior judges **and senior commissioners** assigned, the number of cases assigned and disposed of by senior judges **and senior commissioners**, and the expenditures made for that purpose.

476.760. 1. All communications between a deaf person and [his] **such person's** attorney through the use of auxiliary aids and services shall be protected as privileged communications in the same manner as communications between an attorney and [his] **such attorney's** hearing client. The auxiliary aids and services provider cannot be compelled to testify as to the information retained.

2. In any action or proceeding in which an auxiliary aids and services provider is required to be appointed, the court or administrative authority may not commence proceedings until the appointed auxiliary aids and services provider are in full view or spatially situated to assure

proper communication with the deaf person or persons involved as participants.

3. No waiver of the right to auxiliary aids and services by a deaf person shall be valid unless that deaf person knowingly and voluntarily signs a written waiver. Such waiver is subject to the approval of counsel to the deaf person. If no counsel is used, then it is subject to the approval of the designated responsible authority. In no event is the failure of the deaf person to request a qualified interpreter and auxiliary aids and services provider deemed a waiver of that right.

4. An auxiliary aids and services provider appointed [under] **pursuant to** sections 476.750 to 476.766 is entitled to a reasonable fee for [his] **such provider's** service, including waiting time, necessary travel expenses and subsistence expenses. The fee may be based on a fee schedule for interpreters and auxiliary aids and services recommended by the Missouri commission for the deaf. Reimbursements for necessary travel and subsistence expenses shall be at the rates provided by law for state employees.

5. The fees and expenses of providers of auxiliary aids and services who serve before any civil court or criminal, civil or juvenile proceeding are payable from funds appropriated to the [administrative] office of the [court] **state courts administrator**.

6. At no time shall any deaf person involved in a proceeding or action as provided for in sections 476.750 to 476.766 assume any portion of the cost for an interpreter or auxiliary aids and services nor shall the court, board, commission, department, agency or legislative body assess the cost for an interpreter or auxiliary aids and services to the cost of such proceedings.

477.087. 1. The official station of each judge of the supreme court and court of appeals may be the locus of the court of which the judge is a member or any circuit court county courthouse located where the judge maintains an actual abode in which the judge customarily lives or at any other office in that county.

2. The presiding judge of the judicial circuit in which a judge of the supreme court or court of appeals has his official station may provide suitable office space, if available, upon request by a judge of the supreme court or court of appeals for use by the judge and the judge's staff personnel.

3. Each judge of the supreme court and court of appeals, upon appointment and from time to time thereafter as changes occur, shall notify the state courts administrator in writing of the judge's official station, if other than the city of the locus of the court of which the judge is a member.

4. Judges of the supreme court and court of appeals and their staff shall [not] be entitled to any state allowances for official travel and mileage to or from their official station and the locus of the court on which the judge sits.

478.001. Drug courts may be established by any circuit court pursuant to sections 478.001 to 478.006 to provide an alternative for the judicial system to dispose of cases which stem from

drug use. A drug court shall combine judicial supervision, drug testing and treatment of drug court participants. Except for good cause found by the court, a drug court making a referral for substance abuse treatment, when such program will receive state or federal funds in connection with such referral, shall refer the person only to a program which is certified by the department of mental health, unless no appropriate certified treatment program is located within the same county as the drug court. Upon successful completion of the treatment program, the charges, petition or penalty against a drug court participant may be dismissed, reduced or modified. **Any fees received by a court from a defendant as payment for substance treatment programs shall not be considered court costs, charges or fines.**

478.268. Notwithstanding the provisions of section 478.265, in the thirty-first judicial circuit, the circuit court 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 **and retirement benefits** of the commissioner shall be the same as that of an associate circuit judge, payable in the same manner and from the same source as [the compensation] **that** of the associate circuit judge. Subject to approval or rejection by the judge of the probate division, the commissioner shall have all the powers and duties of [the] **a circuit** judge. The 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 such judge. 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.

478.320. 1. In counties having a population of thirty thousand or less, there shall be one associate circuit judge. In counties having a population of more than thirty thousand and less than one hundred thousand, there shall be two associate circuit judges. In counties having a population of one hundred thousand or more, there shall be [two] **three** associate circuit judges and one additional associate circuit judge for each additional one hundred thousand inhabitants [or major fraction thereof].

2. [In addition to the associate circuit judges authorized by subsection 1 of this section, one additional associate circuit judge is authorized for each magistrate which was provided in the county pursuant to the provisions of subsection 3 of section 482.010, RSMo, in effect on January 1, 1979. Additional associate circuit judges may be authorized in particular counties by law hereafter enacted.] **For purposes of this section, notwithstanding the provisions of section 1.100, RSMo, population of a county shall be determined on the basis of the last previous decennial census of the United States; and, beginning after certification of the year 2000 decennial census, on the basis of annual population estimates prepared by the United States Bureau of the Census, provided that the number of associate circuit judge positions in a county shall be adjusted only after population estimates for three**

**consecutive years indicate population change in the county to a level provided by subsection 1 of this section.**

3. Except in circuits where associate circuit judges are selected under the provisions of sections 25(a) to (g) of article V of the constitution, the election of associate circuit judges shall in all respects be conducted as other elections and the returns made as for other officers.

4. In counties [where associate circuit judges are elected, they] **not subject to sections 25(a) to (g) of article V of the constitution, associate circuit judges** shall be elected by the county at large.

5. No associate circuit judge shall practice law, or do a law business, nor shall he accept, during his term of office, any public appointment for which he receives compensation for his services.

6. No person shall be elected as an associate circuit judge unless he has resided in the county for which he is to be elected at least one year prior to the date of his election; provided that, a person who is appointed by the governor to fill a vacancy may file for election and be elected notwithstanding the provisions of this subsection.

478.625. 1. **Beginning on January 1, 2003**, there shall be [two] **three** circuit judges in the nineteenth judicial circuit consisting of the county of Cole. [These judges shall sit in divisions numbered one and two.]

2. [The] **One** circuit judge [in division one] shall be **first** elected in 1982. The **second** circuit judge [in division two] shall be **first** elected in 1984. **The third circuit judge shall be first elected in 2002.**

**3. Effective January 1, 2003, there shall be one less associate circuit judge in Cole county than is provided pursuant to section 478.320.**

479.261. 1. In addition to all other court costs for county or municipal ordinance violations, any county or any city having a shelter for victims of domestic violence established pursuant to sections 455.200 to 455.230, RSMo, or any municipality within a county which has such shelter, or any county or municipality whose residents are victims of domestic violence and are admitted to such shelters may, by order or ordinance to be effective prior to January 1, [1997] **2000**, provide for an additional surcharge in [an] **the** amount [not to exceed one dollar] **of two dollars** per case for each criminal case including county or municipal ordinance violation case filed before a municipal division judge or associate circuit judge. No surcharge shall be collected in any proceeding when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. Such surcharges collected by municipal clerks in municipalities electing or required to have violations of municipal ordinances tried before a municipal judge pursuant to section 479.020, or to employ judicial personnel pursuant to section 479.060, shall be disbursed to the city at least monthly, and such surcharges collected by circuit court clerks shall be collected and disbursed as provided by [section 514.015] **sections 488.010**

to **488.020**, RSMo. Such fees shall be payable to the city or county wherein such fees originated. The county or city shall use such moneys only for the purpose of providing operating expenses for shelters for battered persons as defined in sections 455.200 to 455.230, RSMo.

2. The state highway patrol shall include in its voluntary system of reporting for compilation in the "Missouri Crime Index" all reported incidents of domestic violence, whether or not an arrest is made. All incidents shall be reported on forms provided by the highway patrol and in a manner prescribed by the patrol. For purposes of this subsection only, "domestic violence" shall be defined as any dispute arising between spouses, former spouses, persons related by blood or marriage, individuals who are presently residing together or have resided together in the past and persons who have a child in common regardless of whether they have been married or have resided together at any time.

487.020. 1. In each circuit or a county having a family court, a majority of the circuit and associate circuit judges en banc, in the circuit, may appoint commissioners, subject to appropriations, to hear family court cases and make findings as provided for in sections 487.010 to 487.190. Any person serving as a commissioner of the juvenile division of the circuit court on August 28, 1993, shall become a commissioner of the family court. In each circuit or a county therein having a family court, a majority of the circuit and associate circuit judges en banc may appoint, in addition to those commissioners serving as commissioners of the juvenile division and becoming commissioners of the family court pursuant to the provisions of sections 487.020 to 487.040, no more than three additional commissioners to hear family court cases and make findings and recommendations as provided in sections 487.010 to 487.190. The number of additional commissioners added as a result of the provisions of sections 487.010 to 487.190 may be appointed only to the extent that the state is reimbursed for the salaries of the commissioners as provided in sections 487.010 to 487.190 or by federal or county funds or by gifts or grants made for such purposes. A commissioner shall be appointed for a term of four years. Commissioners appointed pursuant to sections 487.020 to 487.040 shall serve in addition to circuit judges, associate circuit court judges and commissioners authorized to hear actions classified under section 487.080.

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

3. Each commissioner of the family court shall possess the same qualifications as a circuit

judge. The compensation and retirement benefits of each commissioner shall be the same as that of an associate circuit judge, payable in the same manner and from the same source as that of an associate circuit judge.

487.090. 1. In criminal actions where the defendant and the victim are part of the same family unit, the judge of the division in which the criminal case is pending may only transfer such case to the family court if it is in the interests of justice to all parties, the rights of the defendant, and the interests of the family. Such transfer shall only be made when[:

(1) The defendant has waived a jury trial with a full understanding of his rights;

(2) Both the defendant and the victim consent to the transfer;

(3) When] the judge of the division in which the criminal case is pending and the administrative judge of the family court approve such transfer.

2. No provision of subsection 1 of this section shall abridge any of the rights of a criminal defendant.

3. If a tort action is properly joined with any of the actions enumerated in section 487.080, the entire action shall not be within the jurisdiction of the family court but shall be assigned to and heard on a civil docket unless the parties stipulate and agree in writing that the matter may be retained in the family court.

4. The judge of the probate division may transfer a guardianship proceeding wherein a guardian of a minor is requested under chapter 475, RSMo, to the family court. If transferred, the family court shall have jurisdiction over such proceeding including the appointment of a guardian or conservator, if requested. Provided, however, upon final judgment, the proceeding shall be transferred to the probate division for administration. After final judgment, the judge of the probate division shall have ongoing authority to transfer the proceeding to the family court for additional action as may be needed to further the interests of justice.

488.015. The court shall not increase the amount of miscellaneous charges or surcharges allowed by law. The amounts of fees payable to the state of Missouri may be annually adjusted as provided in section 488.012 to the extent that projected total collections for all such fees shall not exceed one hundred four percent of such fees assessed or assessable during the previous year less the amount of such assessed fees attributable to any increase in the judiciary's caseload, provided that the amount of the adjusted fee attributable to each case may be rounded to the nearest dollar. [The supreme court may annually adjust each cost, fee, charge or surcharge so that projected total collections for that cost, fee, charge or surcharge will total an amount not to exceed one hundred four percent of the previous year's collections for that cost, fee, charge or surcharge, provided that the adjusted cost, fee, charge or surcharge shall be rounded to the nearest ten cents. In the event that the total collections for any cost, fee, charge or surcharge exceeds one hundred four percent of the previous year's collections, the supreme court shall reduce such cost, fee, charge or surcharge so that the projected total collections for the coming year shall be

decreased by the amount of excess in the preceding year.] The supreme court rule may provide that in the event that any payment of court costs is made in time or installment payments or by credit card or similar method, the clerk may charge an additional fee for such time or installment payments or in order to reflect any transaction cost, surcharge or fee imposed on the recipient of the credit card payment by the credit card company. Any change in the amount of fees made by the court pursuant to this section shall take effect on July first of any particular year, provided that the proposed supreme court rule or amendment to a supreme court rule changing the amount of fees shall be published on or before January first of the year in which the rule or amendment is proposed to take effect. Any such rule may be annulled or amended in whole or part in the manner provided by section 5 of article V of the Constitution of the state of Missouri. Any changes in the amount of fees made by the court pursuant to sections 488.010 to 488.020 shall be presented to the general assembly on or before January first of the year in which the rule or amendment is proposed to take effect.

491.300. Interpreters and translators in civil and criminal cases shall be allowed a reasonable fee approved by the court. Such fee shall be [taxed as costs against] **payable by** the state in criminal cases **from funds appropriated to the office of the state courts administrator.**

494.415. 1. From time to time and in a manner prescribed by the board of jury commissioners there shall be drawn at random from the master jury list the names or identifying numbers of as many prospective jurors as the court may require. The board of jury commissioners shall cause to be served in a manner prescribed by law for the service of summons or by ordinary mail, as determined by the board, a summons for jury service and a juror qualification form. The juror qualification form shall be approved by the circuit court en banc and shall:

(1) Contain instructions to fill out and return the form within ten days;

(2) Contain the prospective juror's declaration that his responses are true to the best of his knowledge; and

(3) Elicit information concerning the prospective juror's qualifications. Notarization of the juror qualification form shall not be required. If the prospective juror is unable to fill out the juror qualification form, another person may do it for the prospective juror and shall so indicate and the reason therefor. Any prospective juror who fails to return a completed juror qualification form as instructed may be directed by the board of jury commissioners to appear forthwith to fill out a juror qualification form.

2. If it is determined from an examination of the juror qualification form that a person is not qualified to serve as a juror, that prospective juror shall be notified in a manner directed by the board of jury commissioners and shall not be required to comply with the summons for jury service. Such names shall be deleted from the master jury list.

**3. Upon application by a prospective juror, the jury supervisor or board of jury**

**commissioners, acting in accordance with written guidelines adopted by the circuit court, may postpone that prospective juror's service to a later date.**

4. Those prospective jurors not disqualified from jury service shall constitute the qualified jury list. If any prospective juror is later determined to be ineligible or disqualified, such name shall be deleted from the qualified jury list and the master jury list.

494.445. **1. Subsequent to January 1, 2005, 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. 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.**

494.455. 1. Each grand and petit juror shall receive six dollars per day, for every day he **or she** may actually serve as such, and seven cents for every mile he may necessarily travel going from his **or her** place of residence to the courthouse and returning, to be paid from funds of the county or a city not within a county.

**2. Provided that a county or a city not within a county authorizes daily compensation payable from county or city funds for jurors who serve in that county pursuant to subsection 3 of this section in the amount of at least six dollars per day in addition to the amount required by subsection 1 of this section, a person shall receive an additional six dollars per day to be reimbursed by the state of Missouri so that the total compensation payable shall be at least eighteen dollars, plus mileage as indicated in subsection 1 of this section, for each day that the person actually serves as a petit juror in a particular case; or for each day that a person actually serves as a grand juror during a term of a grand jury. The state shall reimburse the county for six dollars of the additional juror compensation provided by this subsection.**

3. The governing body of each county or a city not within a county may authorize additional daily compensation and mileage allowance for jurors, which additional compensation shall be paid from the funds of the county or a city not within a county.

[3.] The governing body of each county or a city not within a county may authorize additional daily compensation and mileage allowance for jurors attending a coroner's inquest.

[4.] Jurors may receive the additional compensation and mileage allowance authorized by [subsections 2 and 3 of this section] **this subsection** only if the governing body of the county or the city not within a county authorizes the additional compensation. [All] **The** provisions of this [section which authorize the granting of] **subsection authorizing** additional compensation shall terminate upon the issuance of a mandate by the Missouri supreme court which [would result] **results** in the state of Missouri being obligated or required to pay any such additional compensation even [though] **if** such additional compensation is formally approved or authorized



by the governing body of a county or a city not within a county.

[5.] **4.** When each panel of jurors summoned and attending court has completed its service, the board of jury commissioners shall cause to be submitted to the governing body of the county or a city not within a county a statement of fees earned by each juror. [Upon approval] **Within thirty days of the submission of the statement of fees**, the governing body shall cause payment to be made to those jurors summoned the fees earned during their service as jurors.

494.485. If in any case to be tried before a jury it appears to the court to be appropriate, the court may direct that [not more than four] **a number of** jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. Alternate jurors, in the order in which they are called, shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be selected in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath and shall have the same functions, powers, facilities and privileges as the principal jurors. Alternate jurors who do not replace principal jurors shall be discharged after the jury retires to consider its verdict. Each side is entitled to one peremptory challenge in addition to those otherwise allowed by law [if one or] **for each** two alternate jurors [are] to be impaneled [and two peremptory challenges if three or four alternate jurors are to be impaneled]. The additional peremptory challenge may be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against the alternates.

506.363. For the purposes of sections 506.360 to 506.390, "offender" and "correctional center" [are] **shall have the same meaning** as defined in section 217.010, RSMo; **and the terms "court costs" and "fees" shall have the same meaning as defined in section 488.010, RSMo.**

506.369. 1. [The court shall order the offender to pay the full amount of the filing fee.] If the **court receiving a motion pursuant to section 506.366 determines that an** offender is unable to pay the full amount **of court costs due with respect to a case**, the court shall assess a partial payment of the [filing fee which shall be] twenty percent of the greater of the following:

(1) The average monthly deposits to the offender's account for the six-month period immediately preceding the filing of the complaint or notice of appeal requiring the payment of a fee; or

(2) The average monthly balance in the offender's account for the six-month period immediately preceding the filing of the complaint or notice of appeal requiring the payment of a fee.

2. [If the balance in the offender's account is less than the amount assessed as the initial partial filing fee, the court shall enter judgment against the offender for the full amount of the filing fee. Payment of such judgment shall be made pursuant to section 506.372.] **If a trial court has entered an order pursuant to subsection 1 of this section upon the filing of plaintiff's petition, the determination of the court shall apply to the case until final**

**judgment is entered by either the trial or an appellate court.**

506.372. [Following payment of an initial partial filing fee, or] If the court has entered [judgment for the initial partial filing fee] **an order for payment of fees in installments pursuant to section 506.369**, the offender shall make monthly payments **to the department of corrections** of twenty percent of the preceding month's income credited to the offender's account until the [filing] fees are paid in full. The [correctional facility having custody of the offender] **department of corrections** shall forward payments from the offender's account to the [clerk of the court] **department of revenue for deposit to the general revenue fund** until the [filing] fees are paid in full. The department of corrections shall establish written guidelines for the priority of payment consistent with state and federal law.

506.375. Notwithstanding any [filing fee] **court costs** which [has] **have** been paid, the court shall dismiss an offender's civil action or appeal from a judgment in a civil action at any time, including before service on the defendant, if the court determines any of the following:

- (1) The allegation of indigency is untrue;
- (2) The litigation is frivolous, malicious or fails to state a claim upon which relief may be granted; or
- (3) The defendant is immune from the cause of action.

506.390. Before payment of any compensatory damages awarded to an offender in connection with a civil action brought against any correctional facility or against any official or agent of such correctional facility, **the attorney general shall make** reasonable efforts [shall be made] to notify the victims of the crime for which the offender was convicted and incarcerated concerning the pending payment of any such compensatory damages.

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

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

511.440. **1.** Judgments and decrees obtained in the supreme court or any district of the court of appeals or any United States court or any court of record in this state shall, upon the filing of a transcript thereof in the office of the clerk of the circuit court of any other county and

indexing of such transcript as provided in subsection 2 of this section, be a lien upon the real estate of the person against whom such judgment or decree is rendered, situate in the county in which such transcript is filed.

2. Such judgment or decree as provided in subsection 1 of this section shall be entered in the [book] **record** kept by the clerk of the circuit court having jurisdiction of civil causes within a county or a city not within a county, for judgments and decrees of the circuit court of such county as provided in section 511.500, except that the [column for] **record of** entry of such judgment or decree shall also include the name and location of the court that rendered such judgment or decree.

511.450. As soon as such transcript shall be filed in the office of the clerk of the circuit court of any county, the clerk thereof shall forthwith enter the judgment or decree in the judgment docket of said court, in the same manner as is provided for entering judgments rendered in such court; and the clerk shall also record such transcript in a [book] **record** to be kept for that purpose, and shall [note] **record**, both [upon] **in** the judgment docket and upon the record of such transcript, the time of filing the same in his office.

514.040. 1. **Except as provided in subsection 3 of this section**, if any court shall, before or after the commencement of any suit pending before it, be satisfied that the plaintiff is a poor person, and unable to prosecute his or her suit, and pay all or any portion of the costs and expenses thereof, such court may, in its discretion, permit him or her to commence and prosecute his or her action as a poor person, and thereupon such poor person shall have all necessary process and proceedings as in other cases, without fees, tax or charge as the court determines the person cannot pay; and the court may assign to such person counsel, who, as well as all other officers of the court, shall perform their duties in such suit without fee or reward as the court may excuse; but if judgment is entered for the plaintiff, costs shall be recovered, which shall be collected for the use of the officers of the court.

2. In any civil action brought in a court of this state by any offender convicted of a crime who is confined in any state prison or correctional center, the court shall not reduce the amount required as security for costs upon filing such suit to an amount of less than ten dollars pursuant to this section. This subsection shall not apply to any action for which no sum as security for costs is required to be paid upon filing such suit.

**3. Where a party is represented in a civil action by a legal aid society or a legal services or other nonprofit organization funded in whole or substantial part by moneys appropriated by the general assembly of the state of Missouri, which has as its primary purpose the furnishing of legal services to indigent persons, or by private counsel working on behalf of or under the auspices of such society, all costs and expenses related to the prosecution of the suit may be waived without the necessity of a motion and court approval, provided that a determination has been made by such society or**

**organization that such party is unable to pay the costs, fees and expenses necessary to prosecute or defend the action, and that a certification that such determination has been made is filed with the clerk of the court.**

528.620. Any one or more of two or more joint owners of personal property[, other than boats and vessels,] may file a petition in the circuit court for a partition or a sale and partition of the proceeds thereof, in the same manner as suits may be instituted for the partition and sale of real estate, and like proceedings had thereunder, as near as may be, as provided in cases for the partition of real estate.

**536.053. Any person who is or may be aggrieved by any rule promulgated by a state agency shall have standing to challenge any rule promulgated by a state agency and may bring such an action pursuant to the provisions of section 536.050. Such person shall not be required to exhaust any administrative remedy and shall be considered a nonstate party.**

550.140. The clerk of the court in which any criminal cause shall have been determined or continued generally shall, immediately after the adjournment of the court and before the next succeeding term, [tax] **calculate** all costs which have accrued in the case[; and]. If the state or county [shall be] **is** liable under the provisions of this chapter for [such] costs or any part thereof, he shall make out and deliver forthwith to the prosecuting attorney of said county a complete fee bill, specifying each item of services and the fee therefor. **The circuit clerk shall prepare a bill against the state containing only costs which are payable to the county.**

550.240. In all criminal cases which have been finally determined before an associate circuit judge in which the county shall be liable for any costs incurred therein, the clerk responsible for collecting fees in cases determined by such judge shall certify a complete itemized fee bill thereof to the county commission for payment, which fee bill shall be examined and audited by the prosecuting attorney and the judge. Whenever the state shall be liable under any law for costs incurred in any examination of a felony before any associate circuit judge, or in any misdemeanor case which is not finally determined before an associate circuit judge, the clerk serving such judge shall [make out] **calculate**, certify and return to the clerk of the circuit court of the county a complete [fee bill] **statement of costs**, specifying each item of service and the fee therefor, together with all the papers and docket entries in the case. The clerk of the circuit court shall thereupon make out a fee bill of all such costs which are legally chargeable against the state or county, which shall be examined by the prosecuting attorney. **The circuit clerk shall prepare a bill against the state containing only costs which are payable to the county.** All such fee bills shall thereafter be proceeded with in all respects as in the case of fee bills for costs incurred in cases before circuit judges.

550.260. 1. All criminal court cost bills shall be certified for payment as herein provided, and in addition thereto the circuit clerks of each county shall make copies of all original criminal

court cost bills certified to the commissioner of administration for payment, and shall file the same with the treasurers of their respective counties, and the city of St. Louis, at the time of transmitting the original for payment.

2. When criminal court cost bills are certified to the commissioner of administration, warrants shall be drawn on the state treasurer as provided by law, provided that the amounts due to the state contained within such criminal court cost bills may be withheld by the state before payment is made to the counties. **Costs payable to the state contained in such criminal costs bills shall not be reimbursed to the counties, but the county shall be reimbursed only for those costs payable to the county.** Payment shall be transmitted to the treasurer of the county from whence the bill originated, or the city of St. Louis. When any criminal cost bill shall be certified to the county commission or the comptroller of the city of St. Louis, for payment, the county clerk, or the comptroller of the city of St. Louis, when the same is allowed, shall draw a warrant on the county treasurer or city treasurer in payment thereof, and deliver the same to the county treasurer, or to the treasurer of the city of St. Louis, together with a list of the names of the various parties to whom the fees are due, stating the amount due each person.

3. The treasurers, on receipt of any such warrants and criminal court cost bills, shall record the criminal court cost bills in a well-bound book arranged with appropriate headings, so that the same shall correspond, as near as may be, with the accounts required to be kept by other officers in section 50.470, RSMo.

590.140. 1. A surcharge of [up to] two dollars may be assessed as costs in each criminal case involving violations of any county ordinance or a violation of any criminal or traffic laws of the state, including infractions, or violations of municipal ordinances, provided that no such fee shall be collected in any proceeding in any court when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. For violations of the general criminal laws of the state or county ordinances, no such surcharge shall be collected unless it is authorized by the county government where the violation occurred. For violations of municipal ordinances, no such surcharge shall be collected unless it is authorized by the municipal government where the violation occurred. Any such surcharge shall be authorized by the county or municipality and written notice given to the supreme court of such authorization prior to December first of the year preceding the state fiscal year during which such surcharge is to be collected and disbursed in the manner provided by sections 488.010 to 488.020, RSMo. If imposed by a municipality, such surcharges shall be collected by the clerk of the municipal court responsible for collecting court costs and fines and shall be transmitted monthly to the treasurer of the municipality where the violation occurred in cases of violations of municipal ordinances. If imposed by a county, such surcharges shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo. Such surcharges shall be payable to the treasurer of the county where the violation occurred in the case of violations of the general criminal laws of the state or county

ordinances. An additional surcharge in the amount of one dollar shall be assessed as provided in this section, and shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo, and payable to the state treasury to the credit of the peace officer standards and training commission fund created in section 590.178. Such surcharges shall be in addition to the court costs and fees and limits on such court costs and fees established by section 66.110, RSMo, and section 479.260, RSMo.

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

**600.101. Any dispute between any county or city not within a county and the state public defender regarding office space and utility service provided or to be provided pursuant to section 600.040 may be submitted to the judicial finance commission established pursuant to section 477.600, RSMo. The commission on judicial resources established pursuant to section 476.415, RSMo, shall study and report its recommendations regarding provision of and payment for office space for the state public defender to the chairs of the judiciary committees of the senate and house of representatives, the chair of the senate appropriations committee and budget committee of the house of representatives.**

632.492. Within sixty days after the completion of any examination held pursuant to section 632.489, the [circuit] court shall conduct a trial to determine whether the person is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced. At all stages of the proceedings pursuant to sections 632.480 to 632.513, any person subject to sections 632.480 to 632.513 shall be entitled to the assistance of counsel, and if the person is indigent, the court shall appoint counsel to assist such person. The person, the attorney general, or the judge shall have the right to demand that the trial be before a jury. If no demand for a jury is made, the trial shall be before the court.

**Section 1. A county or any other interested municipality or person may bring an action against the commission established pursuant to section 72.400, RSMo, contesting a proposed boundary change or other commission action.**

**Section 2. Upon a finding of paternity by a court, the parties to a paternity action may submit, either separately or jointly, a parenting plan, as defined in section**

**452.310, RSMo, regarding the child who is the subject of such paternity action. If a parenting plan is submitted, the court shall order a parenting plan for such child. If the court does not have proper jurisdiction, the court shall transfer the case to an appropriate court having jurisdiction on the matter.**

**Section 3. As used in sections 3 to 7 of this act, the following terms mean:**

**(1) "Annuity issuer", an insurer that has issued an annuity contract to be used to fund periodic payments pursuant to a structured settlement;**

**(2) "Code", the United States Internal Revenue Code, United States Code Title 26, as amended from time to time;**

**(3) "Discounted present value", the fair present value of future payments, as determined by discounting such payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service;**

**(4) "Disinterested counsel", legal counsel that has no business relationship with any transferee of structured settlement payment rights, will not receive any compensation directly or indirectly from any such transferee in connection with representing the payee, and whose compensation for representing the payee will not be affected by whether the transfer occurs or does not occur;**

**(5) "Interested parties", with respect to any structured settlement, the payee, any named beneficiary designated in the annuity contract or structured settlement to receive payments following the payee's death, or, if the named beneficiary is a minor, the named beneficiary's parent or guardian, the annuity issuer, and the structured settlement obligor;**

**(6) "Payee", an individual who is receiving tax-free damage payments pursuant to a structured settlement and who wants to make a transfer of payment rights pursuant to the structured settlement agreement;**

**(7) "Qualified assignment agreement", an agreement providing for a qualified assignment within the meaning of Section 130 of the Internal Revenue Code, 26 U.S.C. Sec. 130, as amended from time to time;**

**(8) "Settled claim", the original tort claim resolved by a structured settlement;**

**(9) "Structured settlement", an arrangement established by:**

**(a) a. Judgment or agreement in resolution of a tort claim providing for the periodic payment of damages excludable from the gross income of the recipient pursuant to Section 104(a)(2) of the Code; or**

**b. Agreement for the periodic payment of compensation pursuant to any workers' compensation act that is excludable from the gross income of the recipient pursuant to Section 104(a)(1) of the Code and which may be assigned pursuant to state law; and**

**(b) Where the periodic payments are:**

**a. Of the character described in subparagraphs (A) and (B) of Section 130(c)(2) of the Code; and**

**b. Payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments pursuant to a qualified assignment in accordance with Section 130 of the Code;**

**(10) "Structured settlement obligor", with respect to any structured settlement, the party that has the continuing periodic payment obligation to the payee pursuant to a structured settlement agreement or a qualified assignment agreement;**

**(11) "Structured settlement payment rights", rights to receive periodic payments, including lump sum payments pursuant to a structured settlement, whether from the settlement obligor or the annuity issuer, where:**

**(a) The payee is domiciled in this state; or**

**(b) The structured settlement was approved by a court of this state;**

**(12) "Transfer", any sale, assignment, pledge, hypothecation, or other form of alienation or encumbrance made for consideration;**

**(13) "Transfer agreement", the agreement providing for transfer of structured settlement payment rights from a payee to a transferee;**

**(14) "Transferee", a party acquiring or proposing to acquire structured settlement payment rights through a transfer from a payee.**

**Section 4. No transfer of structured settlement payment rights shall be effective and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of any transfer of structured settlement payment rights unless the transfer has been approved in advance in an order of a court of competent jurisdiction, based on the court's express findings that:**

**(1) The transfer complies with the requirements of sections 3 to 7 of this act and does not contravene other applicable law;**

**(2) Not less than ten days prior to the date on which the payee entered into the transfer agreement, the transferee has provided to the payee a disclosure statement in bold type, no smaller than fourteen point, setting forth:**

**(a) The amounts and due dates of the structured settlement payments to be transferred;**

**(b) The aggregate amount of the payments;**

**(c) The discounted present value of the payments, together with the discount rate or rates used in determining the discounted present value;**

**(d) The gross amount payable to the payee in exchange for the payments; and**

**(e) An itemized listing of all brokers' commissions, service charges, application**



**or processing fees, closing costs, filing or administrative charges, legal fees, notary fees and other commissions, fees, costs, expenses and charges payable by the payee or deductible from the gross amount otherwise payable to the payee;**

**(3) The transfer is in the best interest of the payee and the payee's dependents;**

**(4) The transferee has given written notice of the transferee's name, address and taxpayer identification number to all interested parties and has filed a copy of the notice with the court;**

**(5) The payee has consented in writing to the transfer;**

**(6) The payee has been represented by disinterested counsel in connection with the transfer or the payee understands the nature of the transaction and the economic consequences of the transaction; and**

**(7) The payment to be made to the payee by the transferee is equal to the fair market value of the structured settlement rights being transferred.**

**Section 5. 1. An application pursuant to sections 3 to 7 of this act for approval of a transfer of structured settlement payment rights may be brought in the circuit court in the county in which the payee is domiciled, or in any court which approved the structured settlement agreement.**

**2. Not less than twenty days prior to the scheduled hearing on any application for court approval of a transfer of structured settlement payment rights pursuant to section 4 of this act, the transferee shall file with the court and serve on all interested parties a notice of the proposed transfer and the application for its approval, including in the notice:**

**(1) A copy of the transferee's application to the court;**

**(2) A copy of the disclosure statement required pursuant to subdivision (2) of section 4 of this act; and**

**(3) Notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application may be filed by interested parties, which shall be not less than ten days after service of the transferee's notice, in order to be considered by the court.**

**3. The provisions of sections 3 to 7 of this act may not be waived.**

**Section 6. 1. A payee who enters into a transfer agreement shall have an absolute, irrevocable right to rescind and cancel such transfer agreement, with no penalty or other obligation, by giving written notice of rescission to the transferee at any time during the five days following the signing of the transfer agreement.**

**2. Any provision in a transfer agreement to pay liquidated damages, penalties, fees, actual or punitive damages, attorneys' fees or costs of any kind or nature to any person, firm, corporation or other entity which will be a party or third-party beneficiary to the transfer or transfer agreement shall be unenforceable.**

**3. Nothing contained in sections 3 to 7 of this act shall be construed to authorize any transfer of structured settlement payment rights or other rights arising under a tort claim or a workers' compensation claim in contravention of applicable law or to give effect to any transfer of such rights that is invalid under applicable law.**

**4. Any provision in a transfer agreement that consents to jurisdiction in the courts of another state, requires appointment of an agent for service of process, confesses judgment, or selects a forum for resolution of disputes arising out of a transfer agreement shall be unenforceable.**

**Section 7. The provisions of sections 3 to 7 of this act shall apply to any transfer of structured settlement payment rights pursuant to a transfer agreement reached on or after the effective date of sections 3 to 7 of this act.**

**Section 8. Any county, city, town, village or other political subdivision found to have filed a frivolous action against any firearms or ammunition manufacturer, trade association or dealer, shall be liable for all costs, attorneys' fees and other sanctions as the court finds necessary to prevent such future actions by the plaintiff or entities similarly situated.**

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Bill

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**President of the Senate**

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**Speaker of the House of Representatives**

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**Governor**